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Washington, DC 20002

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Rules and Regulations

Federal Register

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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.

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Part 180

Guidance for Governmentwide Debarment and Suspension (Nonprocurement)

AGENCY: Office of Management and Budget.

ACTION: Final rule.

SUMMARY: OMB is revising its Governmentwide guidance on nonprocurement debarment and suspension and issuing it in final form. The guidance, as implemented by Federal agency regulations, will replace the current common rule as the source of uniform agency policies and procedures related to nonprocurement debarment and suspension. Replacing the common rule with the guidance will reduce the volume of Federal regulations in this area and make them simpler to use.

DATES: The effective date for this final guidance is November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395–3052 (direct) or (202) 395–3993 (main office) and e-mail: *Hai_M._Tran@omb.eop.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

OMB published interim final guidance on nonprocurement debarment and suspension in the **Federal Register** on August 31, 2005 [70 FR 51863]. The issuance of the OMB guidance is an important step toward replacing the current common rule on nonprocurement debarment and suspension, a regulation that 34 agencies individually publish.

Replacing the common rule will achieve significant regulatory streamlining and simplification. In lieu of its codification of the common rule, each agency will adopt the OMB guidance in a brief regulation that states any agency-specific additions, exceptions, or clarifications to the Government-wide policies and procedures. The OMB guidance and the individual agencies' brief adopting parts will replace the 34 agency codifications of the full text of the common rule. That replacement removes more than 1500 pages of needlessly duplicative regulations from the Code of Federal Regulations (CFR). The brief adopting parts also make it easy for a reader to see an agency's variations from the Government-wide guidance. The variations previously were difficult to identify because they were embedded within each agency's publication of the full text of the common rule.

The August 2005 **Federal Register** notice stated that the substantive content of the interim final guidelines was intended to conform with the substance of the Federal agencies' most recent update to the common rule [68 FR 66534, November 26, 2003]. The notice therefore requested comments specifically on any unintended changes from the common rule. OMB received comments only from the Interagency Suspension and Debarment Committee (ISDC), pointing out a few unintended changes and needed technical corrections. These final guidelines make the needed revisions.

II. Comments and Changes to the Interim Final Guidance

The following paragraphs detail the substantive comments OMB received from the ISDC and the revisions made to the interim final guidance in making it the final guidance:

Comment: The ISDC recommended adding a new paragraph § 180.25(c)(7) to state that an agency may include ''any provisions authorized by OMB'' in its regulation implementing the guidelines, in addition to the specific examples described in § 180.25(c)(1) through (6). The added paragraph simply makes explicit the authority that OMB already has to approve additional provisions in an agency's regulation. The ISDC recommended the paragraph due to a concern that, without an explicit statement in § 180.25(c)(7), an agency's regulatory provision that was beyond the scope of the six examples in § 180.25(c)(1) through (6) could invite a legal challenge, even if approved by OMB.

Response: The guidelines were amended to add the recommended new subparagraph § 180.25(c)(7).

Comment: The ISDC noted a technical error in the wording of § 180.220(c)(1) that made an unintentional change from the common rule by reducing the number of additional tiers of contracts under a covered nonprocurement transaction that a Federal agency could include as covered transactions under the policy.

Response: The wording of § 180.220(c)(1) was changed in accordance with the recommendation.

Comment: The ISDC recommended deleting § 180.25(b)(4) and revising § 180.300(b) by striking the phrase ''if allowed by the Federal agency responsible for the transaction * * *.'' The two changes remove the option for a Federal agency to preclude a primary tier participant from collecting certifications from a lower tier participant as the method it uses to help enforce lower tier participant compliance with the requirements of the policy. The ISDC recommended dropping the option because no Federal agency used it in adopting the common rule on nonprocurement suspension and debarment in November 2003.

Response: Section 180.25(b)(4) was deleted and § 180.300(b) was revised, as recommended.

OMB made one additional technical correction in § 180.220 in specifying which contracts and subcontracts under covered nonprocurement transactions were to be considered ''covered transactions.'' Under the interim final guidelines § 180.220(b)(1) included a contract in an amount ''expected to equal or exceed $25,000'', while § 180.220(c)(2) included a subcontract with a value that ''exceeds or is expected to exceed $25,000.'' The dollar thresholds in the two paragraphs were intended to be the same. OMB therefore revised the wording of § 180.220(c)(2) to conform with that in § 180.220(b)(1).

III. How To Cite Agency Adopted Suspension and Debarment Guidelines

OMB understands there may be some confusion among practitioners regarding citation of the guidelines when adopted by agencies. OMB recommends the following long form citation to practitioners:

2 CFR 180.630 ([Year when the section goes final]) as implemented by 2 CFR 2424.10 ([Year when section goes final]).

In the proposed citation, 180.630 refers to the OMB guideline in subtitle A, while 2424.10 refers to the specific agency enactment in subtitle B giving the guideline regulatory effect. Long forms for citations involving only Agency-specific sections or both Adopted Guideline and Agency-specific sections should follow standard citation formats based upon the above long form.

OMB further recommends that short forms following the initial citation be solely to the guideline or the specific agency drop-in cited. The reference to CFR title in the short forms below would be dropped if it were to be repeated constantly.

2 CFR 180.630 by 2 CFR 2424.10

[Where the guideline contains all relevant material.]

2 CFR 2424.137

[Where the agency drop-in contains all relevant material.]

2 CFR 180.995, 2424.995

[Where both the guideline and agency drop-in are necessary.]

IV. Next Step

The next step in replacing the current common rule on nonprocurement debarment and suspension is the agencies' issuance of regulations adopting the final OMB guidelines, as § 180.30 of the guidelines requires. Over the coming months, each agency will publish a regulation in a new agency chapter in Subtitle B of 2 CFR, the new Government-wide title that OMB established for grants and agreements. Each agency also will remove its codification of the common rule from its own CFR title so that the OMB guidance and all agency implementing regulations on nonprocurement debarment and suspension ultimately will be located in 2 CFR.

Availability of Amended 2 CFR Part 180

OMB has prepared an updated version of 2 CFR part 180 as amended herein. It is available electronically on the OMB Home Page at *http://www.omb.gov*, and then select ''Grants Management'' followed by ''Circulars.''

List of Subjects in 2 CFR Part 180

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

Rob Portman,

Director.

Authority and Issuance

■ For the reasons set forth above, the Office of Management and Budget amends 2 CFR part 180 in Subtitle A, Chapter I, as set forth below.

PART 180—OMB GUIDELINES TO AGENCIES ON GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

■ 1. The authority citation for part 180 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

§ 180.25 [Amended]

■ 2. Remove § 180.25(b)(4) and redesignate § 180.25(b)(5) as § 180.25(b)(4).

■ 3. Revise § 180.25(c)(2) and add (c)(7) to read as follows:

§ 180.25 What must a Federal agency address in its implementation of the guidance?

* * * * *

(c) * * *

(2) Identify any types of nonprocurement transactions that the Federal agency exempts from coverage under these guidelines, as authorized under § 180.215(g)(2).

* * * * *

(7) Include any provisions authorized by OMB.

■ 4. Revise § 180.220(c)(1) and (c)(2) to read as follows:

§ 180.220 Are any procurement contracts included as covered transactions?

* * * * *

(c) * * *

(1) It is awarded by a participant in a procurement transaction under a nonprocurement transaction of a Federal agency that extends the coverage of paragraph (b)(1) of this section to additional tiers of contracts (see the diagram in the appendix to this part showing that optional lower tier coverage); and

(2) The value of the subcontract is expected to equal or exceed $25,000.

■ 5. Revise § 180.300(b) to read as follows:

§ 180.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

* * * * *

(b) Collecting a certification from that person; or

* * * * *

[FR Doc. E6–19199 Filed 11–14–06; 8:45 am]

BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1400

RIN 0560–AH67

Definition of Indian Tribe for Payment Eligibility and Payment Limitation

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations of the Commodity Credit Corporation (CCC) governing payment limitation and payment eligibility and the limitation on the maximum allowable adjusted gross income (AGI) for program participants. Currently, 7 CFR part 1400, subpart G, exempts Indian tribes from all requirements of the AGI limitation for payment eligibility without providing a definition of Indian tribe. This rule defines ''Indian tribe'' consistent with the definition used by the United States Department of the Interior, Bureau of Indian Affairs (BIA), and other rules utilized by CCC, FSA and the Natural Resources Conservation Service (NRCS) in their programs.

DATES: This rule is effective on November 15, 2006.

FOR FURTHER INFORMATION CONTACT: James Baxa, Production, Emergencies and Compliance Division, United States Department of Agriculture (USDA), Stop 0517, 1400 Independence Ave., SW., Washington, DC 20250–0517. Telephone: (202) 720–7641. Electronic mail: *James.Baxa@wdc.usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) provides that the regulations needed to implement Title I of the 2002 Act, including those involved here, are to be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to

notices of proposed rulemaking and public participation in rulemaking.

Background

Subpart G of 7 CFR part 1400 was promulgated to implement the requirements of 7 U.S.C. 1308–3a (68 FR 33341). This statute and the rule prohibit CCC or FSA program payments from being paid to any program participant if their income exceeds a certain level—established in the law at an ''adjusted gross income'' of $2.5 million. Since the statute, continually and throughout, refers explicitly to ''individual or entity'' CCC provided an exception to the maximum AGI requirement in 7 CFR 1400.600(g) by expressly excluding from the rule's coverage, ''Payments to States, counties, political subdivisions and agencies thereof, and Indian tribes.'' However, while these regulations refer to ''American Indian'' and ''Indian tribal venture'' at 7 CFR 1400.100, part 1400 contains no definition of ''Indian tribe'' nor a cross-reference to an applicable definition in another regulation.

Indian tribes have been developing the agricultural lands that they own as a source of economic and social benefits for the tribes and their members. The United States, under its trust responsibilities and the unique government to government relationship with Indian tribes, provides various forms of assistance to Indian tribes and its members. One means of economic assistance from the United States government on agricultural lands is use of farm programs established by Congress and implemented by various agencies of USDA. An Indian tribe and its members, as holders of agricultural lands, may participate in such programs the same as any other producer and owner of domestic agricultural lands.

This rule adds a definition of ''Indian tribe'' to 7 CFR 1400.3 consistent with that used by other government agencies. See, for example, the definition at 25 U.S.C. 3703(10). The change will reduce confusion as to types of organizations that qualify for the exemption in 7 CFR 1400.600(g) that was intended only for Indian tribes. Also, this rule will reduce the likelihood that this exemption will be applied to a group that was not intended to be exempt from the AGI requirements.

Executive Order 12866

This final rule has been determined to be not significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Programs

This final rule has a potential impact on all programs listed in the Catalog of Federal Domestic Assistance in the Agency Program Index under the Department of Agriculture, Farm Service Agency and Natural Resources Conservation Service. Other assistance programs are also impacted.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Environmental Assessment

The environmental impacts of this rule have been considered consistent with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An Environmental Evaluation was completed and the proposed action has been determined not to have the potential to significantly impact the quality of the human environment and no environmental assessment or environmental impact statement is necessary. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12778

This rule has been reviewed under Executive Order 12778. This rule preempts State laws that are inconsistent with it; however, this rule is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC was not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule. Also, this rule contains no mandates as defined in sections 202 and 205 of UMRA.

Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be done without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The form that applicants will use to certify their payment eligibility has been developed for on-line use.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-GOV compliance related to this rule, please contact the person named above under the information contact section.

List of Subjects in 7 CFR Part 1400

Agriculture, Price support programs, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, 7 CFR part 1400 is amended as follows:

PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY

■ 1. The authority section for part 1400 continues to read as follows:

Authority: 7 U.S.C. 1308 *et seq.*

■ 2. Section 1400.3 (b) is amended by adding a definition of ''Indian tribe'' in alphabetical order to read as follows:

§ 1400.3 Definitions.

* * * * *

(b) * * *

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized

group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

* * * * *

Signed in Washington, DC, on October 25, 2006.

Thomas B. Hofeller,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6–19245 Filed 11–14–06; 8:45 am]

BILLING CODE 3410–05–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 124

RIN 3245–AF06

Small Business Size Regulations; Size for Purposes of Government-Wide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long-Term Contracts; 8(a) Business Development/Small Disadvantaged Business; Business Status Determinations

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to address the time at which size is determined for the purposes of long-term federal contracts including Government-Wide Acquisition Contracts (GWACs), the General Services Administration (GSA) Multiple Award Schedule (MAS) contracts and multi-agency contracts (MACs). SBA is also amending its 8(a) Business Development regulations to address when a business concern may receive orders as an 8(a) program participant under GSA's MAS Program and other multiple award contracts. This final action is necessary to ensure that small business size status is accurately represented and reported over the life of these long-term Federal contracts.

DATES: *Effective Date:* This rule is effective June 30, 2007, and applies to solicitations and contracts issued after the effective date, as well as contracts and solicitations in existence at the time of the effective date.

FOR FURTHER INFORMATION CONTACT: Dean Koppel, Assistant Administrator, Office of Policy and Research, Office of Government Contracting, (202) 205–7322 or at *dean.koppel@sba.gov.*

SUPPLEMENTARY INFORMATION: On April 25, 2003, SBA published in the **Federal Register**, 68 FR 20350, a proposed rule to address the time at which size is determined for purposes of GSA's MAS Program, including the Federal Supply Schedule (FSS), and MAS contracts awarded by other agencies under the authority granted by GSA, and other long-term contracts, including GWACs and multi-agency contracts. The contract types mentioned above will hereinafter be referred to as ''long-term contracts'' in this rule. With options, these contracts are longer than 5 years in duration—typically lasting 10 to 20 years. SBA also proposed to amend its 8(a) BD regulations to make those regulations consistent with the proposed rule. SBA established the Effective Date of this final rule after consideration of the public comments and after consultation with the General Services Administration (GSA), the Department of Defense (DoD) and the Office of Federal Procurement Policy (OFPP). SBA has been assured that this date reflects the amount of time required to: (1) Modify the Government's contract award database, the Federal Procurement Data System-NG (FPDS–NG), to capture changes in small business size status ''going forward'' from the date of re-certification; (2) permit agencies to revise their ''back office'' contract reporting systems that feed into FPDS-NG; and (3) implement the final rule in the Federal Acquisition Regulation (FAR). In addition, the final rule clarifies that re-certification does not affect the terms and conditions of the underlying contract.

Summary of Comments

SBA sought public comment on its proposed rule to amend § 121.404 by adding paragraph (c) to provide that, for purposes of multiple-award contracts, a concern must re-certify its size on an annual basis. The intent of the proposed rule was to require re-certification on long-term contracts. With options, these contracts are greater than 5 years in duration, typically 10 to 20 years. SBA has decided to limit applicability of the final rule to only long-term contracts. For long-term contracts, concerns will now be required to re-certify their small business size status prior to the sixth year of performance, and every time an option is exercised thereafter.

On April 25, 2003, SBA proposed to require re-certification on long-term contracts on an annual basis, but requested comments on requiring re-certification on an order-by-order basis or at least once every five years. 68 FR 20350. SBA received more than 600 comments both supporting and criticizing all three proposals. Status as a small business in the context of government contracting is primarily relevant for two distinct reasons: (1) Eligibility for set-aside contracts and (2) tracking whether Federal agencies meet their annual small business prime contracting goals. SBA's regulations generally provide that size is determined ''as of the date the concern submits a written self-certification that it is small to the procuring activity as part of its initial offer * * * which includes price.'' 13 CFR 121.404(a). A firm that certifies itself as small as part of its offer for a contract is generally considered small for the life of the contract, even if it grows to be other than small during the life of the contract. 13 CFR 121.404(g). The Small Business Act requires procuring agencies to set annual small business prime contracting goals and annually report the ''number and dollar value of contracts awarded'' to small business concerns. 15 U.S.C. 644(h)(2)(D).

Over the past decade, Federal agencies have increasingly relied upon multiple award task or delivery order contracts to procure goods or services. Under these procurement vehicles, the quantity of goods or services to be purchased is not set at the time of contract award. Instead, goods or services are acquired by placing a task or delivery order with a contractor, often as a result of a competition among multiple contract holders. Task and delivery order contracts have been called ''hunting licenses'' or ''club memberships'' because the real competition, the actual purchase of goods or services, occurs at the order level. Federal agencies have also increasingly utilized task or delivery order contracts of other agencies to acquire goods or services, typically for an administrative fee. Many of these multiple-award contracts have potential durations that far exceed the typical five-year government contract. Agencies are increasingly using these vehicles to get credit towards their small business goals.

SBA has never had a specific rule in place to deal with these long-term contracts. Application of SBA's existing rule to these vehicles leads to unsatisfactory results, with contractors retaining their size status for decades, well after they have outgrown the size standard or merged with or been acquired by a large business concern. Thus, under existing rules an order awarded to a concern that has outgrown

its small business status is counted as a prime contract award to a small business. Moreover, these ''large businesses'' can compete for and win orders that are reserved for small business concerns.

Although SBA proposed requiring re-certification on an annual basis, it also specifically requested comments on requiring re-certification on an order-by-order basis, and every five years. After consideration of the comments and consulting with Federal agencies that would be affected by the annual re-certification requirement and OFPP, SBA has decided that re-certification will be required prior to the beginning of the sixth contract year, and then prior to each option thereafter. Moreover, SBA will give procuring agencies the discretion to request size certifications in connection with competitions for particular orders. When SBA proposed to require re-certification on an annual basis, it did not discuss the fact that such a rule would be contrary to the general rule, which allows a concern to retain its size status for the life of the contract, which is typically five years under traditional contracts with base terms of one-year with four one-year options. Second, SBA had not fully consulted with the procuring agencies that would be required to implement the proposed annual re-certification. After consideration of the comments and consulting with the various procuring agencies, including GSA and DoD, SBA has been told that the agencies do not have the resources to request, receive and process the expected influx of size certifications every year. In addition, many small businesses submitted comments suggesting that an annual re-certification requirement would not give them sufficient time to recoup proposal costs or to conduct long-range strategic planning.

SBA also proposed to amend 13 CFR 121.404 to require that contracting officers assign a North American Industry Classification System (NAICS) code to each order under a long-term contract vehicle. A concern's size is a function of the work to be performed. A concern may qualify as a small business for one type of work, but be considered a large business for a different type of work. In some cases, a contract will only have one NAICS code and size standard, so a requirement to assign a NAICS code and size standard to each order will not impose any difficulty on the contracting officer. However, in cases where a contract contains multiple NAICS codes and size standards, the assignment of a NAICS code and size standard is required in order to determine whether a concern is small for purposes of the work acquired under the order. Otherwise, orders awarded to firms that have never certified they are small for a particular type of work will be coded as an award to a small business.

SBA proposed a size protest process for multiple-award contracts which required contracting officers to publish lists of recent size representations in the **Federal Register**, and provided that a size protest must be filed within 10 days of publication. Many procuring agencies objected to this additional increase in their workload, arguing that contracting personnel do not have the time or resources to comply with this requirement. Consequently, SBA will adopt its five day rule for size protests in connection with long-term contract awards, options, or orders. Thus, a size protest must be filed within 5 business days of receipt of notice of the identity of a proposed awardee or award of a contract or order, or within 5 business days of receipt of notice of the size certification made by a concern in connection with the exercise of an option. In the case of a negotiated acquisition, procuring agencies are sometimes required by law to provide unsuccessful offerors with written, pre-award notice of the identity of the apparent successful offeror(s). In other situations, such as where an order is being awarded or an option is being exercised, written notice is not required by law. Consequently, the protest ''clock'' with respect to long-term contracts, orders or options will not begin to run until notice is received, whether it is in writing, orally, or via electronic posting.

Size is a component of every small business program, *i.e.*, in order to be eligible for an 8(a), Historically Underutilized Business Zone (HUBZone), Small Disadvantaged Business (SDB) or Service-Disabled Veteran-Owned Small Business Concern (SDVOSBC) contract or benefit, a concern must be small for the size standard applicable to the particular contract. SBA's re-certification rule will apply to all small business programs, including the 8(a) BD program, on long-term contracts set aside for 8(a) concerns, concerns will have to re-certify their size prior to the beginning of the sixth year and prior to each option thereafter. In accordance with long-standing SBA policy, procuring agencies generally cannot take 8(a) credit on contracts that were not specifically set aside for exclusive competition among eligible 8(a) concerns. A Memorandum of Understanding (MOU) between SBA and GSA which allowed agencies to take 8(a) credit for orders awarded under full and openly competed MAS contracts expired in 2003. At this time procuring agencies should no longer be taking 8(a) credit for orders awarded under full and open MAS contracts. Thus, SBA's 8(a) BD program regulations will be amended to specifically delete language regarding size in the context of the MAS program, since SBA's size re-certification rule will apply uniformly across all small business programs.

Discussion of Comments on the Proposed Rule

The comment period for the proposed rule closed on June 24, 2003. SBA received 636 comments. Forty-six commenters requested a 90-day extension to the comment period. The request was considered. However no extension to the comment period was granted. Following is a synopsis of the approximately 83 substantive comments.

Re-Certification

SBA proposed to require re-certification on an annual basis, but also requested public comments on requiring re-certification every five years, as well as on an order-by-order basis. Several commenters urged SBA to explicitly limit applicability of the rule to long-term contracts. As stated earlier, it was not the intent of this rulemaking to affect contracts of less than five years in total duration. Most of the complaints and concerns that prompted this rulemaking have arisen in the context of long-term contracts. This rule applies to long-term (durations, including options, of more than five years) contracts, *e.g.*, GWACs, MAS and FSS contracts and to all contracting actions where an acquisition, merger or novation has taken place.

Several commenters also recommended that the proposed changes be limited to multi-agency contracts, *e.g.*, GWACs, MAS and FSS contracts. SBA is aware of procuring agencies creating their own long-term multiple award contracts with characteristics similar to contracts awarded under the MAS program, *e.g.*, open-ended solicitations with rolling admissions. While the majority of complaints and concerns that prompted this rule have arisen in the context of multi-agency contracts, applying the re-certification requirement to all long-term contracts will help avoid confusion among small business contractors as to their size status for various long-term contracts. Moreover, a different rule might create a disincentive for both agencies and contractors to enter into

multi-agency contracts, which is not the intent of this rule.

GSA, the Department of Energy, DoD, and the Department of State submitted comments arguing that an annual re-certification requirement would place an excessive burden on contracting agencies and personnel. GSA pointed out that there are approximately 12,000 MAS contracts, and no system exists to track the anniversary dates of these awards. GSA argued that the optimal and logical time to address re-certification for long-term contracts is prior to exercising an option, a requirement that GSA had already instituted for its contracts under GSA Acquisition Letter MV–03–01, ''Federal Acquisition Regulation Class Deviation—Size of Business Re-representation.'' The Departments of State and Energy cited GSA's approach as their preferred method for addressing the issue. OFPP also expressed its strong preference for requiring re-certification at the time an option is exercised, but at least every five years.

Many commenters pointed out that the SBA's Regulatory Flexibility Act Analysis indicated that approximately 6 to 12 concerns with multiple award contracts would grow from small to large on an annual basis. These commenters essentially argued that imposing an annual re-certification requirement on perhaps tens of thousands of concerns, to correct such a small number of improper awards, was contrary to the intent of the Regulatory Flexibility Act. Although we believe that the number of concerns that grow from small to large in a given year may be substantially higher, *supra*, we believe that our final approach is the least costly and burdensome way to address the issue of size in connection with long-term contracts.

Several commenters urged SBA to require re-certification when a small business concern is acquired by a large business, and OFPP expressed its support for such a requirement. SBA's rules currently require re-certification when a contract is novated or a change-of-name agreement is executed (13 CFR 121.404(i)). Thus, under the existing rule, a concern that simply wants to change its name must re-certify its size, but a firm that is acquired and operated as a subsidiary of a large business need not re-certify its size. SBA intended to require re-certification when a small business is acquired by a large business, but not if a firm simply grows beyond the size standard during performance and wants to change its name. Thus, this rule will require re-certification when a small business concern becomes other than small due to acquisition or merger, such as when the contractor is acquired and operated as a subsidiary of a large business or is merged with a large business. This particular rule will apply to all contracts, not just long-term contracts.

Approximately 553 of the 636 comments we received in support of the annual re-certification requirement were duplicative, and did not discuss the impact of the rule on procuring agencies or small businesses, or the general rule which provides that a concern that is small at the time of its offer is considered small for the life of the contract. On the other hand, numerous commenters, including contractors, trade groups, Federal agencies and Congressional responders, essentially argued that small businesses submitted their proposals and established their business plans in reliance on the continuation of their size status throughout the life of the contract. They contend that these contract holders need a reasonable amount of time to recoup their proposal costs and to plan their transition from small to other than small status. Many commenters argued that one year is not a reasonable amount of time.

Several commenters argued that the annual re-certification requirement would make procuring agencies reluctant to set aside larger, multi-year requirements because they would be unwilling to risk that small business awardees will grow beyond the size standard and be ineligible to service the contract within one year of award. Several commenters argued that the annual re-certification requirement would deter small businesses from pursuing long-term contracting opportunities because firms would be unlikely to expend time and resources creating a proposal for a long-term contract if there is a possibility that they would lose the contract after only one-year. We first note that contractors which had grown to be other than small would not be ''ineligible'' to receive further orders. They could continue to receive orders, but the procuring agency could not count those orders towards the fulfillment of its small business goals. If a procuring agency exercised an option with a concern that had grown to be other than small, subsequent orders would not count towards the procuring agencies small business prime contracting goals. On the other hand, if a procuring agency declines to exercise the option of a concern that had grown to be other than small, it would lead to a dwindling pool of competition, which is contrary to the intent and purpose of the statutory and regulatory multiple award contracting provisions. SBA does not want to provide agencies and contractors with a disincentive to enter into long-term contracts.

After considering all of the comments, SBA has determined that requiring re-certification prior to the beginning of the sixth contract year, and then prior to the exercise of each option thereafter, is the least burdensome and fairest approach of the three we proposed. This approach is consistent with the existing, long-standing general rule with respect to traditional contracts (a base term of one-year with four one-year options), where SBA considers a concern to be small throughout the life of the contract. Moreover, our approach will not penalize agencies and contractors that award, or are awarded, long-term contracts with base terms of one-year with several one-year options. It would be unfair to require re-certification after one year on performance simply because the total duration of the contract exceeds five years, when the same concern would be considered small for the life of a contract with a total duration of five years or less.

Many commenters requested that SBA address some of the ramifications of the re-certification requirement. Many commenters were concerned about whether options would be exercised on contracts that were set aside for small business concerns if the concern had grown to be large. The final rule does not prohibit a contracting officer from exercising an option, even where a concern has outgrown the applicable size standard on a small business set-aside contract, but it also does not require a contracting officer to do so. If the contracting officer chooses to exercise the option, the procuring agency would have to amend FPDS-NG so that orders awarded during the option period would not be counted towards the agency's small business prime contracting goals. Although we recognize that a procuring agency may decline to exercise an option with a firm that cannot re-certify that it is small because the agency will not receive small business credit for the continued performance of that firm, that is a decision that is best left to the discretion of the contracting officer, after taking into account the agency's small business contracting goals, the firm's past performance, the existing competitive mix, and other factors that go into that decision. To the extent some concerns will not be considered for orders under full and open contracts because they are no longer small, other small business concerns will benefit by being considered for, and receiving, those orders.

Several commenters asked for clarification on how re-certification would interact with the performance requirements applicable to set-aside contracts. See 13 CFR 121.406 (manufacturing requirements) and 125.6 (limitations on subcontracting). The Small Business Act provides that a concern ''may not be awarded a contract under subsection (a) as a small business concern'' unless the concern agrees to comply with specified performance requirements. 15 U.S.C. 644(o). The statute focuses on ''award'' of a contract. A contractor that is awarded a contract as a result of a small business set-aside must comply with the applicable performance requirements throughout the life of the contract, even if the concern grows to be large. Thus, on a long-term, small business set-aside contract where a concern cannot certify that it is small and the procuring agency exercises the option, the concern will still have to comply with the performance requirements that are applicable to all contract holders. In contrast, the performance requirements mentioned above do not apply to full and open contracts. Consequently, under current law a concern awarded an order under a full and open contract need not perform any specific portion of the work, even where competition for the order is limited to small business concerns. SBA did not propose to impose a performance requirement on an order-by-order basis, and thus has not imposed such a requirement as part of this final rule. SBA may consider such a requirement in the future as part of a separate rule-making.

Similarly, the statutory basis for the non-manufacturer rule (13 CFR 121.406) provides that a small business that complies with ''subparagraph (B) shall not be denied the opportunity to submit and have considered its offer for any procurement contract for the supply of a product'' under a small business or 8(a) set-aside. 15 U.S.C. 637(a)(17). The statute focuses on the time of offer and contract award. A concern that grows to be large during performance of a set-aside contract must still comply with the requirements of the non-manufacturer rule throughout the life of the contract. Consequently, where a concern cannot re-certify itself as small under a long-term, small business set-aside contract, the concern still must comply with the requirements of the non-manufacturer rule throughout the life of the contract.

Several commenters asked SBA to clarify the effect of re-certification on other small business programs, *i.e.*, SDB, SDVOSBC, HUBZone, and 8(a) BD. Commenters requested clarification on whether firms would have to also re-certify their SDB, HUBZone, 8(a) BD, SDVOSBC, or other status. Those issues are beyond the scope of this rulemaking action. The proposed rule addressed size for the purposes of specific contracts, including small business, HUBZone, 8(a), and SDVOSBC set-aside contracts, but only addresses size certifications. In general, firms receive small business program certifications based on their size for their primary industry, but certified HUBZone/SDVOSBC/SDB/8(a)BD firms must still meet the size standard applicable to a given procurement in order to be eligible for award. Thus, a size re-certification with respect to a particular contract will not affect a firm's status under any small business certification program. Those certification programs have rules that address when certified concerns must provide that SBA program office with information that could affect program eligibility. See 13 CFR 124.112, 124.1016(b), 126.501. However, if a concern is no longer small, orders awarded to that concern cannot be counted towards an agency's goals for any of the small business subgroups, *e.g.*, 8(a), SDB, HUBZone, SDVOSBC.

Several commenters asked for clarification on how re-certification would affect subcontracting plan requirements. The Small Business Act provides that the subcontracting plan requirements ''shall not apply to offerors or bidders who are small business concerns.'' 15 U.S.C. 637(d)(7). Thus, the concern's size status at time of offer or bid determines whether the subcontracting plan requirements are applicable to a particular contractor. Even where the subcontracting plan requirements are imposed as the result of a contract modification, it is the concern's size status at time of contract award that determines whether a subcontracting plan is required. Consequently, a concern's change in size status as a result of a re-certification requirement will have no effect on the subcontracting plan requirements that were imposed, or not imposed, at the time of contract award.

Several commenters also requested clarification concerning how re-certification would affect cost accounting standard requirements. The Cost Accounting Standards Board is responsible for implementing cost accounting standards. 41 U.S.C. 422. The Cost Accounting Board has exempted contracts and subcontracts with small business concerns from cost accounting standard requirements. FAR § 30.000; 48 CFR 9903.201–1(b)(3). The Cost Accounting Standards Board will have to determine what effect, if any, re-certification will have on the applicability of the cost accounting standard requirements. In our view, the re-certification requirement should have no effect on the terms and conditions of a contract.

In sum, a change in size status for reporting purposes will not affect in any way the terms and conditions of the initial contract. If the performance of work requirements (§ 125.6) or non-manufacturer rule (§ 121.406) apply to a contract because a firm was deemed to qualify as small at the time of contract award, they will continue to apply if the firm becomes other than small at some point during contract performance. Similarly, if a firm was exempt from having a subcontracting plan at the time of award because it qualified as a small business, it will not be required to have a subcontracting plan if it becomes other than small at some time during contract performance.

Several commenters asked whether subcontractors would be required to re-certify their size for purposes of subcontracting plans. That issue is also beyond the scope of the proposed rule, and this rule does not impose any re-certification requirement at the subcontractor level. SBA may consider such a requirement in the future as part of a separate rule-making.

Several commenters were concerned about the affect of re-certification on ''teaming.'' If a team in the form of a joint venture is awarded a contract, the joint venture as combined must meet the applicable size standard. The same rules would apply to a joint venture as would apply to a stand-alone entity. Thus, the joint venture, as combined, would have to be small at the time of re-certification in order to retain its small business size status. Likewise, under SBA's 8(a) BD mentor-protégé program, an 8(a)protégé can form a joint venture with its large business mentor and qualify as a small business for a particular contract, as long as the protégé qualifies as small for the particular procurement. If the protégé is no longer small at the time of re-certification, then the joint venture cannot certify itself as small under either a set-aside or a full and open contract. Similarly, if a joint venture qualifies as small based on other exclusions from affiliation (13 CFR 121.103 (h)(3)), the joint venture would not be considered small if at the time of re-certification the joint venture does not meet the applicable requirements for the exclusion (*e.g.*, a joint venture between three firms that individually met the applicable size standard and

qualified the joint venture as small under § 121.103(h)(3)).

Several commenters requested that SBA clarify how the rules will affect Blanket Purchase Agreements (BPA) or orders with options, and multi-year orders. A BPA is not a contract. When a BPA is utilized, goods and services are not actually purchased until an order is issued. Consequently, a concern's size at the time a BPA is awarded is irrelevant, and the regulations have been amended to make this clear. The issue of size for purposes of options on orders and multi-year orders is beyond the scope of this rule. We would like to see whether this rule solves the issues that prompted this rulemaking before we consider whether this issue needs to be addressed.

Several commenters requested that SBA clarify whether the rule would apply to existing contracts, and some recommended that contracts already awarded be ''grandfathered'' in under existing rules. We disagree. The problems this rule addresses primarily arose when GSA modified all of its existing MAS contracts to give them base terms of five years with three five-year options, for a total duration of twenty years. We are not aware of anything that would prevent GSA from modifying all of its MAS contracts in the future to add additional five-year option periods. Moreover, many GSA MAS solicitations are open-ended, and admission to the MAS is done on a rolling basis. Thus, if this rule applied only to solicitations issued after the effective date, it would not apply to existing GSA MAS contracts or other long-term contracts currently being performed. Thus, this rule must apply to existing contracts, but, for the reasons stated above, will not cause any firm to lose a long-term contract as a result of growing to be other than small.

Several commenters asserted that current regulations adequately protect small business interests and prevent awards from being issued to large companies masquerading as small businesses. We strongly disagree with the assertion that existing rules adequately prevent orders awarded to large business concerns from being counted as awards to small business concerns for goaling purposes. There are numerous reports, studies, and articles documenting cases where order awards to large businesses are counted as awards to small businesses (*e.g.*, SBA Advocacy, ''Analysis of Type of Business Coding for the Top 1,000 Contractors Receiving Small Business Awards in FY 2002'', December 2004; GAO, ''Contract Management: Reporting of Small Business Contract Awards Does Not Reflect Current Business Size'' (Report #GAO–03–704T, May 7, 2003, *http://www.gao.gov*).

Several commenters asserted that problems in the current system can be solved through better training. We disagree. Many of these practices were legal under the current system. Several commenters argued that criminal prosecution for false size certifications would solve the apparent problems. Again, we disagree. The Small Business Act contains criminal penalties for false size certifications (15 U.S.C. 645), but many of the actions in question did not involve criminal conduct. Instead, a number involved human error, and others involved taking advantage of legal loopholes under the existing regulatory system, which was created before the advent of long-term multiple award task and delivery order contracts.

Some Congressional responders recommended allowing firms to retain their size status if they are within a certain percentage of the relevant size standard, arguing that this approach will allow a concern to grow and benefit from the multi-year contracts they have been successful in winning. The issue of changing or altering size standards is beyond the scope of this rule. SBA has requested and received comments concerning size standards, and may address this issue as part of a separate rule-making.

Several commenters requested clarification on what would happen if a concern that was large at the time of its initial offer for a contract became small during the course of a contract. The vast majority of cases that SBA is aware of involved companies that outgrew their size, not the reverse. Nevertheless, we believe on a long-term contract a concern should be able to change its size status from other than small to small on an unrestricted procurement for statistical purposes. The final rule amends the regulations to allow an other than small firm to certify its small business size status in connection with the exercise of an option.

Several commenters argued that if periodic re-certification is adopted, SBA should specifically limit the authority of a contracting officer to obtain a size certification for a particular order under a multi-award contract. We disagree. First, a significant number of commenters supported requiring size certifications on an order-by-order basis. Agencies are increasingly conducting complex multi-year, multi-million dollar procurements as competitions for orders under the MAS program, where offerors submit ''quotes'' that exceed, in terms of volume and complexity, proposals. Allowing procuring agencies to request size certifications in connection with particular orders is consistent with the purposes of the Small Business Act (procurements meant for small businesses should be awarded to small businesses) and has been upheld by the GAO and the Court of Federal Claims. *See LB&B Associates, Inc.* v. *U.S.*, 68 Fed. Cl. 765 (Fed. Cl. 2005); *CMS Information Services, Inc.*, B–290541, Aug 7, 2002, 2002 CPD ¶ 132. The final rule gives contracting officers the discretion to request size certifications for individual orders, but does not require them to do so. One commenter asserted that under the 8(a) BD or the HUBZone Program, eligibility must be met at the time of award of a task or delivery order contract and for each order. We disagree. SBA's 8(a) BD and HUBZone program regulations do not require concerns to meet HUBZone or 8(a) eligibility requirements on an order-by-order basis.

One commenter recommended that SBA use the term ''representation'' instead of ''certification'' when referring to matters concerning size status for contracts. SBA's regulations provide that size will be determined as of the date a concern submits a written self-certification of size, but the self-certification occurs when an offeror represents that it is small as part of its offer or by submitting an offer. FAR Clauses 52.219–1, 52.204–8. Thus, those terms have been used interchangeably in the context of determining status as a small business concern, and are used in that manner throughout this rule.

One commenter recommended that SBA consider requiring firms to re-certify their size status prior to contract award. We disagree. First, the majority of the problems that prompted this rule did not involve firms that grew large prior to award. Instead, many of the problems revolved around firms that were small at contract award but substantially exceeded the applicable size standard when orders were awarded several years later. Second, the general rule provides finality to concerns and procuring agencies and appears to be working well.

Several commenters argued for a three-year re-certification rule, since a firm's size under an annual revenue size standard is calculated by averaging annual revenue for the three most recently completed fiscal years. While this approach has some merit, we believe five years is more appropriate, because it is consistent with how long a firm retains its size status under traditional five-year contracts.

Many comments concerning re-certification were beyond the scope of the rule. These comments included

suggestions that procuring agencies should be prohibited from awarding small businesses contracts with values that will far exceed the applicable size standard, and requests that the re-certification rule apply to the Small Business Innovative Research (SBIR) and financial assistance programs.

NAICS Code

Several commenters asserted that a business could be small for a particular order but not for its underlying contract. If a concern has not submitted a written self-certification that it is small along with its offer (including price) for the underlying contract, then the only way such a concern could be considered small for the order is if the ordering agency requests size certifications in connection with a solicitation for the order. Otherwise, the concern is large and the order will not count as an award to a small business.

GSA questioned the need for NAICS codes for all orders and solicitations for orders, arguing that ordering agencies are interested in acquiring total solutions which may be provided under different MAS contracts, with different NAICS codes and size standards. However, for MAS orders, the FAR currently provides that ''For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed.'' FAR § 8.405–5(a). The only way to determine whether an awardee meets a size standard that corresponds to the work to be performed is by assigning a specific size standard to the order. As a result of the comments received, we have decided that a NAICS code and corresponding size standard will be required for each and every order. For contracts where there is only one NAICS code and size standard, the order will contain the same NAICS code and size standard. For contracts with multiple NAICS codes and size standards, the order will contain the NAICS and size standard from the underlying contract that best corresponds to the work to be performed, and only concerns that have certified that they are small for that same or lower size standard will be deemed to be small for that particular order.

One commenter stated that the proposed regulations should provide guidance as to how to determine the appropriate NAICS code, and should indicate if a small business can or should aggregate the size standards of multiple NAICS codes when determining whether it qualifies for a procurement. SBA's regulations already adequately address how NAICS codes are assigned to procurements. 13 CFR 121.402. SBA's regulations do not allow size standards to be aggregated. One commenter requested clarification on how size standards based on number of employees are distinguished from size standards based on average annual receipts, which is also already adequately addressed in SBA's regulations. 13 CFR 121.104, 121.106, 121.201.

Finally, we have decided that for purposes of a size re-certification in connection with an option period, the appropriate size standard to use is the size standard in effect at the time the size re-certification is requested, and not the size standard that was in effect when the contract was originally solicited. The final rule will enable the Government to get more accurate small business government contracting statistics and allow concerns to take advantage of increases in size standards that occur due to inflation adjustments or other periodic reviews.

Size Protests

Several comments were received concerning the size protest process, and SBA has modified the final rule in response to these comments. Many government agencies objected to the proposed public notice requirement, which would have required contracting agencies to post on a website or publish in the **Federal Register** a list of concerns that had submitted size re-certifications. We have essentially adopted the existing five business day rule for size protests in connection with long-term contract awards, options, and orders. Because written notice is not required in many instances, *e.g.*, in connection with an order competition or when an option is exercised, unsuccessful offerors will be required to file protests within five days of receipt of notice, whether the notice is received in writing, orally or via electronic posting.

The effect of a negative protest decision will depend on the type of contract and the certification that is being protested. Under existing rules, if a firm is found to be other than small with respect to a full and open contract, the procuring agency will change the concern's status from ''small'' to ''other than small,'' but the concern does not lose its contract. If a size protest is filed with respect to an initial size certification for a small business set-aside contract and the firm is found to be other than small, the contract should not be awarded, or if it was awarded, the contract would have to be terminated, since eligibility for award was based on the initial size certification. For size protests concerning representations made for options under a contract, if a firm is found to be other than small, a contracting officer will have to alter the firm's status in FPDS–NG. Whether the procuring agency exercises the option, or continues to place orders under the contract, is at the discretion of the contracting officer. SBA's regulations do not prohibit a contracting officer from exercising an option in such a case. With respect to size protests in connection with a size certification for a particular order, if a concern is found to be other than small the concern is not eligible for award of the order.

One commenter stated that SBA does not have jurisdiction to permit size protests with respect to orders under multiple award contracts, citing 41 U.S.C. 253j(d). We disagree. The statutory provision cited above applies to protests concerning the procurement process. The statute does not specifically reference size status protests, and there is no evidence in the legislative history to support the proposition that Congress intended to bar size status protests with respect to particular orders. GAO and the Federal Courts have upheld a procuring agency's authority to request size certifications with respect to particular orders. *See LB&B Associates, Inc.* v. *U.S.,* 68 Fed. Cl. 765 (Fed. Cl. 2005); *CMS Information Services, Inc.,* B–290541, Aug 7, 2002, 2002 CPD ¶ 132.

Several commenters requested that SBA clarify whether there are any consequences if a party files a size protest and the protest is found to be without merit. Penalizing parties for filing protests would have a devastating impact on the integrity of the procurement system, which is based on self-policing by the procurement community. Moreover, unsubstantiated, non-specific protests are routinely dismissed without requiring any action by the protested concern.

Several commenters questioned whether SBA has any process in place to verify business size other than the protest procedures. SBA does review questionable size representations that are made by firms in the Government's Central Contractor Registration (CCR) system which contains small business data in the Dynamic Small Business Search (DSBS) engine. CCR is also linked to the Government's On-line Representations and Certifications Application (ORCA) which contains small business size status data relating to offers submitted for Federal contracting opportunities. However, size status for procurement purposes is a function of the work to be performed. A

concern can be small for one type of work and large for another type of work. The size protest process is the only feasible and practicable way to resolve issues in reference to a concern's size with respect to a specific contract or order.

One commenter recommended that SBA conduct on-site visits. We disagree. The size protest process as it exists now has worked well for decades. The problems and complaints that prompted this rule did not involve any failure within the size protest process.

8(a) BD Program

Several commenters argued that the proposed rule would harm concerns that are transitioning out of the 8(a) BD program. However, SBA's rule does not prohibit procuring agencies from exercising options on 8(a) contracts where 8(a) concerns have grown to be large. Moreover, concerns begin transitioning out of the 8(a) BD program in their fifth year of program participation, and are supposed to be able to compete in the open marketplace when their term of participation in the program ends, not several years after they leave the program. The size rules should apply uniformly across small business programs.

Several commenters asked whether the final rule supercedes the 8(a) BD MOU between SBA and GSA concerning the MAS program. The MOU between SBA and GSA with respect to the MAS program expired in 2003. Traditionally, procuring agencies have only been allowed to take credit towards their 8(a) contracting goals for sole source contract awards and contracts awarded pursuant to competition limited exclusively to 8(a) concerns. Orders issued under full and openly competed MAS contracts, where an 8(a) firm competes with non-8(a) small firms and large firms, does not satisfy the 8(a) statutory requirement that competition for an 8(a) award must be limited to eligible 8(a) firms. Thus, procuring agencies can no longer take 8(a) credit for orders awarded to 8(a) firms under full and open MAS contracts.

One commenter argued that a firm that is no longer in the 8(a) BD program should no longer receive orders as an 8(a) small business. The Small Business Act provides that a concern that is an eligible 8(a) concern at the time specified in the solicitation for the receipt of initial offers may be awarded a competitive 8(a) contract, even if the concern exits the program prior to award. 15 U.S.C. § 637(a)(1)(B). Consequently, task or delivery orders issued under such a contract would be counted as orders to an 8(a) concern. On a long-term 8(a) contract, if a firm is no longer small at the time an option is exercised, a procuring agency can exercise the option, but orders issued during that option period will not count as 8(a) awards.

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

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule constitutes a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA determined that the rule imposes a new reporting requirement. Small business concerns are required by this rule to re-certify their size status prior to the end of the fifth year, and at the time each option is exercised thereafter. Specifically small businesses are required to recertify their size status for the NAICS code and size standard contained in the applicable contract. SBA has submitted this information collection to OMB for review.

Three comments raised concerns regarding additional paperwork associated with a re-certification on long-term contracts and the possible costs. In particular, these commenters identified a new requirement to provide additional reporting of their small business status as time consuming and costly. In addition, they expressed concern that they may have to provide information in response to protests of their small business status.

SBA does not agree that this rule will impose any significant burden on small businesses. Businesses must prepare and keep information on their size in the course of business with the Federal Government as both prime contractors and as subcontractors to other prime Federal contractors. Businesses rely on that information to self-certify that they are a small business but do not need to provide the information for the Government's review unless a size protest challenging that self-certification is filed with the contracting officer. Since the publication of the proposed rule, the Federal Government has implemented ORCA to collect data in reference to offers placed against specific solicitations. Small business size status for the NAICS code contained in the specific solicitation is one data element collected. Small businesses are required to verify and update that data in ORCA on an annual basis. The information used to re-certify small business status is the same as that already being provided on a regular basis and is no different from the information used for self-certifications currently provided in ORCA by businesses during the solicitation period.

Executive Order 12988

This final rule meets applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden to the extent practicable.

Executive Order 13132

This final rule will not have substantial direct effect on the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications warranting the preparation of a federalism assessment.

Regulatory Flexibility Act

SBA has determined that this rule could have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Therefore, SBA has prepared a Final Regulatory Flexibility Act (FRFA) analysis addressing the proposed regulation.

The RFA provides that when preparing a FRFA, an agency shall address all of the following: a statement of the need for, and objectives of, the rule; a summary of the significant issues raised by the public in response to the initial regulatory flexibility analysis (IFRA); a description of the estimate of the number of small entities to which the rule will apply; a description of the projected reporting, recordkeeping and other compliance requirements; and a description of the steps taken to minimize the significant economic impact on small entities. This FRFA considers these points and the potential impact of the proposed regulation concerning multiple award or schedule contracts on small entities.

(a) Need for, and Objectives of, the Rule

Under the Small Business Act, SBA is authorized to specify detailed definitions and size standards by which an entity may be determined to be a small business concern. 15 U.S.C. 632(a)(2). SBA's definitions and size standards relating to SBCs are set forth in 13 CFR part 121. Pursuant to SBA's

current regulations (13 CFR 121.404(g)), a concern's size status for a particular contract is determined as of the date that it submits its initial offer, including price, for the contract. This includes GWACs, FSS and MAS contracts. If a concern is small as of that date, it is generally considered small for the life of the contract and for all orders issued pursuant to that contract. With options, these long-term contracts have durations of 10–20 years or longer. Under current policy, a concern that certified itself as small to receive a long-term contract, could still be considered small for subsequent orders issued pursuant to the contract even if the business concern is no longer small. Agencies are then able to count, for small business goaling purposes, an order as an award to a small business even though the concern may have grown to be other than small or may have merged with or been acquired by a large business. Unfortunately, this means that Federal agencies that meet their SBC goals by counting awards to former SBCs do so at the expense of SBCs that currently meet SBA's small business criteria, because those agencies may not seek other procurement opportunities with the present universe of SBCs, believing that they have met their SBC goal through orders to concerns that are no longer small. As a result of the increasing use of these long-term contracts, SBA believes it is necessary to amend its regulations and address these size eligibility issues for orders issued pursuant to long-term contracts.

(b) Summary of Significant Issues Raised by the Public in Response to the Initial RFA

SBA received 17 comments on the IRFA. These comments focused on several issues that are discussed below.

One issue concerned the impact and significance of the proposed rule considering the small number of small businesses affected. According to two commenters, SBA indicated that it expected that an annual re-certification would result in only 6–12 businesses each year reporting a change in size status. If all 12 companies are assumed to receive average annual orders in line with the average value of orders received by individual small businesses ($1.5 million), then the total impact of this ''erroneous'' classification equates to only .13% of total FSS dollars. Even if the average value of dollars obligated annually ($50 million) by the four companies that grew to be large is considered to be representative of the problem, then the impact increases to only .98% of total FSS dollars. In their view, it is not practicable or reasonable to institute an annual re-certification requirement for all small businesses to correct a problem that appears to involve only a very few companies.

One commenter also stated that the SBA calculation that led to its conclusion is based on data that is in some cases 6 to 10 years old, and includes figures for all small businesses in the U.S., not just those that actually participate in the Federal Government contracting that would be covered by this proposed rule. The commenter stated that from this generic data, SBA concludes: (i) only 6 to 12 businesses a year will be affected by the proposed rule; and (ii) that the actual number will be greater than this estimate, although this figure is also unknown to the Agency. According to the commenter, this unknown impact on the small business economy warrants that additional time be given to properly analyze how many small businesses will be affected. The commenter recommends that a formal survey of the estimated 6,000 contract holders should be taken in order to get a realistic estimate of the number of concerns affected, and the number of jobs that will be lost by this proposed rule.

SBA has re-estimated the potential impact of the re-certification policy based on current data from the DSBS database contained in the CCR and FPDS. The next section of this FRFA discusses the new analysis, which estimates a larger number of small businesses, initially 2,300 concerns and approximately 250 annually thereafter, will be affected by this rule. While the actual impact is difficult to ascertain, SBA believes the updated analysis in this rule more realistically describes the potential impact on small businesses. SBA also believes that the accuracy of reporting Federal small business awards in determining the achievement of Federal agencies in meeting their small business goals and the subsequent implications on potential contracting opportunities for small businesses unquestionably supports the need to address the issue of small business certification on long-term contracts.

Two commenters expressed concern about the extent of SBA's consideration of minimizing burdens on small businesses. One commenter stated that SBA had performed an analysis in accordance with the RFA, but there remains a question as to whether the law was, in fact, followed. The commenter believed that the SBA violated the spirit of the RFA which attempts to minimize costly and burdensome regulation on small businesses, while rejecting other, less burdensome, choices. Another commenter stated that this change will require every small business owner to fill out additional paperwork each year on each contract they hold. This information will then have to be collected, analyzed, verified and then stored in a new information system for use. This information would likely be subject to an increased number of FOIA requests from competitors, requiring further paperwork and Government resources.

In the proposed rule, SBA did consider the paperwork burden on small businesses of an additional requirement to re-certify small business status. Because businesses must maintain up-to-date information on their size, the burden to re-certify on a more frequent basis should be minimal. Furthermore, since the publication of the proposed rule, the Federal Government has implemented ORCA, which requires small businesses placing offers on Federal contracts to electronically certify their small business size status for the specific NAICS code contained in the solicitation. In addition, the small business must review and update the data, at the minimum, on an annual basis. Thus, although SBA has adopted a five year re-certification requirement for long-term contracts, small businesses are not being asked to provide information that is not otherwise being provided on at least an annual basis.

Several commenters raised issues concerning the implications of an annual re-certification on small businesses opportunities. According to one commenter, the proposed rule is overly broad and would make it financially infeasible for small businesses to bid on multiple award contracts or the agencies to issue them. If SBA's proposal were enacted, argue these commenters, small businesses could invest in the upfront establishment of its office and personnel only to become ineligible after a year because it exceeded the size standard. They contend that it would be impossible to recoup the costs expended upfront to get the work. Overall, these commenters took the position that the proposed rule ignored the reality of pursuing business, pointing out that there is an upfront investment that can only be recouped over time.

More specifically, one commenter stated that annual re-certification would have a negative impact on their progress payment reimbursement rate, from 90 percent to 75 percent. One commenter stated that small businesses, particularly in the services industry, which are trying to maintain a prescribed size standard to insure continued performance on existing contracts, will

be unable to develop a long-term marketing strategy under the proposal. This commenter also noted that they will also be confronted with significant employee issues, as their ability to hire and retain qualified employees will be diminished given the limited growth opportunities for employees.

One commenter stated that the proposed regulation discourages businesses from taking on new projects or hiring additional workers in order to avoid losing eligibility under the annual re-certification process. In the view of this commenter, a small concern must therefore choose whether to turn down work from other sources so it will be small when called upon to fulfill a task order, or to risk being unable to re-certify the next year.

One commenter stated that most small businesses require several years to adequately adjust in the marketplace to compete with large businesses, adding that crossing a dollar threshold does not make a company well positioned to realistically compete with multi-billion dollar a year full and open competitors.

Another commenter stated that the proposed rule will have two results: (1) A company considering acquiring an emerging small business will lower the price tag of the business, and (2) sources of capital (banks and venture capitalist), because of the increased risk on their investment, will increase the cost of capital. A five-year Federal contract has a predictable rate of return as opposed to a Federal contract that could lose its preferential status as a result of its success. According to the commenter, this proposed rule increases ''risk'' and this ''risk'' will have to be considered by owners and investors in making investment decisions. In the end, stated the commenter, emerging small businesses will be unable to develop a long-term marketing and growth strategy.

Still another commenter stated that the proposed annual re-certification requirement will impose substantial uncertainty and new costs on small business. In particular, argues the commenter, the requirement threatens to penalize those small business companies that successfully compete and obtain long-term contracts. Such companies may achieve a short-term temporary increase in receipts and growth in business, but this would be quickly followed by loss of small business status and disqualification from those types of contracts. This, in turn, would lead to loss of MAS contracts, resulting in lost receipts, employee layoffs and other cutbacks. While the company might as a result regain small business status, states the commenter, this would not be until after a delay of at least a few years, when MAS contracts would not be included in the years used to calculate annual receipts.

As explained above, SBA took into consideration these and other comments to the proposed rule and has revised the final rule to require re-certification prior to the sixth year and prior to each option thereafter. SBA believes that the longer time period allowed on these contracts before re-certification alleviates many of the valid concerns raised by these comments.

Five commenters stated that size protests are an expensive and disruptive process. The commenters suggested small businesses will be forced to expend limited financial capital defending themselves against a protest, many of which are likely to be frivolous, which they consider an especially onerous change. The proposed requirement would cause small business to regard long-term contracts as an unreliable source of temporary business only, which would put a company at great risk or cause uncontrollable and unplanned business disruption. One commenter stated that for those companies already awarded GSA MAS contracts, the proposed change would drastically affect contract terms since companies would be required to put extra time into reporting their small business size status. This extra reporting requirement to GSA and SBA does have pricing implications. One commenter stated that protests will bring contracting to a halt and the Administration's budget for construction will not be obligated and projects will not be finished on time.

Issues related to size protests were discussed in the supplemental information section and modifications to the proposed rule have been adopted. Size protests on long-term, multi-agency contracts are needed to preserve the integrity of the procurement system and small business reporting. SBA's size protest procedures do not unduly burden contractors or procuring agencies. Furthermore, frivolous protests that provide no basis for an allegation are routinely dismissed by SBA. Size protests accepted by SBA are usually processed within 10 business days and do not delay the contracting process. Moreover, for full and open long-term contracts, a size determination by SBA with respect to a concern's certification for its contract or option period would not prevent that business from obtaining an order, and would only affect how the Federal Government reports the size status of the business for statistical purposes.

(c) Estimate of the Number of Small Entities to Which the Rule May Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rule. The RFA defines ''small entity'' to include ''small businesses'', ''small organizations'', and ''small governmental jurisdictions.'' SBA's programs do not apply to ''small organizations'' or ''small governmental jurisdictions'' because they are non-profit or governmental entities and do not qualify as ''business concerns'' within the meaning of SBA's regulations. SBA's programs generally apply only to for-profit business concerns. Therefore, the regulation (like the regulation currently in effect) will not impact small organizations or small governmental jurisdictions.

Small businesses that participate in Federal Government contracting are the specific group of small entities affected most by this rule. While there is no precise estimate for the number of SBCs that will be affected by this rule, there are approximately 368,000 SBCs registered in the CCR's DSBS database (formerly known as PRO-Net). The DSBS contains profiles of SBCs that includes information from SBA's files and CCR. Second, SBA notes that this rule would likely affect those small businesses having long-term contracts that were small at the time of the initial contract award, are no longer small, and those SBCs that become large over time as a result of business growth. The number of SBCs awarded long-term contracts are much less than the DSBS figure, and those that have grown to be, or later become, other than small from the time of the award of their long-term contract is even smaller. Therefore, this rule will not impact all of the SBCs with long-term contracts, but, as described below, would impact approximately 250 businesses each year.

According to the FPDS, in fiscal year (FY) 2003, 13,981 concerns held long-term contracts, of which 8,740 were reported as SBCs. To estimate the number of SBCs that could lose small business status as a result of recertifying their status, SBA estimated the proportion of SBCs that could exceed the small business category if they received the average amount of long-term contracts and applied that proportion to the number of SBCs currently holding those contracts. For FY 2003, FPDS reported 243,462 actions issued for $42.6 billion pursuant to long-term contracts of $25,000 or more. Of these actions, 8,740 SBCs received 100,646 actions valued at $14.2 billion.

On average, an SBC obtained 11.5 actions (100,646/8,740 = 11.5) valued at $1.6 million (($14,174,943,960/8740 = $1,621,847). Based on the DSBS, SBA estimates that approximately 11,200 SBCs could exceed the applicable size standard if they received the average size long-term contract. This estimate was derived by identifying the number of small businesses in the DSBS that are below the most widely used size standards by $1.6 million. That is, SBA examined SBCs between the size range of $4.9 million to $6.5 million, 475 to 500 employees, and $21.4 million to $23 million (limited to the information technology services industries). These SBCs represent 3.0% of all SBCs in the DSBS (11,200/368,000 = 0.0304). Assuming that the size distribution of SBCs on the DSBS is the same as the distribution of SBCs with these contracts, 266 SBCs could outgrow their small business status as a result of receiving orders under multiple award contracts (8,740 × 0.0304 = 265.7).

This estimate of the number of SBCs may be higher or lower depending on two factors. First, orders may be concentrated among a limited number of SBCs, resulting in awards for those businesses much higher in value than the average long-term contract. Second, revenues from other business activities may cause a SBC to exceed its size standard. The estimate calculated above provides a picture of the relative impact that could occur if orders were equally distributed to all SBCs. Although it is impossible to estimate the actual impact of the rule with any degree of certainty, it serves to illustrate the point that a relatively small proportion of SBCs would likely experience a change in small business status.

Based on the number of potential SBCs outgrowing small business status and the $1.6 million average SBC award, $431 million of long-term contracts could be held by concerns changing status from an SBC to a large business ($1,621847 × 266 = $431.4 million). The net impact of SBCs changing size status is unpredictable. One of two outcomes may result. First, future orders would be made to the former SBCs and reported as large business awards. Second, contracting officers could decide to place orders with currently defined SBCs, resulting in a redistribution of orders away from the former SBCs. Only a limited number of orders placed against long-term contracts are reserved for SBCs. However, SBA believes that in many instances contracting officers have sought out SBCs to help fulfill their agency's small business goals. SBA has no way of knowing to what extent contacting officers would continue to utilize the former SBCs because they fulfill the requirements being sought or would decide to seek out other SBCs.

SBA estimates that the number of concerns affected in the first year of this final rule to be 2,300 businesses. SBA examined FY 2003 orders issued under Federal schedule contracts and multiple award contracts to SBCs. The small business status of 8,600 contractors was compared to the information contained in the DSBS to identify which contractors are currently small and which are currently not listed as small. The comparison showed that approximately 6,300 contractors are listed in the DSBS as SBCs and almost 2,300 contractors are not.

Most businesses holding multiple award contracts affected by this rule have not had to certify their size status since their award contract, which could be as long as 8 years ago in a few cases. Over time, some SBCs have grown beyond the small business size standards criteria or were merged or acquired by large businesses. In some instances, data input on a task order or contract was incorrectly reported as an award to an SBC or the contractor did not accurately report its small business status.

SBA also examined the value of contracts received by small businesses and those contractors currently identified as not small. Of $14.2 billion in multiple award contracts reported to SBCs in FY 2003, approximately $3.78 billion, or 26.6%, were in the name of one of the 2,300 contractors not listed as small in the DSBS. As discussed above, it is impossible to predict how this final rule will affect the future distribution of contracts. In many cases, SBA expects that contracting officers will seek out and make award orders to currently defined SBCs. In other cases, the same contractor would receive the order because of the nature of the requirement or how the order is competed.

(d) Projected Reporting, Recordkeeping and Other Compliance Requirements

This final rule imposes a new reporting requirement on small businesses. Specifically, small business concerns are now required to recertify their size status prior to the end of the fifth year of a contract, and thereafter, prior to exercising any options. However, SBA does not believe that this provision imposes any new recordkeeping requirements. SBCs have always been required to keep records pertaining to their size and to certify as to their size status to receive Federal benefits. The information needed to recertify under this rule is the same information small business concerns currently submit for Government contracts to receive a preference or for an agency to count the award as one to a small business. In addition, the information is based on records that are generally kept in the ordinary course of business, such as Federal income tax returns. Finally, as noted above, the Federal Government's implementation of ORCA in January 2005 requires businesses with Federal contracts to update on an annual basis the information that they submitted at solicitation, including information on their small business status. Thus, small businesses are not being asked to provide information that they do not already need to maintain.

(e) Steps Taken To Minimize the Significant Economic Impact on Small Entities

SBA has decided to require re-certification prior to the beginning of the sixth year and prior to each option thereafter. As discussed in the preamble, SBA believes this policy minimizes the impact on small businesses for long-term contracts.

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Individuals with disabilities, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 124

Administrative practice and procedure, Minority businesses, Reporting and recordkeeping requirements, Technical assistance.

■ For the reasons stated in the preamble, the Small Business Administration amends parts 121 and 124 of title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

Subpart A—Size Eligibility Provisions and Standards

■ 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 § 121.404 as follows:

■ a. Add a sentence at the end of paragraph (g).

■ b. Add new paragraphs (g)(1), (2) and (3).

■ c. Remove paragraph (i).

§ 121.404 When does SBA determine the size status of a business concern?

* * * * *

(g) * * * However, the following exceptions apply:

(1) Within 30 days of an approved contract novation, a contractor must recertify its small business size status to the procuring agency, or inform the procuring agency that it is other than small. If the contractor is other than small, the agency can no longer count the options or orders issued pursuant to the contract, from that point forward, towards its small business goals.

(2) In the case of a merger or acquisition, where contract novation is not required, the contractor must, within 30 days of the transaction becoming final, recertify its small business size status to the procuring agency, or inform the procuring agency that it is other than small. If the contractor is other than small, the agency can no longer count the options or orders issued pursuant to the contract, from that point forward, towards its small business goals. The agency and the contractor must immediately revise all applicable Federal contract databases to reflect the new size status.

(3) For the purposes of contracts with durations of more than five years (including options), including Multiple Award Schedule (MAS) Contracts, Multiple Agency Contracts (MACs) and Government-wide Acquisition Contracts (GWACs), a contracting officer must request that a business concern re-certify its small business size status no more than 120 days prior to the end of the fifth year of the contract, and no more than 120 days prior to exercising any option thereafter. If the contractor certifies that it is other than small, the agency can no longer count the options or orders issued pursuant to the contract towards its small business prime contracting goals. The agency and the contractor must immediately revise all applicable Federal contract databases to reflect the new size status.

(i) A business concern that certified itself as other than small, either initially or prior to an option being exercised, may recertify itself as small for a subsequent option period if it meets the applicable size standard.

(ii) Re-certification does not change the terms and conditions of the contract. The limitations on subcontracting, non-manufacturer and subcontracting plan requirements in effect at the time of contract award remain in effect throughout the life of the contract.

(iii) A request for a size re-certification shall include the size standard in effect at the time of re-certification that corresponds to the NAICS code that that was initially assigned to the contract.

(iv) A contracting officer must assign a NAICS code and size standard to each order under a long-term contract. The NAICS code and size standard assigned to an order must correspond to a NAICS code and size standard assigned to the underlying long-term contract. A concern will be considered small for that order only if it certified itself as small under the same or lower size standard.

(v) Where the contracting officer explicitly requires concerns to recertify their size status in response to a solicitation for an order, SBA will determine size as of the date the concern submits its self-representation as part of its response to the solicitation for the order.

(vi) A Blanket Purchase Agreement (BPA) is not a contract. Goods and services are acquired under a BPA when an order is issued. Thus, a concern's size may not be determined based on its size at the time of a response to a solicitation for a BPA.

* * * * *

■ 3. Amend § 121.1004 by revising paragraph (a)(3) to read as follows:

§ 121.1004 What time limits apply to size protests?

(a) * * *

(3) *Long-Term Contracts.* For contracts with durations greater than five years (including options), including all existing long-term contracts, Multiple Award Schedule (MAS) Contracts, Multiple Agency Contracts (MACs), and Government-wide Acquisition Contracts (GWACs):

(i) Protests regarding size certifications made for contracts must be received by the contracting officer prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice (including notice received in writing, orally, or via electronic posting) of the identity of the prospective awardee or award.

(ii) Protests regarding size certifications made for an option period must be received by the contracting officer prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice (including notice received in writing, orally, or via electronic posting) of the size certification made by the protested concern.

(A) A contracting officer is not required to terminate a contract where a concern is found to be other than small pursuant to a size protest concerning a size certification made for an option period.

(B) [Reserved]

(iii) Protests relating to size certifications made in response to a contracting officer's request for size certifications in connection with an individual order must be received by the contracting officer prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice (including notice received in writing, orally, or via electronic posting) of the identity of the prospective awardee or award.

* * * * *

PART 124—8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

Subpart A—8(a) Business Development

■ 4. The authority citation for part 124 continues to read:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Pub. L. 99–661, Pub. L. 100–656, sec. 1207, Pub. L. 101–37, Pub. L. 101–574, and 42 U.S.C. 9815.

■ 5. Amend § 124.503 to revise paragraph (h) to read as follows:

§ 124.503 How does SBA accept a procurement for award through the 8(a) BD program?

* * * * *

(h) *Task and Delivery Order Contracts.* If a task or delivery order contract was previously offered to and accepted into the 8(a) BD program, task and delivery orders under the contract are not to be offered to or accepted into the 8(a) BD program. See § 121.404(g)(3) for rules concerning size re-certifications in connection with long-term contracts.

* * * * *

Dated: November 7, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–19253 Filed 11–14–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25243; Airspace Docket No. 06–AWP–11]

Revocation of Class D Airspace; Elko, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the Document Management System docket number contained in the Direct Final Rule that was published in the **Federal Register** on Tuesday, July 18, 2006 (71 FR 40651). Airspace Docket No. 06–AWP–11.

DATES: *Effective Date:* December 15, 2006.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520.1, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION: Docket No. FAA–2006–24243; Airspace Docket No. 06–AWP–11, published on Tuesday, July 18, 2006 (71 FR 40651) revoked Class D airspace at Elko, NV. An error was discovered in the docket number. Docket No. FAA–2006–24243 should have been FAA–2006–25243. This action corrects that error.

Correction to Direct Final Rule

■ Accordingly, pursuant to the authority delegated to me, and in consideration of the foregoing, the Federal Aviation Administration corrects the Docket No. in the **Federal Register**, published Tuesday, July 18, 2006 (Vol. 71, No. 137, page 40651, column 3), as follows:

* * * * *

14 CFR Part 71

[Docket No. FAA–2006–25243; Airspace Docket No. 06–AWP–11]

* * * * *

Issued in Los Angeles, California, on November 2, 2006.

Leonard Mobley,

Acting Area Director, Western Terminal Operations.

[FR Doc. 06–9177 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30522; Amdt. No. 3193]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 15, 2006. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2006.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and Section 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P-NOTAMs.

The SIAPs, as modified by FDC P-NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on November 3, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of The Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
10/19/06	ME	PORTLAND	PORTLAND INTL JETPORT	6/3879	ILS OR LOC RWY 11, AMDT 2. ILS RWY 11 (CAT II, III) AMDT 2.
10/20/06	WY	KEMMERER	KEMMERER MUNI	6/3940	RNAV (GPS) RWY 34, ORIG.
10/24/06	PA	PUNXSUTAWNEY	PUNXSUTAWNEY MUNI	6/4227	RNAV (GPS) RWY 25, ORIG.
10/27/06	TX	CARTHAGE	PANOLA COUNTY-SHARPE FIELD	6/4648	NDB OR GPS RWY 35, AMDT 1A.
10/27/06	LA	LAFAYETTE	LAFAYETTE REGIONAL	6/4649	ILS OR LOC RWY 22L, AMDT 4D.
10/27/06	OH	COLUMBUS	BOLTON FIELD	6/4656	ILS RWY 4, AMDT 4A.
10/30/06	AL	MUSCLE SHOALS	NORTHWEST ALABAMA REGIONAL	6/4773	ILS OR LOC RWY 29, AMDT 4.
10/31/06	CA	NAPA	NAPA COUNTY	6/4890	LOC RWY 36L, AMDT 2C.
10/31/06	OH	TOLEDO	TOLEDO EXPRESS	6/4929	ILS OR LOC RWY 7, AMDT 27.
10/31/06	OH	DAYTON	JAMES M COX DAYTON INTL	6/4930	ILS RWY 6L, AMDT 8.
10/31/06	OH	DAYTON	JAMES M COX DAYTON INTL	6/4931	ILS RWY 18, AMDT 9.
10/31/06	OH	DAYTON	JAMES M COX DAYTON INTL	6/4932	ILS RWY 24L, AMDT 8A.
10/31/06	OH	DAYTON	JAMES M COX DAYTON INTL	6/4934	ILS RWY 24R, AMDT 6.
10/31/06	OH	DAYTON	JAMES M COX DAYTON INTL	6/4936	ILS RWY 6L (CAT II), AMDT 8.
10/31/06	OH	DAYTON	JAMES M COX DAYTON INTL	6/4937	ILS RWY 6L (CAT III), AMDT 8.
10/31/06	GA	VIDALIA	VIDALIA REGIONAL	6/4940	ILS OR LOC/NDB RWY 24, ORIG.
10/31/06	OH	CLEVELAND	BURKE LAKEFRONT	6/4955	ILS RWY 24R, ORIG-C.
10/31/06	ME	BANGOR	BANGOR INTL	6/4962	ILS OR LOC RWY 33, AMDT 11.
10/31/06	AZ	TUCSON	TUCSON INTL	6/4964	RNAV (GPS) RWY 11R, ORIG.
10/31/06	CA	ARCATA/EUREKA	ARCATA	6/4970	ILS OR LOC/DME RWY 32, AMDT 1B.
11/01/06	MO	HIGGINSVILLE	HIGGINSVILLE INDUSTRIAL MUNI	6/5020	RNAV (GPS) RWY 34, ORIG.
11/01/06	MO	HIGGINSVILLE	HIGGINSVILLE INDUSTRIAL MUNI	6/5023	RNAV (GPS) RWY 16, ORIG.
11/01/06	OH	CLEVELAND	CLEVELAND-HOPKINS INTL	6/5025	ILS OR LOC RWY 6R, AMDT 19B.
11/01/06	OH	CLEVELAND	CLEVELAND-HOPKINS INTL	6/5026	ILS RWY 6R (CAT II), AMDT 19B.
11/01/06	OH	CLEVELAND	CLEVELAND-HOPKINS INTL	6/5028	ILS RWY 6R (CAT III), AMDT 19B.
11/01/06	AK	ANCHORAGE	TED STEVENS ANCHORAGE INTL	6/5039	RNAV (GPS) RWY 7L, AMDT 1.
11/01/06	AK	BETHEL	BETHEL	6/5040	ILS/DME RWY 18, AMDT 5A.
11/01/06	AK	BETHEL	BETHEL	6/5041	LOC/DME BC RWY 36, AMDT 5B.
11/01/06	AK	FAIRBANKS	FAIRBANKS INTL	6/5043	VOR OR TACAN RWY 19R, AMDT 1.
11/01/06	AZ	TUCSON	TUCSON INTL	6/5117	RNAV (GPS) RWY 11R, ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5134	ILS RWY 7, AMDT 1.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5135	ILS RWY 1, AMDT 28A.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5136	ILS RWY 7 (CAT II) , AMDT 1.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5137	RNAV (GPS) RWY 1, ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5138	ILS RWY 7 (CAT III) , AMDT 1.

FDC date	State	City	Airport	FDC No.	Subject
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5139	RNAV (GPS) Z RWY 25, ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5140	RNAV (GPS) Z RWY, 19 ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5141	LOC BC RWY 19, AMDT 15.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5142	RNAV (GPS) RWY 7, ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5143	RADAR–1, AMDT 10.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5144	RNAV (GPS) Y RWY 19, ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5145	RNAV (GPS) Y RWY 25, ORIG.
11/01/06	IL	CHICAGO/ ROCKFORD	CHICAGO/ ROCKFORD INTL	6/5146	NDB RWY 1, AMDT 25C.

[FR Doc. E6–19115 Filed 11–14–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30521 Amdt. No. 3192]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 15, 2006. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2006.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169, or;

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the

affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC on November 3, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 23 November 2006

Jonesville, VA, Lee County, RNAV (GPS) RWY 7, Orig
Jonesville, VA, Lee County, RNAV (GPS) RWY 25, Orig
Jonesville, VA, Lee County, Takeoff Minimums and Textual DP, Orig

Effective 21 December 2006

Fort Myers, FL, Southwest Florida Intl, LOC RWY 5, Orig

Effective 18 January 2007

Greensboro, AL, Greensboro Muni, RNAV (GPS) RWY 18, Orig
Greensboro, AL, Greensboro Muni, RNAV (GPS) RWY 36, Orig
Greensboro, AL, Greensboro Muni, NDB OR GPS RWY 36, Orig-B, CANCELLED
Greensboro, AL, Greensboro Muni, Takeoff Minimums and Textual DP, Orig
Gulkana, AK, Gulkana, RNAV (GPS) RWY 15, Amdt 1
Gulkana, AK, Gulkana, RNAV (GPS) RWY 33, Amdt 1
Gulkana, AK, Gulkana, VOR/DME RWY 15, Orig
Gulkana, AK, Gulkana, VOR/DME RWY 33, Orig
Gulkana, AK, Gulkana, VOR RWY 14, Amdt 7, CANCELLED
Gulkana, AK, Gulkana, VOR RWY 32, Amdt 6A, CANCELLED
Gulkana, AK, Gulkana, DF RWY 15, Amdt 2
Gulkana, AK, Gulkana, Takeoff Minimums & Textual DPs, Amdt 7
Orlando, FL, Kissimmee Gateway, ILS OR LOC RWY 15, Orig
Louisville, KY, Bowman Field, RNAV (GPS) RWY 24, Orig
Louisville, KY, Bowman Field, GPS RWY 24, Orig-B, CANCELLED
Brookhaven, MS, Brookhaven-Lincoln County, RNAV (GPS) RWY 22, Orig
Brookhaven, MS, Brookhaven-Lincoln County, VOR/DME–A, Amdt 9
Brookhaven, MS, Brookhaven-Lincoln County, NDB OR GPS RWY 22, Amdt 3, CANCELLED
Great Falls, MT, Great Falls Intl, Takeoff Minimums and Textual DP, Orig
Gastonia, NC, Gastonia Muni, RNAV (GPS) RWY 21, Orig
Gastonia, NC, Gastonia Muni, RNAV (GPS) RWY 3, Amdt 1
Dayton, OH, Greene County—Lewis A Jackson Regional, RNAV (GPS) RWY 7, Orig
Dayton, OH, Greene County—Lewis A Jackson Regional, RNAV (GPS) RWY 25, Orig
Dayton, OH, Greene County—Lewis A Jackson Regional, NDB RWY 25, Amdt 1
Dayton, OH, Greene County—Lewis A Jackson Regional, GPS RWY 7, Orig-A, CANCELLED
Dayton, OH, Greene County—Lewis A Jackson Regional, Takeoff Minimums and Textual DP, Amdt 1
Elk City, OK, Elk City Regional Business, RNAV (GPS) RWY 17, Orig
Elk City, OK, Elk City Regional Business, RNAV (GPS) RWY 35, Orig
Elk City, OK, Elk City Regional Business, NDB RWY 17, Amdt 5
Elk City, OK, Elk City Regional Business, VOR/DME RNAV RWY 17, Amdt 2A, CANCELLED
Elk City, OK, Elk City Regional Business, GPS RWY 35, Orig, CANCELLED
Elk City, OK, Elk City Regional Business, GPS RWY 17, Orig, CANCELLED
Elk City, OK, Elk City Regional Business, Takeoff Minimums and Textual DP, Amdt 1
Fayetteville, TN, Fayetteville Muni, RNAV (GPS) RWY 20, Orig
Fayetteville, TN, Fayetteville Muni, SDF RWY 20, Amdt 4
Fayetteville, TN, Fayetteville Muni, GPS RWY 20, Orig-A, CANCELLED
Olympia, WA, Olympia, VOR/DME RWY 35, Amdt 12
Olympia, WA, Olympia, VOR–A, Amdt 1
Olympia, WA, Olympia, RNAV (GPS) RWY 35, Orig
Olympia, WA, Olympia, RNAV (GPS) RWY 17, Orig

The FAA published an Amendment in Docket No. 30513, Amdt No. 3184 to Part 97 of the Federal Aviation Regulations (Vol 71, FR No. 179, Page 54404; dated September 15, 2006) under section 97.27, effective 23 November 2006, published in TL 06–21 are hereby RESCINDED as follows:

Saratoga, WY, Shively Field, NDB–A, Amdt 1
Saratoga, WY, Shively Field, RNAV (GPS)–B, Orig

[FR Doc. E6–19112 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 203 and 205

[Docket Nos. 1992N–0297 (Formerly 92N–0297), 1988N–0258 (Formerly 88N–0258), 2006D–0226]

Prescription Drug Marketing Act Pedigree Requirements under 21 CFR Part 203 Compliance Policy Guide and Guidance for Industry: Prescription Drug Marketing Act Pedigree Requirements Questions and Answers; Notice of Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability of guidances.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final Compliance Policy Guide (CPG) 160.900 entitled ''Prescription Drug Marketing Act—Pedigree Requirements under 21 CFR Part 203'' (PDMA CPG). This CPG describes how the agency intends to prioritize its enforcement efforts in the first year after the December 1, 2006, effective date of 21 CFR §§ 203.3(u) and 203.50. In addition, the FDA is announcing the availability of ''Guidance for Industry: Prescription Drug Marketing Act (PDMA) Pedigree

Requirements Questions and Answers'' (PDMA Q & A). The PDMA Q & A guidance is issued in response to the many questions received regarding the Prescription Drug Marketing Act (PDMA) pedigree requirements. The two guidance documents explain FDA's current thinking on issues related to the pedigree requirements of the PDMA.

DATES: The effective date for the PDMA CPG is December 1, 2006. The PDMA CPG expires December 1, 2007. The PDMA Q & A guidance is effective November 15, 2006. Submit written or electronic comments on the PDMA Q & A guidance or the PDMA CPG at any time.

ADDRESSES: Submit written comments on the PDMA Q & A guidance or the PDMA CPG identified by the docket numbers found in the heading of this document by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and docket numbers for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' 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.fda.gov/ohrms/dockets/default.htm* and insert the docket numbers, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ilisa Bernstein, Office of the Commissioner, Office of Policy (HF–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3360, or by e-mail *ilisa.bernstein@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. Implementation of 21 CFR §§ 203.3(u) and 203.50

The PDMA, as modified by the Prescription Drug Amendments of 1992, amended sections 301, 303, 503, and 801 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 331, 333, 353, and 381) to establish, among other things, requirements related to the wholesale distribution of prescription drugs. A primary purpose of the PDMA is to increase safeguards to prevent the introduction and retail sale of substandard, ineffective, and counterfeit drugs in the U.S. drug supply chain.

Section 503(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (act) establishes the so-called ''pedigree'' requirement for prescription drugs. A drug pedigree is a statement of origin that identifies each prior sale, purchase, or trade of a drug, including the dates of those transactions and the names and addresses of all parties to them. Under the pedigree requirement, each person who is engaged in the wholesale distribution of a prescription drug in interstate commerce, who is not the manufacturer or an authorized distributor of record for that drug, must provide a pedigree for that drug to the person who receives the drug. The PDMA states that an authorized distributor of record is a wholesaler that has an ''ongoing relationship'' with a manufacturer to distribute that manufacturer's drug. However, the PDMA does not define ''ongoing relationship.''

In 1999, FDA published final regulations related to the PDMA (part 203 (21 CFR part 203)). The regulations were to take effect in December 2000. After publication of the 1999 final rule, the agency received comments objecting to the provisions in §§ 203.3(u) and 203.50. Section 203.3(u) defines ''ongoing relationship'' to include a written agreement between a manufacturer and a distributor. Section 203.50 specifies the fields of information that must be included in the drug pedigree, and states that the information must be traceable back to the first sale by the manufacturer. Based on concerns raised by various stakeholders, the agency delayed the effective date of §§ 203.3(u) and 203.50 several times.

Most recently, in February 2004, FDA delayed the effective date of §§ 203.3(u) and 203.50 until December 1, 2006, in part because we were informed by stakeholders in the U.S. drug supply chain that the industry would voluntarily implement electronic track and trace technology by 2007. If widely adopted, this technology could create a de facto electronic pedigree (e-pedigree) documenting the sale of a drug product from its place of manufacture through the U.S. drug supply chain to the final dispenser. If properly implemented, an electronic record could thus meet the pedigree requirements in section 503(e)(1)(A) of the act. Based on a recent fact-finding effort by FDA to assess the use of e-pedigree across the supply chain, however, it appears that industry will not fully implement track and trace technology by 2007.

As a result of this fact finding, FDA published a notice in the **Federal Register** on June 14, 2006 (71 FR 34249), announcing that it does not intend to delay the effective date of §§ 203.3(u) and 203.50 beyond December 1, 2006. Thus, these provisions defining ''ongoing relationship'' and setting forth requirements regarding the information that must appear in pedigrees will go into effect as of December 1, 2006. As part of its June 14, 2006, announcement, FDA also issued and requested comment on draft Compliance Policy Guide 160.900 entitled ''Prescription Drug Marketing Act Pedigree Requirements under 21 CFR Part 203.''

B. PDMA Compliance Policy Guide

We are issuing the final PDMA CPG, which describes how we plan to prioritize our enforcement efforts during the first year in which §§ 203.3(u) and 203.50 are effective. This PDMA CPG lists factors that FDA field personnel are expected to consider in prioritizing FDA's pedigree related enforcement efforts. Consistent with our risk-based approach to the regulation of pharmaceuticals, utilizing these factors will focus our efforts on drug products that are most vulnerable to counterfeiting and diversion or that are otherwise involved in illegal activity.

The priorities described in the PDMA CPG reflect a phased-in type approach to the enforcement of the previously stayed pedigree provisions. The PDMA CPG will expire December 1, 2007. By providing guidance on the types of drugs that are currently of greatest

concern to FDA, we believe that wholesale distributors will have a better idea of where and how to focus their initial energies as they implement systems and approaches to come into complete compliance with 21 CFR part 203.

FDA is issuing this PDMA CPG as a level 1 guidance consistent with FDA's good guidance practices (21 CFR § 10.115).

We note that guidance documents are not binding on FDA or industry, and, under appropriate circumstances, the agency may initiate regulatory action, including criminal prosecution, for violations of the pedigree requirements.

C. Guidance for Industry: Prescription Drug Marketing Act Pedigree Requirements Questions and Answers

We are also issuing the PDMA Q & A, which represents FDA's current thinking on several issues regarding the PDMA pedigree requirements. It addresses numerous questions that FDA received as comments to the PDMA CPG docket, as well as through e-mail and other communications, regarding the PDMA pedigree requirements. The questions and answers in the guidance address issues pertaining to manufacturers, wholesale distributors, pharmacies, and other entities affected by the PDMA pedigree requirements.

FDA is issuing the PDMA Q & A as a level 1 guidance consistent with FDA's good guidance practices (21 CFR § 10.115). Given that the relevant PDMA pedigree provisions will go into effect as of December 1, 2006, FDA is implementing the PDMA Q&A immediately, in accordance with § 10.115(g)(2) (21 CFR 10.115(g)(2)), because the agency has determined that prior public input is not feasible or appropriate. As noted, the pedigree requirements set forth in §§ 203.3(u) and 203.50, which had been stayed on several occasions, will apply to prescription drug products as of December 1, 2006. Promptly clarifying FDA's current thinking on the questions in the guidance should facilitate industry's compliance with the PDMA pedigree requirements.

Under § 10.115(g), FDA is opening a docket on the PDMA Q & A, and we invite interested persons to submit comments and questions. FDA intends to review the comments and questions and to revise the PDMA Q & A when appropriate, using the question and answer format in the PDMA Q & A guidance. For purposes of transparency, efficiency, and clarity, the agency believes that, at the present time, it is important to maintain FDA's written responses to the significant questions concerning the PDMA pedigree requirements in a single guidance document that is periodically updated as the agency receives and responds to additional questions. We also intend to use the following four indicators to help users of the guidance identify future additions or revisions: (1) The updated guidance will be identified as a revision of the previously issued document, (2) the revision date of the guidance will appear on its cover, (3) the edition number of the guidance will be included in its title, and (4) questions and answers that have been added to the guidance, or prior answers that have been in any way modified, will be identified as such in the body of the guidance.

The PDMA CPG and PDMA Q & A guidance represent the agency's current thinking on issues related to the PDMA pedigree requirements. The guidances do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

An electronic version of the PDMA CPG is available on the Internet at *http://www.fda.gov/ora* under ''Compliance Reference''. An electronic version of the PDMA Q & A guidance is available at *http://www.fda.gov/pdma*.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the PDMA Q & A guidance or PDMA CPG at any time. 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. Received comments and the guidance may be seen in the Division of Dockets management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 8, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–9211 Filed 11–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. FHWA–2006–23552]

RIN 2125–AF18

Construction and Maintenance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising its regulations in 23 CFR part 635 subpart D to address Section 5514 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This law requires the FHWA to ensure that States provide for competition with respect to the specification of alternative types of culvert pipes. These revisions will ensure that States provide for competition in the specification of alternative types of culvert pipes.

DATES: *Effective Date:* December 15, 2006.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. Gerald Yakowenko, Office of Program Administration (HIPA), (202) 366–1562. For legal information: Mr. Michael Harkins, Office of the Chief Counsel (HCC–30), (202) 366–4928, Federal Highway Administration, 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:

Electronic Access

This document and all comments received by the U.S. DOT Dockets, Room PL–401, may be viewed through the Docket Management System (DMS) at *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of this Web site.

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov* and the Government Printing Office's Web page at *http://www.access.gpo.gov/nara.*

Background

Section 5514 of the SAFETEA–LU (Pub. L. 109–59; Aug. 10, 2005), titled ''Competition for Specification of Alternative Types of Culvert Pipes,'' requires the Secretary of Transportation to ensure that States provide for competition with respect to the

specification of alternative types of culvert pipes through requirements that are commensurate with competition requirements for other construction materials.

The FHWA's policies in 23 CFR part 635 subpart D—General Material Requirements support the competitive bidding principles in Section 112 of Title 23 U.S. Code by providing for the broadest consideration of materials to encourage competition. Where alternative products are judged to be of satisfactory quality and equally acceptable on the basis of engineering and economic analysis, the FHWA requires equal consideration in the specification of materials.

Notice of Proposed Rulemaking (NPRM)

The FHWA published a NPRM on April 17, 2006, at 71 FR 19667. We proposed to delete 23 CFR 635.411, paragraph (d) and re-designate paragraphs (e) and (f) as (d) and (e) respectively. We also proposed to delete Appendix A to subpart D—''Summary of Acceptable Criteria for Specifying Types of Culvert Pipes'' in its entirety.

Appendix A to subpart D of 23 CFR part 635 was officially included in the FHWA's regulations on September 30, 1974. Appendix A contained the requirements concerning the specification, number and types of culvert pipes specified on Federal-aid highway construction projects. These requirements were intended to encourage competition and lower the cost of culvert pipes by encouraging the consideration of alternate culvert pipe materials in certain drainage installations.

When Appendix A was codified in 1974, the universe of available culvert materials was very limited and the State DOT's experience with new culvert materials was equally limited. From a practical viewpoint, the culvert materials market consisted of two materials—reinforced concrete pipe and corrugated steel pipe (either plain galvanized or asphalt coated). At that time, the State DOTs were also limited by existing national materials specifications for these materials and it was difficult for new culvert manufacturers to enter the public transportation construction marketplace. Over the next thirty years, the competitive market changed significantly and American Association of State Highway and Transportation Officials (AASHTO) materials specifications are now available for various culvert materials such as: acrylonitrile butadiene styrene pipe, reinforced concrete pipe, corrugated aluminum pipe, corrugated steel pipe (with coatings of zinc, aluminum, asphalt or polymers), poly-vinyl chloride pipe and high-density polyethylene pipe.

In order to implement the provisions of section 5514 of SAFETEA–LU and be consistent with the long-standing policy of ensuring the consideration of the largest number of appropriate alternatives that lead to the lowest overall life cycle cost, the FHWA proposed to delete Appendix A to subpart D of 23 CFR part 635. The deletion of Appendix A will eliminate the specific requirement for the consideration of alternative types of culverts for certain drainage installations. By doing so, the selection and specification of culvert types will be governed by the same regulatory policy for all other materials in 23 CFR 635.411, thus ensuring competition in the selection of pipes.

Summary Discussion of Comments Received in Response to the NPRM

The following discussion provides an overview of the comments received in response to the NPRM, and the FHWA's actions to resolve and address the issues raised by the respondents.

Profile of Respondents

We received responses from twenty-three entities. The respondents included: three State (DOTs), four associations, three consulting engineering firms, three firms involved with the manufacturing of culverts, and ten individuals. The four associations included: Uni-Bell PVC Pipe Association, the Plastic Pipe Institute, the American Concrete Pipe Association and the National Corrugated Steel Pipe Association. We classified the American Association of State Highway and Transportation Officials (AASHTO) as a State DOT because they represent State DOT interests. The AASHTO provided a consolidated response to the NPRM on behalf of its member States. Two State DOTs also provided their comments individually.

Analysis of NPRM Comments and FHWA Response

Fourteen commenters expressed support for the proposed changes in the NPRM. No commenter objected to the proposed changes in the NPRM. Nine commenters did not approve or disapprove of the proposed changes, but provided commentary for consideration in drafting the final rule.

Supporting the Need for Change

Nine commenters including: Chevron Philips Chemical Company LP, Advanced Drainage Systems, Inc., the Plastic Pipe Institute, ExxonMobil Chemical Company, Mr. Daniel J. Kuroter, Mr. Andrew P. Thomas, Clough Harbour & Associates LLP, Honorable Deborah Pryce and Jim Goddard stated that Appendix A to subpart D is outdated and does not reflect the realities in today's highly competitive culvert marketplace.

We agree with this concern. The availability of different culvert materials and the State DOTs' experience with these materials has changed significantly since Appendix A was codified in 1974. This is one of the reasons why we elected to delete Appendix A. It is no longer necessary to have an FHWA requirement concerning the minimum number of alternative culvert specifications that are necessary for certain drainage installations.

Many respondents expressed concerns regarding interpretations of Appendix A that have limited competition. The ADR and Associates and Mr. Andy Beard stated that some contracting agency interpretations of Appendix A led to non-competitive situations—exactly the opposite of what the FHWA intended. They indicated that such interpretations stifle competition by allowing highway project managers to ignore the wide range of culvert alternatives that currently exist.

Mr. Daniel J. Kuroter, Mr. Andrew P. Thomas, and Clough Harbour & Associates LLP stated that the current regulations do not promote competition and are too frequently interpreted in ways that restrict competition. Advanced Drainage Systems, Inc. indicated that they have encountered certain States that routinely and arbitrarily restricted competition in the selection of drainage products.

Mr. John Owen Hurd and Jim Goddard stated that Appendix A has allowed contracting agencies to circumvent the intent of the rules to encourage competition and specify only one pipe material if they so choose.

We appreciate the concerns of these respondents in asserting that some contracting agencies may have used Appendix A as an excuse for not fully considering all reasonable culvert alternatives. With the deletion of Appendix A, contracting agencies will no longer be able to cite Appendix A as their basis for not considering other culvert alternatives.

Other respondents suggested that the FHWA consider a revision, rather than a deletion of Appendix A. Honorable Deborah Pryce recommended that consideration be given to revising Appendix A to clarify the types and

numbers of alternative products that are required for consideration in various drainage applications. Advanced Drainage Systems, Inc. and the Plastic Pipe Institute stated that a proper revision of Appendix A might have been more effective in requiring competition; however, they recognized that the proposed deletion of Appendix A could accomplish the same goal as long as it is properly enforced at the State level.

We considered a revision rather than a deletion of Appendix A but elected not to do so for two reasons. First, Section 5514 requires the Secretary to ''* * * ensure that States provide for competition with respect to the specification of alternative types of culvert pipes through requirements that are commensurate with competition requirements for other construction materials, as determined by the Secretary.'' The FHWA does not have a specific policy requiring the specification, number and types of alternative materials for any other highway construction material. In all other areas of highway material specification, the contracting agency has the responsibility to consider all alternative products that are judged to be of satisfactory quality and equally acceptable on the basis of engineering and economic analyses. Thus, it is important to treat culvert materials the same as other materials by removing Appendix A. Second, the culvert materials industry is a highly competitive market and it would not be appropriate to limit the consideration of alternative materials through a revision of Appendix A.

Many of the respondents recommended that the FHWA take additional enforcement and compliance actions to ensure real competition. The ADR and Associates and Mr. Andy Beard recommend that we take additional enforcement steps to ensure that the final rule results in the promotion of real competition. Advanced Drainage Systems, Inc. and the Plastic Pipe Institute recommended that the FHWA provide appropriate communications and enforcement actions if it is to meet the intent of Congress. Other commenters such as Chevron Philips Chemical Company LP, ADR and Associates, Mr. Andy Beard, ExxonMobil Chemical Company, Mr. Daniel J. Kuroter, Mr. Andrew P. Thomas, Clough Harbour & Associates LLP and Jim Goddard suggested that FHWA utilize appropriate incentives and penalties to ensure compliance.

We recognize the concerns of these respondents who believe that culvert material competition has been limited in certain segments of the Federal-aid program. While the FHWA does not have the legal authority to utilize incentives to the States for enforcement purposes, the FHWA does have the authority to impose penalties if the FHWA determines that a State is not complying with Federal requirements. Pursuant to 23 CFR 1.36, the FHWA may withhold payment on a particular project, withhold approval of further projects, and take any other action the FHWA may deem appropriate. The FHWA will continue to exercise appropriate oversight over all Federal requirements and work with the States to ensure that these requirements are met.

Maintaining the Status Quo

Generally speaking, the AASHTO, two State DOT representatives and Ms. Lesly Tribelhorn were concerned that the final rule may require States to change their current State practices, thus limiting the flexibility they now have for culvert material selection.

The AASHTO agreed that the proposed deletion of Appendix A will eliminate specific requirements for the consideration of alternative types of culverts for certain drainage installations, thus making the selection of culvert materials subject to the same FHWA regulations as the selection of all other materials. The AASHTO believed that this would provide flexibility and allow for the application of engineering judgment in selection and design of drainage facilities. However, AASHTO noted that the proposed change failed to recognize the complexities associated with the analysis, design, detailing and bidding of multiple culvert type specifications.

The State of Rhode Island currently restricts the use of high-density polyethylene (HDPE) pipe to a maximum culvert diameter of 24 inches. The Rhode Island representative was concerned that the proposed changes would require a revision of its culvert material selection policy to consider the use of HDPE pipes for culvert installations greater than 24 inches. Similarly, a representative from the Iowa DOT indicated that it was not opposed to the proposed rule, however, it did not want the final rule to limit or restrict the State's ability to specify certain pipe materials in specific drainage installations.

Ms. Tribelhorn stated that there is a need to allow the States to use engineering judgment in the culvert selection process and contracting agencies should be allowed to use specific selection criteria without the FHWA requiring pipe alternatives in the bidding process. Ms. Tribelhorn questioned whether the deletion of Appendix A would allow for this flexibility.

With the deletion of Appendix A, the FHWA's material selection policy will require the States to consider all available materials or products that are judged to be of satisfactory quality and equally acceptable on the basis of engineering and economic analyses. Where such products appear to be equal, alternative bidding practices must be used as required by 23 CFR 635.411(b). Where alternative products are determined to have different engineering and economic properties, contracting agencies may select a specific material or product based on life cycle cost criteria. In such cases, the contracting agency should document its material selection decision on a project or program basis as appropriate.

The AASHTO further stated that it is often necessary to specify a certain type of culvert on higher functional classification roadways where major disruptions of traffic would occur if repairs or replacements were needed. The AASHTO stated that existing Appendix A to Subpart D provided the authority to do this. It raised the concern that the proposed deletion of Appendix A would result in the States having to justify and seek FHWA's approval for such installations.

We disagree that the proposed change would result in additional work for the contracting agency (assuming that the agency is currently complying with the FHWA policy).

The AASHTO recommended that the FHWA insert the following language in 23 CFR 635.411(b), at the end of the second sentence—''This provision is not intended to displace the owner's or their Professional Engineers responsibility to determine acceptable materials based on local performance history or owner's policies on material use.'' It appears that the intent of this recommendation is to give the contracting agency the discretion to waive the requirement for alternate material bidding of equally acceptable products for various reasons.

Mr. Jim Goddard commented that AASHTO's recommendation was written to permit those agencies still using single source, non-competitive standards to maintain the status quo. Mr. John Owen Hurd stated that AASHTO's recommendation would completely emasculate the intent of the proposed changes, permitting arbitrary selection of only one type of pipe material.

We disagree with the recommendation proposed by AASHTO. The existing provisions in 23 CFR part 411 provides contracting agencies with

sufficient flexibility to select materials or products that are of satisfactory quality and equally acceptable on the basis of engineering and economic analyses.

Other Comments

The National Corrugated Steel Pipe Association (NCSPA) noted its support for the intent of Section 5514 of SAFETEA–LU but provided specific recommendations regarding culvert type selection procedures. The NCSPA recommend that the FHWA require contracting agencies to set acceptable service life requirements and provide economic analyses of the alternates based on those requirements. The NCSPA believes that very few State DOT specifications have a service life requirement and the design methodology to adequately determine service life for all culvert alternatives in the varying environments. Furthermore, the NCSPA stated that under the current policy, the FHWA cannot be assured of proper life cycle cost analysis from each State DOT unless that State has specific service life requirements.

We agree with the intent of the comment; however, this topic is not appropriate for inclusion in this regulation. It would be more appropriate to address this issue in an AASHTO guide specification or AASHTO guideline as is currently done for other highway materials.

The American Concrete Pipe Association supported the proposed language in the NPRM, but recommended a revision to the first sentence in 23 CFR 635.411(b) to read as follows: ''When there is available for purchase more than one nonpatented, nonproprietary material, semifinished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are proven to be of equal quality and material service life, perform the intended engineering function during the design life of the project, and equally acceptable on the basis of an engineering analysis and a present worth life cycle cost analysis, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work.''

This revision would place more emphasis on life cycle costs rather than initial costs. We agree with the intent of this recommendation; however, we do not believe that the revision is necessary as contracting agencies already consider life cycle cost considerations in determining which materials are equally acceptable.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this final rule is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. We anticipate that the economic impact of this rulemaking will be minimal. These changes to the FHWA's Material or Product Selection policies are minor in nature. The deletion of Appendix A to subpart D of 23 CFR part 635 eliminates the specific requirement for the consideration of alternative types of culverts for certain drainage installations. Culvert pipes will be subject to the same selection policies as all other highway materials and products. This final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) the FHWA has evaluated the effects of this final rule on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities. This final rule addresses material selection for States. As such, it affects only States and States are not included in the definition of small entity set forth in 5 U.S.C. 601. Therefore, the Regulatory Flexibility Act does not apply and the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year. Additionally, the definition of ''Federal Mandate'' in the Unfunded Mandates Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA has analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

This action will not affect the taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interface with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action will not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this final rule under Executive Order 13175, dated November 6, 2000, and believes that this action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. This final action addresses material selection by the States for Federal-aid highway projects and will not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use Dated May 18, 2001. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 635

Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements.

Issued on: November 7, 2006.

J. Richard Capka,

Federal Highway Administrator.

■ In consideration of the foregoing, the FHWA proposes to amend part 635 of title 23, Code of Federal Regulations, as follows:

PART 635—CONSTRUCTION AND MAINTENANCE

■ 1. Revise the authority citation for part 635 to read as follows:

Authority: Sec. 5514 of Pub. L. 109–59, 119 Stat. 1144; 23 U.S.C. 101 (note), 109, 112, 113, 114, 116, 119, 128, and 315; 31 U.S.C. 6505; 42 U.S.C. 3334, 4601 et seq.; Sec. 1041(a), Pub. L. 102–240, 105 Stat. 1914; 23 CFR 1.32; 49 CFR 1.48(b).

§ 635.411 [Amended]

■ 2. Amend § 635.411 by removing paragraph (d) and redesignating paragraphs (e) and (f) as (d) and (e) respectively.

Appendix A to Subpart D [Removed]

■ 3. Amend 23 CFR part 635, subpart D by removing Appendix A to Subpart D.

[FR Doc. E6–19240 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–55]

RIN 1513–AB32

Los Carneros Viticultural Area; Technical Amendment (2006R–224P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: In this Treasury decision, the Alcohol and Tobacco Tax and Trade Bureau makes a technical amendment to its regulations to clarify the viticultural significance of the terms ''Los Carneros'' and ''Carneros'' in relation to the existing Los Carneros viticultural area.

DATES: *Effective Date:* November 15, 2006.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; phone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Los Carneros Viticultural Area

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF), the predecessor agency of TTB, established the Los Carneros viticultural area effective on September 19, 1983, in T.D. ATF–142, published in the **Federal Register** on August 18, 1983 (48 FR 37365). The establishment of the Los Carneros viticultural area is codified, and its boundary is described, in the TTB regulations at 27 CFR 9.32.

The ''Evidence of Name'' discussion in the preamble of T.D. ATF–142 states that the names ''Los Carneros'' and ''Carneros'' are generally used interchangeably. The 1983 final rule document explains that ATF approved many labels over a period of more than ten years that simply used the name ''Carneros.'' Also, ATF noted that the Spanish word ''los'' translates to ''the'' in English. ATF therefore, in this specific case, determined that ''Carneros'' and ''Los Carneros'' are not different names, but rather are equivalent forms of the same name. Consequently, ATF concluded that either ''Los Carneros'' or ''Carneros'' should be allowed for use on labels and in advertising to refer to the Los Carneros viticultural area.

Currently, paragraph (a) of § 9.32, states, ''The name of the viticultural area described in this section is 'Los Carneros.' '' To clarify that the ''Los Carneros'' and ''Carneros'' names both have the same and equal viticultural significance in the context of this

viticultural area, TTB is amending paragraph (a) of 27 CFR 9.32. This technical amendment clarifies the fact that either ''Los Carneros'' or ''Carneros'' standing alone may be used as the name of the viticultural area, and that both terms are viticulturally significant for the purposes of part 4 of the TTB regulations.

Impact on Current Wine Labels

This technical amendment to the Los Carneros viticultural area does not affect currently approved wine labels that use the ''Los Carneros'' or ''Carneros'' names. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

Because this regulatory action merely codifies an existing policy adopted in 1983 as part of a prior rulemaking action that included a public notice and comment period, TTB has determined that no notice of proposed rulemaking and public comment period are required under 5 U.S.C. 553(b). For the same reason, this final rule is not subject to the delayed effective date requirement of 5 U.S.C. 553(d).

Executive Order 12866

This final rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N. A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Section § 9.32 is amended by revising paragraph (a) to read as follows:

§ 9.32 Los Carneros.

(a) *Name*. The name of the viticultural area described in this section is ''Los Carneros''. ''Carneros'' may also be used as the name of the viticultural area described in this section. For purposes of part 4 of this chapter, ''Los Carneros'' and ''Carneros'' are terms of viticultural significance.

* * * * *

Signed: October 2, 2006.

John J. Manfreda,

Administrator.

Approved: October 13, 2006.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E6–19231 Filed 11–14–06; 8:45 am]

BILLING CODE 4810–31–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in December 2006. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov).*

DATES: Effective December 1, 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during December 2006, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during December 2006, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during December 2006.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.80 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions represent an increase (from those in effect for November 2006) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged. These interest assumptions

reflect the PBGC's recently updated mortality assumptions, which are effective for terminations on or after January 1, 2006. See the PBGC's final rule published December 2, 2005 (70 FR 72205), which is available at *http://www.pbgc.gov/docs/05–23554.pdf.* Because the updated mortality assumptions reflect improvements in mortality, these interest assumptions are higher than they would have been using the old mortality assumptions.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent an increase (from those in effect for November 2006) of 0.25 percent in the immediate annuity rate and are otherwise unchanged. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during December 2006, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 158, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*		*		*
158	12–1–06	1–1–07	3.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 158, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*		*		*
158	12–1–06	1–1–07	3.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for December 2006, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*		*
December 2006	.0580	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 8th day of November 2006.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–19257 Filed 11–14–06; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 235

[DOD–2005–OS–0149]

RIN 0790–AH86

Sale or Rental of Sexually Explicit Material on DoD Property (DoD Instruction 4105.70)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction. It establishes responsibilities for monitoring compliance, establishes a review board to determine whether a material offered for sale or rental is sexually explicit as consistent with the definition in 10 U.S.C. 2489a, and delineates review board procedures. This updated rule includes administrative changes and one new policy allowing materials which have been determined by the Board to be sexually explicit to be submitted for reconsideration every 5 years.

DATES: *Effective Date:* December 15, 2006.

FOR FURTHER INFORMATION CONTACT: Commander F. Stich, 703–602–4601.

SUPPLEMENTARY INFORMATION: On December 19, 2005 (70 FR 75091) the Department of Defense published the proposed rule for public comment. Twenty-eight comments were posted, 14 of which merited a response:

1. Comment posted 1/12/06:

General Comment: I don't think the DoD should be selling or renting sexually explicit material other than artistic publications such as Playboy.

DoD response: The Part, which implements 10 U.S.C. 2489a, prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, as well as the sale or rental of sexually explicit material by DoD military and civilian personnel acting in an official capacity.

2. Comment posted 2/2/06:

General Comment: In addition to appointing senior representative to the Resale Activities Board of Review, there should also be a consumer group composed of enlisted members and officers to help analyze material for decency.

DoD response: Forming the suggested consumer group is unnecessary. The Resale Activities Board of Review includes civilian representatives from the Army, Navy, and Air Force who are capable of identifying sexually explicit material.

3. Comment posted 2/6/06:

General Comment: I think that the proposed rule to prohibit sexually explicit material being sold on the property of the Department of Defense and by those employed by the Department of Defense is a bit too restricting. I can understand prohibiting it on government property, however, prohibiting those employed by the Department of Defense has gone too far. It is not the government's job to regulate what people do with their private lives. It's like telling people that they can't smoke if they want to work for that person.

DoD response: The Part does not prohibit DoD personnel from possessing sexually explicit material. It prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, and it prohibits the sale or rental of sexually explicit material by DoD military and civilian personnel when acting in an official capacity.

4. Comment posted 2/6/06:

General Comment: It seems that if magazines and videos containing sexually explicit materials are to be restricted but books containing sexually explicit materials are not, then a double standard is being created. In essence sexually explicit materials are acceptable in one format but not in another. Either all sexually explicit materials should be allowed or it all should be banned.

DoD response: The Part is consistent with 10 U.S.C. 2489a, which does not include books in the definition of ''sexually explicit material.''

5. Comment posted 2/6/06:

General Comment: I think the military should be able to possess whatever types of media they choose, as long as it does not violate the law.

DoD response: The Part does not regulate possession of sexually explicit material by DoD military and civilian employees. It prohibits the sale or rental of sexually explicit material on property under the DoD jurisdiction, and it prohibits the sale or rental of sexually explicit material by DoD military and civilian employees acting in an official capacity.

6. Comment posted 2/6/06:

General Comment: I don't see how the barring of sale or rental of pornographic materials is going to help anything. If the issue is pornography on property owned by the Dept. of Defense, then possession of it should be banned entirely.

DoD response: The Part does not regulate the possession of sexually explicit material by DoD military and civilian employees. It prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, and by DoD civilian and military employees when acting in an official capacity.

7. Comment posted 2/6/06:

General Comment: I believe that this proposed rule is too restrictive based on the fact that all DoD property is included. While explicit materials should be restricted from certain areas under DoD's property, such as work areas, other property, such as personal living areas, should not be included.

DoD response: The Part does not prohibit the possession of sexually explicit material by DoD military and civilian employees. It prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, and by DoD military and civilian employees when acting in an official capacity.

8. Comment posted 2/6/06:

General Comment: I think this regulation needs some clarification. I would also like to know why the government has banned trade of sexually explicit material in the armed forces.

DoD response: The Part implements 10 U.S.C. 2489a, which prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, and by DoD military and civilian employees when acting in an official capacity.

9. Comment posted 2/6/06:

General Comment: The Department of Defense should not restrict the rights of military personnel more so than the general public. If military people want to look at pornographic material that is available in the open market, they should be allowed to do so.

DoD response: The Part does not prohibit the possession of sexually explicit material by DoD civilian or military employees. It prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, and by DoD military and civilian employees when acting in an official capacity.

10. Comment posted 2/6/06:

General Comment: What is rationale behind not allowing members of the armed forces to view these materials?

DoD response: The Part does not prohibit the possession or viewing of sexually explicit material by DoD employees. It prohibits the sale or rental of sexually explicit material by the Department of Defense on property under its jurisdiction and by DoD military and civilian employees when acting in an official capacity.

11. Comment posted 2/6/06:

General Comment: Although I think this regulation is a necessary one, I am curious as to why the definitional sections are just now being added years after the actual regulation was enacted.

DoD response: The definitions section is not new. The previous Part contained definitions, as does the reissued Part.

12. Comment posted 2/6/06:

General Comment: I don't want regulations on what I look at.

DoD response: The Part does not prohibit the possession or viewing of sexually explicit material by DoD civilian and military personnel. It prohibits the sale or rental of sexually explicit material on property under its jurisdiction and by DoD military and civilian employees when acting in an official capacity.

13. Comment posted 2/6/06:

General Comment: This seems to border on the side of the restriction of the freedom of press despite the fact that it is not regulating the actual production of the materials. Perhaps more along the lines of censorship?

DoD response: The Part does not censor free speech, because it does not prohibit the possession of sexually explicit material by DoD military and civilian personnel. It prohibits the sale or rental of sexually explicit material by the Department of Defense on property under its jurisdiction, and by DoD civilian and military employees when acting in an official capacity.

14. Comment posted 2/23/06:

I write because of my concern with proposed regulation 32 CFR 235. My primary concern is that the regulation violates, if not the First Amendment itself, at least the spirit of it.

The first problem is that this regulation does discriminate based on viewpoint. It *only* applies to materials that contain nudity designed to elicit a sexual response, *i.e.* that represent nudity or sex as being pleasurable. That is a viewpoint.

The second problem is that there is no reference to any serious artistic, literary, or political value that sexually explicit materials may have. Even if the ''dominant theme'' of such materials is the depiction of nudity designed to elicit a sexual response, those materials might still have eminent worth because of other important, but ''lesser'' themes. Such materials could easily also very intentionally represent nudity in a titillating way to explore the very reasons it is titillating. The reality is that if materials have nudity, no matter how tasteful or artistic, it will probably be found to be sexually explicit.

The second problem is that ''dominant theme'' is unworkably ambiguous. One could easily apply this standard to a movie that has only ten minutes of nudity, because the ''power'' of this segment far outweighs the rest the film.

The final problem is that this regulation is grossly paternalistic. The Department of Defense should ban the sale of sexually explicit material that is actually obscene. But members of the armed forces are adults, and should be treated as such. Even if these regulations do not reach serious, worthwhile but sexually explicit materials, they still reach some rather innocuous forms of pornography. I simply do not see the value in the government censoring such material from the men and women of the Armed Forces. If they are mature enough to serve our country, they are mature enough to decide whether to view these sorts of sexually explicit materials.

Accordingly, I would urge that the regulations be revised and restricted to exclude materials with redeeming social value and to reach only ''hard-core'' pornography.

DoD response: The Part does not censor free speech, because it does not prohibit the possession of sexually explicit material by DoD civilian and military employees. It prohibits the sale or rental of sexually explicit material on property under DoD jurisdiction, and by DoD military and civilian employees when acting in an official capacity. In *PMG International Division, L.L.C.* v. *Rumsfeld*, 303 F.3d 1163 (9th Cir. 2002), the U.S. Court of Appeals affirmed the decision of the U.S. District Court for the Northern District of California, and held that the Military Honor and Decency Act (the Act) , 10 U.S.C. 2489a, merely regulated government speech, and that plaintiffs had no right under the First Amendment to compel the government to offer sexually explicit materials at military exchanges. The Appellate court also concluded that military exchanges were nonpublic fora and that the Act was a viewpoint-neutral, reasonable regulation of speech. See also, *General Media Communication, Inc., el al.* v. *Perry*, 1997 U.S. App. LEXIS 40571.

Certifications

Executive Order 12866

This regulatory action is not a significant regulatory action, as defined by Executive Order 12866.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Federalism (Executive Order 13132)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

This rule is not subject to the Regulatory Flexibility Act because it would not, if promulgated, have a significant economic impact on a substantial number of small entities as defined by 5 U.S.C. 601. The production of sexually explicit material is not the typical product of small business concerns as defined under section 3 of the Small Business Act. Furthermore, military exchanges represent only a small segment of the retail sector since access is restricted to military personnel and other authorized patrons.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

This rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and such rulemaking will not significantly or uniquely affect small governments.

List of Subjects in 32 CFR Part 235

Business and industry, Concessions, Government contracts, Military personnel.

■ Accordingly, title 32 of the Code of Federal Regulations is amended by revising part 235 to read as follows:

PART 235—SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL ON DOD PROPERTY

Sec.
235.1 Purpose.
235.2 Applicability and scope.
235.3 Definitions.
235.4 Policy.
235.5 Responsibilities.
235.6 Procedures.
235.7 Information requirements.

Authority: 10 U.S.C. 2489a.

§ 235.1 Purpose.

This part implements 10 U.S.C. 2489a, consistent with DoD Instruction 1330.09,[1] by providing guidance about restrictions on the sale or rental of sexually explicit materials on property under the jurisdiction of the Department of Defense or by members of the Armed Forces or DoD civilian officers or employees, acting in their official capacities.

§ 235.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to as the ''DoD Components'').

(b) Shall not confer rights on any person.

§ 235.3 Definitions.

For the purpose of this part, the following definitions apply:

Dominant theme. A theme of any material that is superior in power, influence, and importance to all other themes in the material combined.

Lascivious. Lewd and intended or designed to elicit a sexual response.

Material. An audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium.

Property under the jurisdiction of the Department of Defense. Commissaries, facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps Exchanges, and ship stores.

Sexually explicit material. Material, the dominant theme of which is the depiction or description of nudity, including sexual or excretory activities or organs, in a lascivious way.

§ 235.4 Policy.

It is DoD policy that:

(a) No sexually explicit material may be offered for sale or rental on property under the DoD jurisdiction, and no member of the Armed Forces or DoD civilian officer or employee, acting in his or her official capacity, shall offer for sale or rental any sexually explicit material.

(b) Material shall not be deemed sexually explicit because of any message or point of view expressed therein.

§ 235.5 Responsibilities.

(a) The Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD((P&R)), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Monitor and ensure compliance with this part.

(2) Establish a Resale Activities Board of Review (the ''Board'') and approve senior representatives from the Army and Air Force Exchange Service, the Navy Exchange Service Command, and the Marine Corps Exchange Service; and approve a senior representative from each of the Military Departments, if designated by the Military Department concerned, to serve as board members on the Resale Activities Board.

(3) Appoint a Chair of the Board.

(4) Monitor the activities of the Board and ensure that the Board discharges its responsibilities as set forth in § 235.6.

(b) The Secretaries of the Military Departments shall ensure that their respective component DoD resale activities comply with this Part and may designate a senior representative to serve on the Board.

(c) The Secretary of the Army and the Secretary of the Air Force shall each appoint one senior representative from the Army and Air Force Exchange Service to serve on the Board.

(d) The Secretary of the Navy shall appoint a senior representative from the Navy Exchange Service Command and a senior representative from the Marine Corps Exchange Service to serve on the Board.

§ 235.6 Procedures.

(a) The Board shall periodically review material offered or to be offered for sale or rental on property under DoD jurisdiction and determine whether any such material is sexually explicit in accordance with this part.

(b) If the Board determines that any material offered for sale or rental on property under DoD jurisdiction is sexually explicit, such material shall be withdrawn from all retail outlets where it is sold or rented and returned to distributors or suppliers, and shall not be purchased absent further action by the Board.

(c) The Board shall convene as necessary to determine whether any material offered or to be offered for sale or rental on property under DoD jurisdiction is sexually explicit. The Board members shall, to the extent practicable, maintain and update relevant information about material offered or to be offered for sale or rental on property under DoD jurisdiction.

(d) If any purchasing agent or manager of a retail outlet has reason to believe that material offered or to be offered for sale or rental on property under DoD jurisdiction may be sexually explicit as defined herein, and such material is not addressed by the Board's guidance issued pursuant to paragraph (e) of this section, he or she shall request a determination from the Board about such material prior to purchase or as soon as possible.

(e) At the conclusion of each review and, as necessary, the Board shall issue guidance to purchasing agents and managers of retail outlets about the purchase, withdrawal, and return of sexually explicit material. The Board may also provide guidance to purchasing agents and managers of retail outlets about material that it has determined is not sexually explicit. Purchasing agents and managers of retail outlets shall continue to follow their usual purchasing and stocking practices unless instructed otherwise by the Board.

(f) Material which has been determined by the Board to be sexually explicit may be submitted for reconsideration every 5 years. If substantive changes in the publication standards occur earlier, the purchasing agent or manager of a retail outlet under DoD jurisdiction may request a review.

§ 235.7 Information requirements.

The Chair of the Board shall submit to the PDUSD(P&R) an annual report documenting the activities, decisions, and membership of the Board. Negative reports are required. The annual report shall be due on October 1st of each year and is not subject to the licensing

[1] Copies may be obtained at *http://www.dtic.mil/whs/directives/*.

internal information requirements of DoD 8910.1–M.[2]

Dated: November 8, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E6–19268 Filed 11–14–06; 8:45 am]

BILLING CODE 5001–06–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 97

[WT Docket No. 04–140; FCC 06–149]

Amateur Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its Amateur Radio Service rules to revise the frequency segments of the 80 meter and 40 meter amateur service High Frequency (HF) bands on which amateur stations are authorized to transmit voice communications; authorize amateur stations to transmit certain emission types on additional amateur service bands or frequency segments; revise the procedures for the amateur service vanity call sign system; eliminate unnecessary restrictions imposed on manufacturers of certain types of equipment that may be used at amateur stations; and make other conforming amendments to the amateur service rules.

DATES: Effective December 15, 2006.

FOR FURTHER INFORMATION CONTACT: William T. Cross, Wireless Telecommunications Bureau at (202) 418–0620, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* in WT Docket No. 04–140; FCC 06–149, adopted October 4, 2006, and released October 10, 2006. The complete text of this document is available for inspection and copying during normal business hours in the FCC's Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC. Alternative formats (Braille, large print, electronic files, audio format) are available for people with disabilities by sending an e-mail to *FCC504@fcc.gov* or, calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The Order also may be downloaded from the Commission's Web site at *http://www.fcc.gov/*.

1. In this *Report and Order* the Commission adopts changes to its part 97 rules to conform the amateur service rules to the international Radio Regulations. The overall effect of this action is to further the public interest by allowing amateur service licensees to use the spectrum more efficiently, and by allowing amateur service stations to operate with fewer restrictions. The changes adopted in this *Report and Order* were proposed in the *Notice of Proposed Rulemaking* at 69 FR 51028, August 17, 2004. Over 150 comments on the proposed rule changes were received and changes to the proposed rules based on these comments are included in this *Report and Order*.

2. Specifically, the Commission (1) revises the operating privileges of amateur radio operators to allow more spectrum in four currently-authorized amateur service HF bands to be used for voice communications; (2) permits auxiliary stations to transmit on additional amateur service bands; (3) permits amateur stations to transmit spread spectrum communications on the 1.25 meter (m) band; (4) permits amateur stations to retransmit communications from the International Space Station; (5) permits amateur service licensees to designate the amateur radio club to receive their call sign in memoriam; (6) prohibits an applicant from filing more than one application for a specific vanity call sign; (7) eliminates certain restrictions on equipment manufacturers that are no longer necessary; (8) permits amateur radio stations operating in Alaska and surrounding waters more flexibility in providing emergency communications; and (9) removes certain restrictions in the amateur service license examination system that are no longer necessary. The effect of these revisions are to provide licensees with greater flexibility in the utilization of amateur service frequencies, promote efficient use of the Amateur Radio Service spectrum by authorizing communications that include both analog and digital emission types to be transmitted on currently-authorized amateur service spectrum, and eliminate unnecessary requirements that may limit the flexibility of the amateur service license examination system.

I. Procedural Matters

A. Paperwork Reduction Act Analysis

3. This document does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

B. Report to Congress

4. The Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Certification, in a report to be sent to Congress and the Congressional Budget Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA and the Final Regulatory Flexibility Certification will also be published in the **Federal Register**.

C. Final Regulatory Flexibility Certification

5. In this *Report and Order*, we amend the rules that specify how an individual who has qualified for an amateur service operator license can use an amateur radio station consistent with the basis and furthering the purpose of the amateur service. The amended rules apply exclusively to individuals who are licensees in the amateur radio service. Given the definition of a ''small entity,'' none of these individuals are small entities as the term is used in the RFA. In addition, the amended rules reflected in this *Report and Order* potentially could affect manufactures of amateur radio equipment. Based on requests that the Commission has received for certification of amplifiers under part 97 of the Rules, we estimate that there are between five and ten manufactures of amateur radio amplifiers and that by the relevant SBA standard none of these manufactures are small entities. We also note that the rule changes will apply to amateur radio licensees and control operators of amateur radio stations and will not have a necessary impact on manufactures of amplifiers that may be used at amateur radio stations. Therefore, we certify that the rules reflected in this *Report and Order* will not have a significant economic impact on a substantial number of small entities.

D. Ordering Clauses

6. Pursuant to sections 4(i), 303(f), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), 303(r) and 332, that parts 1, 2, and 97 of the Commission's Rules *are amended* as specified below.

[2] Copies may be obtained at *http://www.dtic.mil/whs/directives/*.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 2

Communications equipment, Telecommunications.

47 CFR Part 97

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, and 97 as follows:

PART 1—APPLICATION REQUIREMENTS AND PROCEDURES

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

■ 2. Amend § 1.934 by adding paragraph (d)(5) to read as follows:

§ 1.934 Defective applications and dismissal.

* * * * *

(d) * * *

(5) It requests a vanity call sign and the applicant has pending another vanity call sign application with the same receipt date.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 4. Amend § 2.106 by revising United States footnotes US212 and US267 to read as follows:

§ 2.106 Table of Frequency Allocation.

* * * * *

US212 In, or within 92.6 km (50 nautical miles) of, the State of Alaska, the carrier frequency 5167.5 kHz (assigned frequency 5168.9 kHz) is designated for emergency communications. This frequency may also be used in the Alaska-Private Fixed Service for calling and listening, but only for establishing communications before switching to another frequency. The maximum power is limited to 150 watts peak envelope power (PEP).

* * * * *

US267 In the band 902–928 MHz, amateur radio stations shall transmit only on the frequency segments 902.0–902.4, 902.6–904.3, 904.7–925.3, 925.7–927.3, and 927.7–928.0 MHz within the States of Colorado and Wyoming, bounded by the area of latitude 39°N. to 42°N. and longitude 103°W. to 108°W.

* * * * *

■ 5. Amend § 2.815 by revising paragraph (b), and removing paragraphs (c), (d), and (e) to read as follows:

§ 2.815 External radio frequency power amplifiers.

* * * * *

(b) No person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of certification in accordance with subpart J of this part and other relevant parts of this chapter. These amplifiers shall comply with the following:

(1) The external radio frequency power amplifier shall not be capable of amplification in the frequency band 26–28 MHz.

(2) The amplifier shall not be capable of easy modification to permit its use as an amplifier in the frequency band 26–28 MHz.

(3) No more than 10 external radio frequency power amplifiers may be constructed for evaluation purposes in preparation for the submission of an application for a grant of certification.

(4) If the external radio frequency power amplifier is intended for operation in the Amateur Radio Service under part 97 of this chapter, the requirements of §§ 97.315 and 97.317 of this chapter shall be met.

■ 6. Amend § 2.1060 by removing paragraph (c), redesignating paragraph (d) as paragraph (c) and revising newly designated paragraph (c) to read as follows:

§ 2.1060 Equipment for use in the amateur radio service.

* * * * *

(c) Certification of external radio frequency power amplifiers may be denied when denial would prevent the use of these amplifiers in services other than the Amateur Radio Service.

PART 97—AMATEUR RADIO SERVICE

■ 7. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

■ 8. Amend § 97.3 by removing and reserving paragraph (a)(19) and revising paragraph (c)(2) to read as follows:

§ 97.3 Definitions.

* * * * *

(c) * * *

(2) *Data.* Telemetry, telecommand and computer communications emissions having designators with A, C, D, F, G, H, J or R as the first symbol; 1 as the second symbol; D as the third symbol, and emissions A1C, F1C, F2C, J2C, J3C, and J2D having an occupied bandwidth of 500 Hz or less when transmitted on an amateur service frequency below 30 MHz. Only a digital code of a type specifically authorized in this part may be transmitted.

* * * * *

■ 9. Amend § 97.19 by revising paragraphs (c)(3) and (d)(1) to read as follows:

§ 97.19 Application for a vanity call sign.

* * * * *

(c) * * *

(3) Except for an applicant who is the spouse, child, grandchild, stepchild, parent, grandparent, step-parent, brother, sister, stepbrother, stepsister, aunt, uncle, niece, nephew, or in-law, and except for an applicant who is a club station license trustee acting with a written statement of consent signed by either the licensee *ante mortem* but who is now deceased or by at least one relative, as listed above, of the person now deceased, the call sign shown on the license of the person now deceased is not available to the vanity call sign system for 2 years following the person's death, or for 2 years following the expiration of the license grant, whichever is sooner.

(d) * * *

(1) The applicant must request that the call sign shown on the license grant be vacated and provide a list of up to 25 call signs in order of preference. In the event that the Commission receives more than one application requesting a vanity call sign from an applicant on the same receipt day, the Commission will process only the first such application entered into the Universal Licensing System. Subsequent vanity call sign applications from that applicant with

the same receipt date will not be accepted.

* * * * *

■ 10. Amend § 97.103 by revising paragraph (c) to read as follows:

§ 97.103 Station licensee responsibilities.

* * * * *

(c) The station licensee must make the station and the station records available for inspection upon request by an FCC representative. When deemed necessary by a District Director to assure compliance with the FCC Rules, the station licensee must maintain a record of station operations containing such items of information as the District Director may require in accord with § 0.314(x) of the FCC Rules.

■ 11. Amend § 97.111 by redesignating paragraphs (a)(2) through (a)(4) as (a)(3) through (a)(5) and adding a new paragraph (a)(2) to read as follows:

§ 97.111 Authorized transmissions.

(a) * * *

(2) Transmissions necessary to meet essential communication needs and to facilitate relief actions.

* * * * *

■ 12. Amend § 97.113 by revising paragraph (e) to read as follows:

§ 97.113 Prohibited transmissions.

* * * * *

(e) No station shall retransmit programs or signals emanating from any type of radio station other than an amateur station, except propagation and weather forecast information intended for use by the general public and originated from United States Government stations, and communications, including incidental music, originating on United States Government frequencies between a manned spacecraft and its associated Earth stations. Prior approval for manned spacecraft communications retransmissions must be obtained from the National Aeronautics and Space Administration. Such retransmissions must be for the exclusive use of amateur radio operators. Propagation, weather forecasts, and manned spacecraft communications retransmissions may not be conducted on a regular basis, but only occasionally, as an incident of normal amateur radio communications.

* * * * *

■ 13. Amend § 97.115 by revising paragraph (b)(2), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

§ 97.115 Third party communications.

* * * * *

(b) * * *

(2) The third party is not a prior amateur service licensee whose license was revoked or not renewed after hearing and re-licensing has not taken place; suspended for less than the balance of the license term and the suspension is still in effect; suspended for the balance of the license term and re-licensing has not taken place; or surrendered for cancellation following notice of revocation, suspension or monetary forfeiture proceedings. The third party may not be the subject of a cease and desist order which relates to amateur service operation and which is still in effect.

(c) No station may transmit third party communications while being automatically controlled except a station transmitting a RTTY or data emission.

* * * * *

■ 14. Amend § 97.201 by revising paragraph (b) to read as follows:

§ 97.201 Auxiliary station.

* * * * *

(b) An auxiliary station may transmit only on the 2 m and shorter wavelength bands, except the 144.0–144.5 MHz, 145.8–146.0 MHz, 219–220 MHz, 222.00–222.15 MHz, 431–433 MHz, and 435–438 MHz segments.

* * * * *

■ 15. Amend § 97.203 by revising paragraph (f) to read as follows:

§ 97.203 Beacon station.

* * * * *

(f) A beacon must cease transmissions upon notification by a District Director that the station is operating improperly or causing undue interference to other operations. The beacon may not resume transmitting without prior approval of the District Director.

* * * * *

■ 16. Amend § 97.207 by revising paragraph (g) and removing paragraphs (h) and (i) to read as follows:

§ 97.207 Space station.

* * * * *

(g) The license grantee of each space station must make the following written notifications to the International Bureau, FCC, Washington, DC 20554.

(1) A pre-space notification within 30 days after the date of launch vehicle determination, but no later than 90 days before integration of the space station into the launch vehicle. The notification must be in accordance with the provisions of Articles 9 and 11 of the International Telecommunication Union (ITU) Radio Regulations and must specify the information required by Appendix 4 and Resolution No. 642 of the ITU Radio Regulations. The notification must also include a description of the design and operational strategies that the space station will use to mitigate orbital debris, including the following information:

(i) A statement that the space station licensee has assessed and limited the amount of debris released in a planned manner during normal operations, and has assessed and limited the probability of the space station becoming a source of debris by collisions with small debris or meteoroids that could cause loss of control and prevent post-mission disposal;

(ii) A statement that the space station licensee has assessed and limited the probability of accidental explosions during and after completion of mission operations. This statement must include a demonstration that debris generation will not result from the conversion of energy sources on board the spacecraft into energy that fragments the spacecraft. Energy sources include chemical, pressure, and kinetic energy. This demonstration should address whether stored energy will be removed at the spacecraft's end of life, by depleting residual fuel and leaving all fuel line valves open, venting any pressurized system, leaving all batteries in a permanent discharge state, and removing any remaining source of stored energy, or through other equivalent procedures specifically disclosed in the application;

(iii) A statement that the space station licensee has assessed and limited the probability of the space station becoming a source of debris by collisions with large debris or other operational space stations. Where a space station will be launched into a low-Earth orbit that is identical, or very similar, to an orbit used by other space stations, the statement must include an analysis of the potential risk of collision and a description of what measures the space station operator plans to take to avoid in-orbit collisions. If the space station licensee is relying on coordination with another system, the statement must indicate what steps have been taken to contact, and ascertain the likelihood of successful coordination of physical operations with, the other system. The statement must disclose the accuracy—if any—with which orbital parameters of non-geostationary satellite orbit space stations will be maintained, including apogee, perigee, inclination, and the right ascension of the ascending node(s). In the event that a system is not able to maintain orbital tolerances, *i.e.*, it lacks a propulsion system for orbital

maintenance, that fact should be included in the debris mitigation disclosure. Such systems must also indicate the anticipated evolution over time of the orbit of the proposed satellite or satellites. Where a space station requests the assignment of a geostationary-Earth orbit location, it must assess whether there are any known satellites located at, or reasonably expected to be located at, the requested orbital location, or assigned in the vicinity of that location, such that the station keeping volumes of the respective satellites might overlap. If so, the statement must include a statement as to the identities of those parties and the measures that will be taken to prevent collisions;

(iv) A statement detailing the post-mission disposal plans for the space station at end of life, including the quantity of fuel—if any—that will be reserved for post-mission disposal maneuvers. For geostationary-Earth orbit space stations, the statement must disclose the altitude selected for a post-mission disposal orbit and the calculations that are used in deriving the disposal altitude. The statement must also include a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the space station. In general, an assessment should include an estimate as to whether portions of the spacecraft will survive re-entry and reach the surface of the Earth, as well as an estimate of the resulting probability of human casualty.

(v) If any material item described in this notification changes before launch, a replacement pre-space notification shall be filed with the International Bureau no later than 90 days before integration of the space station into the launch vehicle.

(2) An in-space station notification is required no later than 7 days following initiation of space station transmissions. This notification must update the information contained in the pre-space notification.

(3) A post-space station notification is required no later than 3 months after termination of the space station transmissions. When termination of transmissions is ordered by the FCC, the notification is required no later than 24 hours after termination of transmissions.

■ 17. Amend § 97.301 as follows:

■ (a) Revise entries 80 and 75 in the HF frequency band of the table following paragraph (b);

■ (b) Revise entries 80, 75, 15, and -Do- in the HF frequency of the table following paragraph (c);

■ (c) Revise entries 80, 75, 40, and -Do- in the HF frequency of the table following paragraph (d); and

■ (d) Revise entries 80, 40, 15, and 10 in the HF frequency band of the table following paragraph (e).

The revisions read as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(b) * * *

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements see § 97.303, (paragraph)
* * *	*	*	*	*
HF	*MHz*	*MHz*	*MHz*	
80 m	3.50–3.60	3.50–3.60	3.50–3.60	(a)
75 m	3.60–3.80	3.60–4.00	3.60–3.90	(a)
* * *	*	*	*	*

(c) * * *

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements see § 97.303, (paragraph)
* * *	*	*	*	*
HF	*MHz*	*MHz*	*MHz*	
80 m	3.525–3.60	3.525–3.60	3.525–3.60	(a)
75 m	3.70–3.80	3.70–4.00	3.700–3.90	(a)
* * *	*	*	*	*
15 m	21.025–21.20	21.025–21.20	21.025–21.20	
Do	21.225–21.45	21.225–21.45	21.225–21.45	
* * *	*	*	*	*

(d) * * *

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements see § 97.303, (paragraph)
* * *	*	*	*	*
HF	*MHz*	*MHz*	*MHz*	
80 m	3.525–3.60	3.525–3.60	3.525–3.60	(a)

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements see § 97.303, (paragraph)
HF	*MHz*	*MHz*	*MHz*	
75 m		3.80–4.00	3.80–3.90	(a)
40 m	7.025–7.125	7.025–7.125	7.025–7.125	(a)
Do		7.175–7.300		(a)
* * *	*	*	*	*
15 m	21.025–21.20	21.025–21.20	21.025–21.20	
Do	21.275–21.45	21.275–21.45	21.275–21.45	
* * *	*	*	*	*

(e) * * *

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements see § 97.303, (paragraph)
* * *	*	*	*	*
HF	*MHz*	*MHz*	*MHz*	
80 m	3.525–3.60	3.525–3.60	3.525–3.60	(a)
40 m	7.025–7.075	7.025–7.125	7.025–7.075	(a)
15 m	21.025–21.20	21.025–21.20	21.025–21.20	
10 m	28.0–28.5	28.0–28.5	28.0–28.5	
* * *	*	*	*	*

■ 18. Amend § 97.303 by revising paragraph (g)(1) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(g) * * *

(1) In the States of Colorado and Wyoming, bounded by the area of latitude 396° N. to 42° N. and longitude 103° W. to 108° W., an amateur station may transmit in the 902 MHz to 928 MHz band only on the frequency segments 902.0–902.4, 902.6–904.3, 904.7–925.3, 925.7–927.3, and 927.7–928.0 MHz. This band is allocated on a secondary basis to the amateur service subject to not causing harmful interference to, and not receiving any interference protection from, the operation of industrial, scientific and medical devices, automatic vehicle monitoring systems, or Government stations authorized in this band.

* * * * *

■ 19. Amend § 97.305 by revising paragraph (a) and the entries for 40 in the HF frequency band, and entries 1.25, and -Do- in the VHF frequency band to the table following paragraph (c) to read as follows:

§ 97.305 Authorized emission types.

(a) Except as specified elsewhere in this part, an amateur station may transmit a CW emission on any frequency authorized to the control operator.

(b) * * *

(c) * * *

Wavelength	Frequencies band	Emission types authorized	Standards *see* § 97.307(f), (paragraph)
* * *	*	*	*
HF			
* * *	*	*	*
40 m	7.000–7.100 MHz	RTTY, data	(3), (9)
40 m	7.075–7.100 MHz	Phone, image	(1), (2), (9), (11)
40 m	7.100–7.125 MHz	RTTY, data	(3), (9)
40 m	7.125–7.300 MHz	Phone, image	(1), (2)
* * *	*	*	*
VHF			
* * *	*	*	*
1.25 m	219–220 MHz	Data	(13)
Do	222–225 MHz	RTTY, data, test MCW, phone, SS, image.	(2), (6), (8)
* * *	*	*	*

* * * * *

■ 20. Amend § 97.309 by revising paragraph (b) introductory text to read as follows:

§ 97.309 RTTY and data emission codes.

* * * * *

(b) Where authorized by §§ 97.305(c) and 97.307(f) of this part, a station may transmit a RTTY or data emission using an unspecified digital code, except to a station in a country with which the United States does not have an agreement permitting the code to be used. RTTY and data emissions using unspecified digital codes must not be transmitted for the purpose of obscuring the meaning of any communication. When deemed necessary by a District Director to assure compliance with the FCC Rules, a station must:

* * * * *

■ 21. Amend § 97.313 by revising paragraph (c) introductory text, (c)(1) and (c)(2) to read as follows:

§ 97.313 Transmitter power standards.

* * * * *

(c) No station may transmit with a transmitter power exceeding 200 W PEP:

(1) On the 10.10–10.15 MHz segment;

(2) When the control operator is a Novice Class operator or a Technician Class operator who has received credit for proficiency in telegraphy in accordance with the international requirements; or

* * * * *

■ 22. Revise § 97.315 to read as follows:

§ 97.315 Certification of external RF power amplifiers.

(a) Any external RF power amplifier (see § 2.815 of the FCC Rules) manufactured or imported for use at an amateur radio station must be certificated for use in the amateur service in accordance with subpart J of part 2 of the FCC Rules. No amplifier capable of operation below 144 MHz may be constructed or modified by a non-amateur service licensee without a grant of certification from the FCC.

(b) The requirement of paragraph (a) does not apply if one or more of the following conditions are met:

(1) The amplifier is constructed or modified by an amateur radio operator for use at an amateur station.

(2) The amplifier was manufactured before April 28, 1978, and has been issued a marketing waiver by the FCC, or the amplifier was purchased before April 28, 1978, by an amateur radio operator for use at that operator's station.

(3) The amplifier is sold to an amateur radio operator or to a dealer, the amplifier is purchased in used condition by a dealer, or the amplifier is sold to an amateur radio operator for use at that operator's station.

(c) Any external RF power amplifier appearing in the Commission's database as certificated for use in the amateur service may be marketed for use in the amateur service.

■ 23. Revise § 97.317 to read as follows:

§ 97.317 Standards for certification of external RF power amplifiers.

(a) To receive a grant of certification, the amplifier must:

(1) Satisfy the spurious emission standards of § 97.307 (d) or (e) of this part, as applicable, when the amplifier is operated at the lesser of 1.5 kW PEP or its full output power and when the amplifier is placed in the ''standby'' or ''off'' positions while connected to the transmitter.

(2) Not be capable of amplifying the input RF power (driving signal) by more than 15 dB gain. Gain is defined as the ratio of the input RF power to the output RF power of the amplifier where both power measurements are expressed in peak envelope power or mean power.

(3) Exhibit no amplification (0 dB gain) between 26 MHz and 28 MHz.

(b) Certification shall be denied when:

(1) The Commission determines the amplifier can be used in services other than the Amateur Radio Service, or

(2) The amplifier can be easily modified to operate on frequencies between 26 MHz and 28 MHz.

■ 24. Revise § 97.401 to read as follows:

§ 97.401 Operation during a disaster.

A station in, or within 92.6 km (50 nautical miles) of, Alaska may transmit emissions J3E and R3E on the channel at 5.1675 MHz (assigned frequency 5.1689 MHz) for emergency communications. The channel must be shared with stations licensed in the Alaska-Private Fixed Service. The transmitter power must not exceed 150 W PEP. A station in, or within 92.6 km of, Alaska may transmit communications for tests and training drills necessary to ensure the establishment, operation, and maintenance of emergency communication systems.

■ 25. Amend § 97.407 by revising paragraph (b) to read as follows:

§ 97.407 Radio amateur civil emergency service.

* * * * *

(b) The frequency bands and segments and emissions authorized to the control operator are available to stations transmitting communications in RACES on a shared basis with the amateur service. In the event of an emergency which necessitates invoking the President's War Emergency Powers under the provisions of section 706 of the Communications Act of 1934, as amended, 47 U.S.C. 606, RACES stations and amateur stations participating in RACES may only transmit on the frequency segments authorized pursuant to part 214 of this chapter.

* * * * *

■ 26. Amend § 97.505 by revising paragraph (a)(9) to read as follows:

§ 97.505 Element credit.

(a) * * *

(9) An expired FCC-granted Technician Class operator license document granted before February 14, 1991; an expired FCC-granted Technician Class operator license document granted after February 14, 1991 accompanied by documentation showing the examinee has passed a telegraphy examination; or an expired FCC-granted General, Advanced, or Amateur Extra Class operator license document: Element 1.

* * * * *

■ 27. Amend § 97.509 by revising paragraphs (a) and (m) to read as follows:

§ 97.509 Administering VE requirements.

(a) Each examination for an amateur operator license must be administered by a team of at least 3 VEs at an examination session coordinated by a VEC. The number of examinees at the session may be limited.

* * * * *

(m) After the administration of a successful examination for an amateur operator license, the administering VEs must submit the application document to the coordinating VEC according to the coordinating VEC's instructions.

■ 28. Amend § 97.519 by revising paragraph (b) introductory text to read as follows:

§ 97.519 Coordinating examination sessions.

* * * * *

(b) At the completion of each examination session, the coordinating VEC must collect applicant information and test results from the administering VEs. The coordinating VEC must:

* * * * *

[FR Doc. E6–19189 Filed 11–14–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC No. 06–160: MB Docket No. 02–136; RM–10458, RM–10663, RM–10667, RM–10668]

Radio Broadcasting Services; Aberdeen, WA; Arlington and Astoria, OR; Bellingham and College Place, WA; Coos Bay, OR; Covington, Forks, and Fossil, WA; Gladstone, OR; Hermiston, OR; Hoquiam, WA; Ilwaco, Kent, and Long Beach, WA; Manzanita, Moro and Portland, OR; Shoreline, WA; Springfield-Eugene, OR; The Dalles and Tillamook, OR; Trout Lake and Walla Walla, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of application for review.

SUMMARY: This document denies an Application for Review filed by Triple Bogey, LLC,MCC Radio, LLC and KDUX Acquisition directed to the *Report and Order* in this proceeding. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order* in MB Docket No. 02–136, adopted October 25, 2006, and released October 31, 2006. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160, or *http://www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. (The Commission is, therefore, not required to submit a copy of this *Memorandum Opinion and Order* to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the application for review was denied.)

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–19252 Filed 11–14–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 061030282–6282–01; I.D. 102506A]

RIN 0648–AU97

Endangered and Threatened Wildlife; Sea Turtle Conservation; Correction

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

ACTION: Emergency final rule; correction.

SUMMARY: On August 25, 2006, NMFS issued a final rule to require the use of chain mats on sea scallop dredges in the mid-Atlantic sea scallop fishery in order to help protect sea turtles. The regulation became effective on September 25, 2006. Shortly after the rule's effective date, NMFS became aware of a discrepancy between the two options in the regulation for configuring the chain mat. This emergency final rule corrects the existing regulation to ensure that the protection to sea turtles expected from the August 25, 2006 rule is achieved. This emergency final rule requires that any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, present in waters south of 41° 9.0′ N. lat., from the shoreline to the outer boundary of the Exclusive Economic Zone must have on each dredge a chain mat composed of horizontal (tickler) and vertical (''up-and-down'') chains for the duration of the trip. The chains must be configured such that the length of each side of the square or rectangle formed by the intersecting chains is less than or equal to 14 inches (35.5 cm). Any incidental take of threatened sea turtles in sea scallop dredge gear in compliance with this gear modification requirement and all other applicable requirements will be exempted from the Endangered Species Act's prohibition against takes.

DATES: Effective November 18, 2006.

ADDRESSES: Ellen Keane, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Ellen Keane (ph. 978–281–9300 x6526, fax 978–281–9394, email *ellen.keane@noaa.gov*) or Barbara Schroeder (ph. 301–713–2322, fax 301–427–2522, email *barbara.schroeder@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2006, NMFS issued a final rule to require sea turtle conservation measures for all sea scallop dredge vessels fishing south of 41° 9.0′ N. latitude from May 1 through November 30 each year (71 FR 50361, ''chain mat regulation''). The chain mat regulation is in effect now and the requirement to use chain mats applies each year from May 1 through November 30. All vessels with a sea scallop dredge required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, are required to modify their dredge(s) when present in waters south of 41° 9.0′ N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone (EEZ). Vessels that harvest sea scallops from these waters are required to have the chain mat installed on their dredge(s) for the duration of the trip. This action was necessary to help reduce mortality and injury to endangered and threatened sea turtles in scallop dredge gear and to conserve sea turtles listed under the Endangered Species Act (ESA). For background information and justification for these measures, please refer to the May 25, 2005 proposed rule (70 FR 30660), the August 2006 final rule and the Environmental Assessment (EA) prepared for that action.

The chain mat regulation provides fishermen with two options for configuring the gear. Under the first option, fishermen are required to use a specified number of vertical and horizontal chains depending on the width of the dredge. The second option requires that the gear be configured such that no opening was greater than 14 inches (35.5 cm) on a side. The spacing of the chains under the first option was intended to be based on the experimental fishery (July 17, 2003 – October 9, 2004) to test the chain mat gear. The August 2006 final rule and EA include details of the study. During the experimental fishery, 11 vertical and 6 horizontal chains were used for the 14 and 15 ft (4.27 and 4.57 m) dredges, while 9 vertical and 6 horizontal chains were used for the 11 ft (3.35 m) dredge. Spaced on a normal sweep arrangement, this configuration resulted in a square or rectangle that was less than or equal to 14 inches (35.5 cm) on each side. The study showed that the use of a chain mat of this size prevented sea turtles from entering the dredge bag and injuries that resulted from such capture. NMFS believed that the two options for configuring the chains produced the same result, namely rectangles or

squares with sides measuring 14 inches (35.5 cm) or less. Based on the results of the experimental fishery to test the chain mat, the life history of sea turtles, and the size of sea turtles observed taken in the sea scallop dredge fishery, a spacing of 14 inches (35.5 cm) or less is expected to prevent most, if not all, sea turtles from entering the dredge bag.

Shortly after the rule's effective date, NMFS became aware of a discrepancy between the two options in the regulation for configuring the chain mat. Fishermen reported that gear configured according to the number of chains specified by dredge width could result in openings of 16.5 inches (42.9 cm). NMFS investigated these reports and found that, depending on the dredge width and configuration, using the number of chains specified for the dredge width does result in openings greater than 14 inches (35.5 cm) in certain cases. The larger-than-expected openings may reduce the chain mat's effectiveness in reducing sea turtle injuries because sea turtles may slip through the chain mat and enter the dredge bag. Once in the dredge bag, sea turtles are at risk of serious injury and mortality as they may be struck by its contents, forcibly submerged, and/or dumped on the vessel's deck and crushed by the gear. The August 2006 final rule was issued in order to prevent these sources of serious injury and mortality. Therefore, NMFS is issuing this emergency final rule to correct the mistake in the chain mat regulation in order to ensure it achieves its intended purpose to help protect sea turtles listed under the ESA during the time when the distribution of sea turtles overlaps with that of the scallp fishery, namely from May through November. This rule is issued pursuant to sections 4(d) and 11(f) of the ESA. It requires that all sea scallop vessels present in mid-Atlantic waters from May 1 through November 30 configure their dredges such that no opening in the chain mat is greater than 14 inches (35.5 cm) on a side. The area affected by the regulation remains waters south of 41° 9.0′ N. latitude, from the shoreline to the outer boundary of the EEZ. The temporal extent of the regulation remains May 1 through November 30 each year.

The EA for Sea Turtle Conservation Measures for the mid-Atlantic Sea Scallop Dredge Fishery analyzed the biological, physical, economic, and social impacts that would result from the chain mat regulation, as well as a number of other alternatives. The analysis presented in the EA for the biological and physical consequences of the chain mat regulation evaluated the impacts resulting from the expected opening of 14 inches (35.5 cm) or less. Therefore, the impacts of the chain mat configuration required by this emergency rule have been analyzed in the previous EA. This action is categorically excluded from the requirement to prepare either an EA or an Environmental Impact Statement under the National Environmental Policy Act. The categorical exclusion prepared for this emergency rule discusses the minor impacts that may result from this action.

The EA also analyzed the economic and social impacts of the August 2006 chain mat regulation. The cost of the gear modification is composed of the potential revenue loss due to a reduction in sea scallop dredge catch and the cost of the material and labor to configure the dredge. The potential reduction in catch was based on the results of the experimental fishery to test the chain mat modified gear. The experimental fishery used three dredge widths (11–, 14–, and 15–ft dredge widths (3.35, 4.27, and 4.57 m)) with chain mat openings less than or equal to 14 inches (35.5 cm). During the experimental fishery, an average reduction of approximately 6.7 percent was observed. This average loss was used to estimate the cost due to a reduction in scallop catch. As this analysis was based on openings of less than or equal to 14 inches (35.5 cm) per side used in the experimental fishery, this emergency final rule is not expected to result in any additional costs due to scallop catch reduction that have not already been evaluated in the EA for the chain mat regulation.

The second cost is the cost to modify the gear, namely, the costs to purchase and install the chains. Since many vessels have already installed the chain mat, there will be a slight additional cost to reconfigure the gear to comply with the new regulation. However, this cost is expected to be minimal. First, as described above, vessels could choose one of two options for configuring the gear. Some vessels have chosen to configure it such that the openings are less than 14 inches (35.5 cm) and, therefore, will not have to reconfigure the gear. Additionally, openings greater than 14 inches (35.5 cm) only result from using the specified number of chains in certain cases, depending on dredge width and configuration. Therefore, some vessels following the specified number of chains will also not have to reconfigure their gear. However, an unknown number of vessels will need to reconfigure the gear. For these vessels, the cost is expected to be minimal. NMFS does not anticipate that this emergency rule will result in any loss of fishing time for vessels that need to reconfigure the gear. There are two costs in reconfiguring the gear, the cost of materials and the cost of labor. These vessels will have already purchased the majority of the chain needed to configure the chain mat. There will be a slight additional cost for the purchase of additional chain in order to achieve openings equal to or less than 14 inches (35.5 cm). However, the amount of additional chain needed will be less than that already purchased. The EA estimated a labor cost of approximately 50 dollars per dredge if the vessel were to use a welder to attach the chain mat. This emergency final rule will require some additional welding, but this cost is minimal. Therefore, this emergency final rule does not significantly change the economic impacts anticipated in the EA.

Classification

This final rule has been determined to be not significant by the Office of Management and Budget for the purposes of Executive Order 12866.

Because the rulemaking requirements of 5 U.S.C. 553 are not required by the Administrative Procedure Act or any other law, the analytical requirements of the Regulatory Flexibility Act are not applicable.

The Assistant Administrator for Fisheries (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and opportunity for public comment on this rule as it would be impracticable and contrary to the public interest. On August 25, 2006, NMFS issued a final rule requiring chain mats to be used under certain conditions on scallop dredges in order to help protect sea turtles (71 FR 50361). The August 25, 2006, final rule became effective on September 25, 2006. Shortly after the rule's effective date, NMFS was made aware of a discrepancy between the two options in the regulation for configuring the chain mat. One option was to use the specified number of horizontal and vertical chains based on width of dredge frame; the other option was to use as many horizontal and vertical chains that would produce rectangles or squares with sides equaling 14 inches (35.5 cm) or less. NMFS believed that the two options would produce the same result, namely rectangles or squares with sides measuring 14 inches (35.5 cm) or less. Based on the results of the experiment to test the chain mat modification, the life history of loggerhead sea turtles-- the predominant species observed caught in dredges-- and the size of sea turtles observed taken in the sea scallop dredge fishery, a spacing of 14 inches

(35.5 cm) or less is expected to prevent most, if not all sea turtles, from entering the dredge bag. However, upon implementation of the August 25, 2006, final rule, NMFS discovered that, at least for some dredge widths, using the specified number of vertical and horizontal chains produces rectangles or squares that are greater than 14 inches (35.5 cm).

This emergency final rule must be implemented immediately because the variance in chain mat configurations may reduce the effectiveness of the regulation in reducing sea turtle injuries. Under the current regulations, for some chain mat configurations based on dredge width and the specified number of horizontal and vertical chains, some sea turtles may slip through the openings in the chain mat and enter the dredge bag. As explained in the preambles to the proposed (70 FR 30660, May 27, 2005) and final (71 FR 50361, August 25, 2006) rules regarding the chain mat requirement, sea turtles that enter the dredge bag are at risk of injury and mortality as they may be struck by the contents of the dredge bag, forcibly submerged, and/or dumped on the vessel's deck and crushed by the gear.

The best available information indicates that a large number of sea turtles are injured and killed in the scallop dredge fishery when it overlaps with sea turtles in the mid-Atlantic (NMFS, 2006). Loggerhead, Kemp's ridley, and green sea turtles undergo temperature dependent seasonal migrations along the mid-Atlantic coast (Morreale and Standora, 1998; Plotkin and Spotila, 2002). In general, these sea turtles occur in waters from Virginia to New York from May through November and in waters off North Carolina year-round (NMFS, 1994), although they are considered rare north of Cape Hatteras in the winter (Mitchell *et al.*, 2003). NMFS does not anticipate any fishing south of Cape Hatteras due to the lack of scallop resources there. When the sea temperature drops in the Mid-Atlantic, sea turtles migrate away from the area and are at less risk of getting caught in the dredge bag. Data show that sea turtle distribution overlaps with that of the scallop dredge fishery in the Mid-Atlantic during the period from May 1 through November 30. Therefore, the potential for interactions between the scallop dredge fishery and sea turtles exists this year through November, and sea turtles remain at risk of injury or mortality due to capture in the dredge bag unless this rule is implemented immediately.

It would be impracticable and contrary to the public interest to allow for prior notice and an opportunity for public comment on this final rule as the delay would prevent the agency from executing its function of conserving sea turtles listed as threatened or endangered under the Endangered Species Act. The overlap between the sea scallop dredge fishery and sea turtle distribution in the Mid-Atlantic lasts from May 1 through November 30. During this period, sea turtles are at the greatest risk of injury and mortality due to interactions with scallop dredge gear. If this regulation were delayed to allow for prior notice and opportunity for public comment, sea turtles would remain exposed to the risk of slipping through chain mats configured with openings greater than 14 inches (35.5 cm) and of being injured or killed as a result.

To ensure the chain mat requirement provides the intended conservation benefit to listed sea turtles, NMFS must correct the chain mat regulation as soon as possible given that the distribution of sea turtles overlaps with the scallop fishery through November. Therefore, good cause exists under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and opportunity for public comment.

The AA also finds good cause under 5 U.S.C. 553(d)(3) to waive part of the 30–day delay in effective date of this final rule. Such a delay would reduce the level of protection afforded to sea turtles during the period their distribution overlaps with the scallop dredge fishery. The overlap between the sea scallop dredge fishery and sea turtle distribution in the Mid-Atlantic lasts from May 1 through November 30. During this period, sea turtles are at the greatest risk of injury and mortality due to interactions with the dredge gear. If the effective date of this regulation were delayed, sea turtles would remain exposed to the risk of slipping through chain mats configured with openings greater than 14 inches (35.5 cm) and of being injured or killed as a result. In addition, allowing for a 30–day delay in effectiveness would prevent the agency from executing its function of conserving sea turtles listed as threatened or endangered under the Endangered Species Act. However, because some fishermen may need some time to modify their chain mats to attach extra chains, NMFS will delay the effective date of this rule until November 20, 2006.

Literature Cited

Mitchell, G. H., R. D. Kenney, A. M. Farak, R. J. Campbell. 2003. Evaluation of occurrence of endangered and threatened marine species in naval ship trial areas and transit lanes in the Gulf of Maine and offshore of Georges Bank. Naval Undersea Warfare Center Division Newport, Rhode Island. NUWC-NPT Technical Memo 0–121A. 113 pp.

Morreale, S. J. and E. A. Standora. 1998. Early life stage econlogy of sea turtles in northeastern U.S. waters. U.S. Dep. Commer. NOAA Tech. Mem. NMFS-SEFSC–413. 49pp.

NMFS (National Marine Fisheries Service). 1994. State and federal fishery interactions with sea turtles in the mid-Atlantic area. NOAA/NMFS, Silver Spring, MD. 13 pp.

NMFS (National Marine Fisheries Service). 2006. Endangered Species Act Section 7 Consultation on the Atlantic Sea Scallop Fishery Management Plan. NMFS, Northeast Regional Office. 106 pp.

Plotkin P. T. and J. R. Spotila. 2002. Post nesting migrations of loggerhead turtles, *Caretta caretta*, from Georgia, USA: conservation implications for a genetically distinct subpopulation. Oryx. 36(4):396–399.

List of Subjects in 50 CFR Part 223

Exports, Imports, Transportation.

Dated: November 8, 2006.

Samuel D. Rauch III,

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

■ For the reasons set forth in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 et. seq.; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.206, paragraph (d)(11) is revised to read as follows:

§ 223.206 Exemptions to prohibitions relating to sea turtles.

* * * * *

(11) *Restrictions applicable to sea scallop dredges in the mid-Atlantic*—(i) Gear Modification. During the time period of May 1 through November 30, any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, present in waters south of 41° 9.0′ N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone must have on each dredge a chain mat described as follows. The chain mat must be composed of horizontal (''tickler'') chains and vertical chains that are configured such that the length

of each side of the square or rectangle formed by the intersecting chains is less than or equal to 14 inches (35.5 cm). The chains must be connected to each other with a shackle or link at each intersection point. The measurement must be taken along the chain, with the chain held taut, and include one shackle or link at the intersection point and all links in the chain up to, but excluding, the shackle or link at the other intersection point.

(ii) Any vessel that harvests sea scallops in or from the waters described in (d)(11)(i) and that is required to have a Federal Atlantic sea scallop fishery permit must have the chain mat configuration installed on all dredges for the duration of the trip.

[FR Doc. E6–19304 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 061107293–6293–01; I.D. 103006B]

RIN 0648–AU95

Right Whale Protection; Southeast U.S. Gillnet Closure

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

ACTION: Emergency rule.

SUMMARY: NMFS is prohibiting gillnet fishing or gillnet possession in Atlantic Ocean waters west of 80°00′ W. long. between 29°00′ N. lat. (just south of New Smyrna Beach, Fla.) and 32°00′ N. lat. (the approximate state boundary between Georgia and South Carolina) and within 35 nautical miles of the South Carolina coast. An exemption to the prohibition on the possession of gillnet gear is provided for transiting through this area if gear is stowed in accordance with this rule. NMFS is taking this action to prevent a significant risk to the well being of endangered right whales from entanglement in gillnet gear in the core right whale calving area during the calving season.

DATES: This action is effective November 15, 2006 through April 15, 2007.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared in association with this emergency rule may be obtained from the persons listed below under the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Engleby, 727–551–5791, Barb Zoodsma, 904–321–2806, or Nancy Young, 727–551–5607.

Electronic Access: Background documents, including the EA may be downloaded at *http://sero.nmfs.noaa.gov/*

SUPPLEMENTARY INFORMATION:

Background

The northern right whale (*Eubalaena glacialis*) was severely depleted by commercial whaling, and despite protection from commercial harvest since 1935 has not recovered. The North Atlantic population is believed to be as few as 300 individuals, making it one of the most imperiled of the endangered large whale populations in the world (NMFS 2005). Deaths from human related activities are believed to be the principal reason for a declining adult survival rate (Caswell *et al.*, 1999) and the lack of recovery in the species. From 1999 to 2003, human-caused mortality and serious injury to northern right whales in the North Atlantic from fishery entanglements and ship strikes were estimated as an average of 2.6 whales per year (Waring *et al.*, 2006). Fraus *et al.* (2005) indicated that the overall mortality rate for North Atlantic right whales increased between 1980 and 1998 to a level of at least four percent per year, a rate that is not sustainable. From 1999–2003, Waring *et al.* (2006) documented 31 reports of entanglements in commercial fishing gear that resulted in 5 serious injuries and 3 mortalities, for an average of 1.6 mortalities and serious injuries per year over that time period.

The northern right whale has been listed as endangered under the Endangered Species Act (ESA) since the ESA's passage in 1973 (35 FR 8495, June 2, 1970). In June 1994, NMFS designated three areas of the right whale's Atlantic range in the United States as critical habitat: (1) Great South Channel, (2) Cape Cod Bay, and (3) the southeastern U.S. (59 FR 28793, June 3, 1994). The southeastern U.S. critical habitat includes coastal waters between 31°15′ N. lat. and 30°15′ N. lat. from the coast out 15 nautical miles (27.8 km), and the coastal waters between 30°15′ N. lat. and 28°00′ N. lat. from the coast out 5 nautical miles (9.3 km) (§ 226.203 of this chaper). Coastal Atlantic waters off the southeastern U.S. are the North Atlantic right whale's only known and likely only calving grounds. During the winter calving season, these waters support the entire population's calving females and their calves, plus, in some years, a large proportion of the remainder of the population.

As required by ESA section 4(f)(1), NMFS developed a recovery plan for the northern right whale in 1991, which was revised and updated in 2001 and 2005. The current recovery plan states, ''the most immediate need for the North Atlantic right whale is to reduce or eliminate human-related deaths and injuries'' and that ''direct and indirect impacts from human activities -mostly in the form of vessel collisions and entanglement in fishing gear -almost certainly have contributed to a lack of recovery in the North Atlantic. Action is urgently needed to reduce the frequency of collisions with ships and fishing gear entanglements, and thus to improve the survival of right whales'' (NMFS 2005). Therefore, the development and implementation of strategies to modify fishing operations and gear to reduce the likelihood of entanglement, mitigate the effect of entanglements, enhance the possibility of disentanglement, and assess the effectiveness of such strategies is a priority one recovery task, i.e., an action that must be taken to prevent extinction or to prevent the species from declining irreversibly (NMFS 2005).

To date, NMFS has been working to address right whale serious injury and mortality in commercial fishing gear primarily through its authority under the Marine Mammal Protection Act (MMPA). Pursuant to MMPA section 118, NMFS has developed an Atlantic Large Whale Take Reduction Plan (ALWTRP) and implementing regulations (§ 229.32 of this chapter) to reduce serious injury and mortality of right whales resulting from commercial fisheries including gillnet fisheries.

The ESA provides authority to NMFS for multiple mechanisms to achieve the Act's overall purpose of conserving threatened and endangered species. Section 4(b)(7) of the ESA (16 U.S.C. 1533(b)(7)) authorizes NMFS to issue regulations, not subject to notice and comment, regarding emergencies posing a significant risk to the well-being of listed species. Such regulations may take effect immediately upon publication in the **Federal Register** and may be effective up to 240 days.

Recent Events

On January 22, 2006, a dead right whale calf was found floating off Jacksonville Beach, Florida. The calf was necropsied by a specialized large whale necropsy team and evidence of recent entanglement in gillnet gear was clearly documented. NMFS determined, based on best available information and

discussions with scientific investigators, that the right whale's entanglement in gillnet gear ultimately led to the death of the animal. As a result of these findings, NMFS enacted temporary restrictions on gillnet fishing from February 15, 2006, through March 31, 2006 (71 FR 8223, February 16, 2006), in accordance with the ALWTRP's implementing regulations at 50 CFR 229.32(g)(1). The emergency regulation was necessary to protect right whales from further serious injury or mortality due to entanglement in gillnet gear.

NMFS then collected and analyzed additional information to determine the scope of permanent protective measures as required by the regulations. As part of this process, NMFS convened a meeting of the Atlantic Large Whale Take Reduction Team's Mid-Atlantic/Southeast Subgroup to seek input regarding future management options to protect right whales from additional serious injury and mortality from gillnetting. As a result, NMFS has prepared and published a Notice of Proposed Rulemaking (RIN 0648–AU90) pertaining to gillnet fishing and right whale protection in the southeast U.S. in the ''Proposed Rules'' section of today's **Federal Register** and is seeking public comment.

Significant Risk to the Right Whales' Well-Being

A review of the Right Whale Sightings Database, curated by the University of Rhode Island, indicates that the vast majority of right whale mother/calf pairs have been observed along Florida, Georgia, and South Carolina. Right whale mother/calf pairs off Florida and Georgia have been typically observed in waters west of 80°00′ W long. Right whales have been visually (McLellan *et al.*, 2001, Glass *et al.*, 2005) and acoustically (Clark, 2006) detected in waters up to 30 miles offshore of South Carolina. Predictive models, based on aerial survey data collected off Florida and Georgia, suggest a strong relationship between the spatial distribution of calving right whales and water temperature and bathymetry. Suitable environmental conditions for calving right whales are typically found off South Carolina during winter months to distances of 35 nautical miles (64.8 km). Right whales occur in the area from South Carolina to Florida, north of 29°00′ N lat., from mid-November through mid-April. Right whale mother/calf pairs have been observed south of 29°00′ N lat., but in this area are often found close to shore, in Florida state waters, where state regulations prohibit gillnet fishing.

In 2004, a small group of gillnet fishermen targeting whiting began using the area off Jacksonville, Florida, near the location where the entangled, dead right whale calf was first reported in January 2006. These fishermen use large amounts of net with long soak times, and individual nets are left untended, either overnight or while other nets are being fished. Recently, NMFS has learned of the expressed intent of fishermen to target whiting with gillnets off Jacksonville, Florida, until such activity is prohibited. NMFS has also been alerted to the presence of additional shark gillnet fishermen that are working out of Fernandina Beach, Florida, and Daytona, Florida. Because of this expansion of effort and new method of gillnet fishing in the Southeast Atlantic, the new information on shark gillnetting effort, and the documented mortality of a right whale calf as a result of entanglement in gillnet fishing gear, NMFS is concerned that there is substantial risk of additional gillnet entanglements and resultant serious injury or mortality when right whales return to their southeast calving grounds this year. Because of the critical status of endangered right whales, the vulnerability of mothers and calves, and the negative impact any additional human-caused mortality would have on the species' ability to survive and recover, NMFS believes that continued gillnet fishing as currently practiced in the southeast calving grounds constitutes a significant risk to the well-being of endangered right whales.

NMFS is publishing a proposed rule in this **Federal Register**, which would address, on a long-term basis, the risk to right whales from the increase in gillnet effort in the right whale's only known calving area. NMFS intends to ensure full public participation, seek comments, and evaluate possible exemptions to a complete gillnet closure, before finalizing any permanent rule. Because of this process, a permanent rule is not likely to be in effect until early 2007. However, right whales are expected to begin arriving in the core calving area November 15. Therefore, to ensure adequate protection for right whales, particularly mothers and calves during the calving season, from gillnet fishing in the calving area that NMFS believes poses a significant risk to the well-being of right whales, NMFS is implementing this emergency rule.

Prohibition on Gillnet Fishing and Possession

Pursuant to 16 U.S.C. 1533(4)(b)(7), NMFS has determined that continued gillnet fishing activity in the core right whale calving area during the calving season constitutes a significant risk to the well-being of endangered right whales. NMFS has determined that this emergency rule prohibiting gillnet fishing and possession in the core calving area is necessary to prevent additional takes of right whales until a final, permanent rule can be implemented.

NMFS has determined that the core right whale calving area requiring emergency gillnet prohibitions is the Atlantic Ocean waters west of 80°00′ W. longitude between 29°00′ N. lat. (just south of New Smyrna Beach, Fla.) and 32°00′ N. lat. (the area of the state boundary between Georgia and South Carolina) and the Atlantic Ocean waters within 35 nautical miles of the South Carolina coast. This area is specifically defined as the area bounded by straight lines connecting the following points in the order stated from south to north.

Point	N. Lat.	W. Long.
SE1	29°00′	(1)
SE2	29°00′	80°00′
SE3	32°00′	80°00′
SE4	32°36′	78°52′
SE5	32°51′	78°36′
SE6	33°15′	78°24′
SE7	33°27′	78°04′
SE8	(2)	(2)

[1]Florida shoreline
[2]Shoreline at South Carolina/North Carolina state border.

Specifically, this emergency rule prohibits fishing with or possessing gillnet in the core right whale calving area as defined above from November 15, 2006, through April 15, 2007; the Right Whale Sightings Database, curated by the University of Rhode Island, indicates that the vast majority of right whale sightings in their core calving area occur between November 15 and April 15. Possession of gillnet aboard a vessel in transit through this core area is exempt from the restrictions if: All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck, rail, or drum; and all buoys, high flyers, and anchors are disconnected from all gillnets. No fish may be possessed aboard such a vessel in transit. This emergency rule is in effect from 0001, hours November 15, 2006, through 2400, hours April 15, 2007, or until the proposed rule pertaining to gillnet fishing and right whale protection becomes effective through the publication of a final rule or is withdrawn.

Fisheries expected to be affected by this rulemaking include the Southeastern U.S. Atlantic shark gillnet

fishery and the Southeast Atlantic gillnet fishery as described in the current MMPA List of Fisheries (71 FR 48802, August 22, 2006). NMFS believes there are approximately six to eight active vessels in the Southeastern U.S. Atlantic shark gillnet fishery. The effects of the emergency rule on this fishery are anticipated to be small because during the period covered by the emergency rule, most of the fishing activity typically occurs south of 29°00′ N lat., where the fishery will continue to operate under existing regulations, unaffected by this emergency rule.

The Southeast Atlantic gillnet fishery targets coastal migratory finfish species such as Spanish mackerel, whiting, and bluefish, but also lands species such as King mackerel, that are caught incidentally to fishing operations. NMFS believes that up to 56 vessels participate in the Southeast Atlantic gillnet fishery, annually. The primary species targeted is Spanish mackerel; however, these landings primarily occur south of 29°00′ N lat., where the fishery will continue to operate under existing regulations, unaffected by this emergency rule. Fishers targeting whiting will be most affected by this rulemaking. During the ALWTRT's SE Subgroup meeting, fishers reported that in late February 2004, approximately 8 vessels began fishing for whiting using sink gillnet gear off Northeast Florida and that in 2004 and 2005, 15 vessels are estimated to have participated in this activity. In 2005, whiting catch in the affected area was 356,604 pounds (161,753 kg) with a dockside value of $276,824.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media. Gillnet fishermen may also call (727)824–5312 for updated information on gillnet restrictions along the Atlantic Coast of the Southeast U.S.

Literature Cited

Caswell, H., M. Fujiwara, and S. Brault. 1999. Declining survival probability threatens the North Atlantic right whale. Proc. Nat. Acad. Sci. 96:3308 3313.

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Kraus, S.D., M. W. Brown, H. Caswell, C.W. Clark, M. Fujiwara, P. K. Hamilton, R.D. Kenney, A.R. Knowlton, S. Landry, C.A. Mayo, W.A. McLellan, M.J. Moore, D.P. Nowacek, D.A. Pabst, A.J. Read, R.M. Rolland. 2005. North Atlantic Right Whales in Crisis. Science 22 July 2005: Vol. 309. no. 5734, pp. 561 562.

McLellan, William A., Kim Marks Lefler, Guen Jones, Kirk Hardcastle, and D. Ann Pabst. 2001. Winter right whale surveys from Savannah, Georgia to Chesapeake Bay, Virginia February-March 2001. Final Report to NMFS under Contract Number 40WCNF1A0249. 36 pp.

NMFS. 2005. Recovery Plan for the North Atlantic Right Whale (*Eubalaena glacialis*). National Marine Fisheries Service, Silver Spring, MD.

Waring, G.T., E. Josephson, C.P. Fairfield, and K. Maze-Foley (Eds.). 2006. U.S. Atlantic and Gulf of Mexico marine mammal stock assessments 2005. U.S. Dept. Commerce., NOAA Tech. Mem. NMFS-NE–194, 346 pp.

Classification

Pursuant to section 4(b)(7) of the ESA, NMFS has determined that this action is necessary to prevent a significant risk to the well-being of endangered right whales.

An Environmental Assessment for this action was prepared and is available from the agency upon request.

As prior notice and an opportunity for public comment are not required to be provided for this rule pursuant to 16 U.S.C. 1533(4)(b)(7), the analytical requirements of 5 U.S.C. 601 *et seq.*, are not applicable.

As required by 16 U.S.C. 1533(4)(b)(7)(B), NMFS has notified marine fisheries officials in Florida, Georgia, and South Carolina of this emergency rulemaking.

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management programs of Florida, Georgia, and South Carolina. This determination was submitted on October 20, 2006, for review by the responsible state agencies under section 307 of the CZMA. However, NMFS will follow the provisions at 15 CFR 930.32(b) authorizing a deviation from full consistency for emergencies, if the state concurrences are not received before the effective date of this rule.

This action has been determined to be not significant under Executive Order 12866.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Authority: 16 U.S.C 1533(b)(7).

Dated: November 8, 2006.

Samuel D. Rauch III,

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

[FR Doc. 06–9205 Filed 11–9–06; 2:35 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 220
Wednesday, November 15, 2006

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26324; Directorate Identifier 2006–NM–214–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Airbus Model 330–300 series airplanes. The existing AD currently requires reinforcement of the structure of the center fuselage by installing external stiffeners (butt straps) at frame (FR) 53.3 on the fuselage skin between left-hand (LH) and right-hand (RH) stringer (STR) 13, and related investigative and corrective actions. This proposed AD would require additional reinforcement of the structure of the center fuselage by installing external stiffeners (butt straps) at frame FR53.3 on the fuselage skin between LH and RH STR13, and related investigative and other specified actions. This proposed AD also adds airplanes to the applicability. This proposed AD results from cracking found at the circumferential joint of FR53.3. We are proposing this AD to prevent fatigue cracking of the fuselage, which could result in reduced structural integrity of the fuselage.

DATES: We must receive comments on this proposed AD by December 15, 2006.

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

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

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–26324; Directorate Identifier 2006–NM–214–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On September 20, 2005, we issued AD 2005–20–07, amendment 39–14300 (70 FR 57732, October 4, 2005), for certain Airbus Model A330–300 series airplanes. That AD requires reinforcing the structure of the center fuselage by installing external stiffeners (butt straps) at frame (FR) 53.3 on the fuselage skin between left-hand (LH) and right-hand (RH) stringer (STR) 13, and doing related investigative and corrective actions. That AD resulted from a report that, during fatigue tests of the fuselage, cracks initiated and grew at the circumferential joint of FR53.3. We issued that AD to prevent fatigue cracking of the fuselage, which could result in reduced structural integrity of the fuselage.

Actions Since Existing AD Was Issued

Since we issued AD 2005–20–07, the European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, notified us that further modification of Airbus Model A330–300 series airplanes is necessary to correct the unsafe condition identified in AD 2005–20–07. The EASA has also notified us that the same unsafe condition may also exist on Model A330–200 series airplanes.

Relevant Service Information

Airbus has issued Service Bulletin A330–53–3143, Revision 01, including Appendix 01, dated June 29, 2006. The service bulletin describes procedures for reinforcing the structure of the center fuselage by installing external doublers (butt straps) at FR53.3 on the fuselage skin between LH and RH STR13, and doing related investigative and other specified actions. The related investigative actions are rototests of certain fastener holes after fastener

removal. If any crack is found during a rototest, the service bulletin specifies contacting Airbus for repair instructions. If no crack is found, the service bulletin specifies doing other specified actions, which include counter-drilling the fastener holes in the butt straps, cold-expanding the matching holes in the fuselage, reaming and deburring the holes, shimming, and applying sealant around the butt straps. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0266, dated August 30, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 2005–20–07 and would retain the requirements of the existing AD. This proposed AD would also add airplanes to the applicability. This proposed AD would also require accomplishing the actions specified in the service bulletin described previously, except as discussed under ''Difference Between the Proposed AD and EASA Airworthiness Directive.''

Difference Between the Proposed AD and EASA Airworthiness Directive

The applicability of EASA airworthiness directive 2006–0266 excludes airplanes on which Airbus Service Bulletin A330–53–3127, Revision 01, dated November 21, 2003; or Airbus Service Bulletin A330–53–3143, dated December 24, 2004; has been accomplished in service. However, we have not excluded those airplanes in the applicability of this proposed AD; rather, this proposed AD includes requirements to accomplish the actions specified in those service bulletins, as applicable. These requirements would ensure that the actions specified in the service bulletins and required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved.

Explanation of Change Made to Requirements of Existing AD

Paragraph (g) of the existing AD specifies making repairs using a method approved by either the FAA or the Direction Generale de l'Aviation Civile (DGAC) (or its delegated agent). The EASA has assumed responsibility for the airplane models that would be subject to this AD. Therefore, we have revised paragraph (g) of this proposed AD to specify making repairs using a method approved by the FAA, the DGAC (or its delegated agent), or the EASA (or its delegated agent).

Clarification of Airbus Modification Number

The applicability of AD 2005–20–07 exempts airplanes on which Airbus Modification 41652 had been incorporated in production. Airbus Modification 41652 is the abbreviated modification number of Airbus Modification 41652S11819. This proposed AD refers to Airbus Modification 41652S11819, as identified in EASA airworthiness directive 2006–0266.

Costs of Compliance

Currently, the action required by AD 2005–20–07 and retained in this proposed AD affects 12 airplanes of U.S. registry. However, we have been advised that all affected U.S. operators have already accomplished that action. If an affected airplane is imported and placed on the U.S. Register in the future, the action required by AD 2005–20–07 takes about 315 work hours per airplane, at an average labor rate of $80 per work hour. Required parts cost about $8,920. Based on these figures, the estimated cost of the currently required action is $34,120 per airplane.

The new proposed action would affect about 27 airplanes of U.S. registry. The new proposed action would take about 316 work hours per airplane, at an average labor rate of $80 per work hour. Required parts would cost about $9,160 per airplane. Based on these figures, the estimated cost of the new action specified in this proposed AD for U.S. operators is $929,880, or $34,440 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14300 (70 FR 57732, October 4, 2005) and adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2006–26324; Directorate Identifier 2006–NM–214–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 15, 2006.

Affected ADs

(b) This AD supersedes AD 2005–20–07.

Applicability

(c) This AD applies to Airbus Model A330–201, –202, –203, –223, –243, –301, –321, –322, –323, –341, –342, and –343 airplanes, certificated in any category; except those on which Airbus Modification 49202 has been incorporated in production.

Unsafe Condition

(d) This AD results from cracking found at the circumferential joint of frame (FR) 53.3. We are issuing this AD to prevent fatigue cracking of the fuselage, which could result in reduced structural integrity of the fuselage.

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.

Requirements of AD 2005–20–07

Installation for Model A330–300 Series Airplanes

(f) For Airbus Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes, except those on which Airbus Modification 41652S11819 has been incorporated in production: At the later of the times in paragraphs (f)(1) and (f)(2) of this AD, install the butt straps at FR53.3 on the fuselage skin between left-hand (LH) and right-hand (RH) stringer (STR) 13, and do all related investigative and corrective actions before further flight. Except as provided by paragraph (g) of this AD, do all actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3127, Revision 01, dated November 21, 2003.

(1) Before the accumulation of 14,700 total flight cycles or 51,400 total flight hours, whichever occurs earlier.

(2) Within 6 months after October 19, 2005 (the effective date of AD 2005–20–07).

Contact the FAA/Direction Générale de l'Aviation Civile (DGAC)/European Aviation Safety Agency (EASA) for Certain Repair Instructions

(g) For Airbus Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes, except those on which Airbus Modification 41652S11819 has been incorporated in production: If any crack is detected during the related investigative actions (rototest) required by paragraph (f) of this AD, before further flight, repair the crack according to a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; the DGAC (or its delegated agent); or the EASA (or its delegated agent).

New Requirements of This AD

Installation for Model A330–200 and –300 Series Airplanes

(h) *For all airplanes:* At the later of the times in paragraphs (h)(1) and (h)(2) of this AD, install the butt straps at FR53.3 on the fuselage skin between LH and RH STR13; and do all related investigative and other specified actions before further flight, as applicable. Do all actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3143, Revision 01, including Appendix 01, dated June 29, 2006; except if any crack is detected during a related investigative action (rototest), before further flight, repair the crack using a method approved by the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

(1) Before the accumulation of 17,600 total flight cycles or 61,600 total flight hours, whichever occurs earlier.

(2) Within 6 months after the effective date of this AD.

Credit for Actions Done in Accordance With Previous Service Bulletin

(i) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A330–53–3143, including Appendix 01, dated December 24, 2004, are acceptable for compliance with the corresponding requirements of paragraph (h) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) EASA airworthiness directive 2006–0266, dated August 30, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on November 7, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–19228 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26323; Directorate Identifier 2006–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Boeing Model 737 airplanes. The existing AD currently requires installation of a new rudder control system and changes to the adjacent systems to accommodate that new rudder control system. For certain airplanes, this proposed AD would add, among other actions, repetitive tests of the force fight monitor of the main rudder power control unit (PCU), repetitive tests of the standby hydraulic actuation system, and corrective action; as applicable. For those airplanes, this proposed AD also would add, among other actions, replacement of both input control rods of the main rudder PCU and the input control rod of the standby rudder PCU with new input control rods, as applicable, which would end the repetitive tests. For certain other airplanes, this proposed AD would add installation of an enhanced rudder control system in accordance with new service information. This proposed AD results from a report of a fractured rod end on an input control rod of the main rudder PCU. We are proposing this AD to prevent failure of one of the two input control rods of main rudder PCU, which, under certain conditions, could result in reduced controllability of the airplane; and to prevent failure of any combination of two input control rods of the main rudder PCU and/or standby rudder PCU, which could result in loss of control of the airplane. We are also proposing this AD to prevent an uncommanded rudder hardover event and consequent loss of control of the airplane due to inherent failure modes, including single-jam modes, and certain latent failures or jams combined with a second failure or jam.

DATES: We must receive comments on this proposed AD by January 2, 2007.

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

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6468; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–26323; Directorate Identifier 2006–NM–150–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On October 30, 2002, we issued AD 2002–20–07 R1, amendment 39–12940 (67 FR 67518, November 6, 2002), for all Boeing Model 737 airplanes. That AD requires installation of a new rudder control system and changes to the adjacent systems to accommodate that new rudder control system. That AD resulted from FAA determinations that the existing system design architecture is unsafe. We issued that AD to prevent an uncommanded rudder hardover event and consequent loss of control of the airplane due to inherent failure modes, including single-jam modes, and certain latent failures or jams combined with a second failure or jam.

Actions Since Existing AD Was Issued

Since the issuance of AD 2002–20–07 R1, we have received a report of a fractured rod end on one of the two input control rods of the main rudder power control unit (PCU) on a Model 737–800 series airplane. This condition was discovered during heavy maintenance. The rod end had not separated from the input control rod and was retained by the sealant used during the assembly of the input control rod. The condition was discovered because the aft rod end of the lower input control rod appeared loose. If the rod end does not separate from the input control rod, there is no indication of fracture and it will not likely be detected during normal flight operation.

If a rod end separates from an input control rod of the main rudder PCU, the input to the A and B sides of the main rudder PCU (the main rudder PCU is a dual tandem actuator) will not match. This condition will cause a force fight between the A and B sides in the main rudder PCU, which will activate the force fight monitor, activate the standby hydraulic system, and illuminate the STBY RUD ON light on the P5–3 panel. Dispatch is not allowed with the STBY RUD ON light illuminated.

The incident airplane had been modified to comply with the requirements of AD 2002–20–07 R1. We previously approved the service bulletins in the table titled ''Previously Approved Service Bulletins'' as an alternative method of compliance (AMOC) for the requirements of AD 2002–20–07 R1. These service bulletins include procedures to replace both input control rods of the main rudder PCU and the input control rod of the standby rudder PCU (for certain airplanes) with new input control rod(s) having part number (P/N) 251A3495–1, which, we have since determined, had an improper heat treatment during manufacture.

PREVIOUSLY APPROVED SERVICE BULLETINS

For model—	Boeing Service Bulletin
737–100, –200, and –200C series airplanes	737–27–1252, Revision 2, dated December 9, 2004; Revision 1, dated September 25, 2003; and Original Issue, dated June 26, 2003.
737–300, –400, and –500 series airplanes	737–27–1255, Revision 2, dated July 22, 2004; Revision 1, dated June 26, 2003; and Original Issue, dated May 1, 2003.
737–600, –700, –700C, –800, and –900 series airplanes.	737–27–1253, Revision 2, dated October 7, 2004; Revision 1, dated March 27, 2003; and Original Issue, dated January 2, 2003.

Failure of one of the two input control rods of the main rudder PCU under certain conditions, if not corrected, could result in reduced controllability of the airplane. Failure of any combination of two input control rods of the main rudder PCU and/or standby rudder PCU, if not corrected, could result in loss of control of the airplane.

Relevant Service Information

We have reviewed the service bulletins in the table titled ''Service Bulletins for Repetitive Tests and Other Actions.'' The service bulletins specify an initial compliance time for doing the initial test of the standby system of within 60 days after the date of the service bulletin, and a repetitive interval of 500 flight hours. The service bulletins also specify an initial compliance time for doing the initial test of the force fight monitor of within 90 days or 6,000 flight hours after the date of the service bulletin, depending on the airplane configuration, and a repetitive interval of 6,000 flight hours. For airplanes identified as Groups 1 and 2, Configuration 2, in Boeing Alert Service Bulletin 737–27A1281, dated June 14, 2006; and airplanes identified as Group 1, Configuration 2, in Boeing Alert Service Bulletin 737–27A1280, dated May 25, 2006; no work is necessary in accordance with these service bulletins. The improperly heat-treated control rods were not installed on those airplanes.

SERVICE BULLETINS FOR REPETITIVE TESTS AND OTHER ACTIONS

For certain model—	Boeing Alert Service Bulletin	Describes procedures for doing—
737–600, –700, –700C, –800 and –900 series airplanes.	737–27A1280, dated May 25, 2005.	The ''Rudder Main Power Control Unit Force Fight Monitor Test,'' the ''Operational Test of the Standby Hydraulic Actuation System,'' and applicable corrective action if necessary.
737–100, –200, –200C, –300, –400, and –500 series airplanes.	737–27A1281, dated June 14, 2006.	The ''Rudder Main Power Control Unit Force Fight Test,'' the ''Stand-by Rudder Actuator Shutoff Valve Test,'' and applicable corrective action if necessary.

We also have reviewed the service bulletins in the table titled, ''Service Bulletins for Installation of an RSEP and Replacement of Input control rods.'' Boeing uses the acronym RSEP for the ''Rudder System Enhancement Program.''

SERVICE BULLETINS FOR INSTALLATION OF AN RSEP AND REPLACEMENT OF INPUT CONTROL RODS

For certain model—	Boeing—	Describes procedures for—	Which ends the repetitive tests specified in Boeing Service Bulletin—
737–100, –200, and –200C series airplanes.	Service Bulletin 737–27–1252, Revision 3, dated May 12, 2006.	Installing an RSEP (Part 1), and replacing both input control rods of the main rudder PCU with new input control rods (Part 2).	737–27A1281, dated June 14, 2006.
737–300, –400, and –500 series airplanes.	Service Bulletin 737–27–1255, Revision 3, dated May 10, 2006.	Installing an RSEP (Part 1), and replacing both input control rods of the main rudder PCU with new input control rods (Part 2).	737–27A1281, dated June 14, 2006.
737–600, –700, –700C, –800, and –900 series airplanes.	Service Bulletin 737–27–1253, Revision 3, dated May 12, 2006.	Installing an RSEP (Part 1); and replacing both input control rods of the main rudder PCU with new input control rods, inspecting the control rod of the stand-by rudder PCU to determine if part number (P/N) 251A3495–1 is installed, and doing corrective action if necessary (Part 2) (i.e., replacing any improperly heat-treated input control rod with a new input control rod).	737–27A1280, dated May 25, 2005.
	Alert Service Bulletin 737–27A1279, dated June 20, 2006.	Replacing both input control rods of the main rudder PCU and the input control rod of the standby rudder PCU with new input control rod(s).	737–27A1280, dated May 25, 2005.

Boeing Alert Service Bulletins 737–27–1252, 737–27–1253, and 737–27–1255, all Revision 3, also specify prior or concurrent accomplishment of the actions described in the table titled, ''Prior/Concurrent Service Information.''

PRIOR/CONCURRENT SERVICE INFORMATION

Prior to or concurrently with the actions in Boeing Alert Service Bulletin—	Do this action—	In accordance with—
737–27–1252, Revision 3, dated May 12, 2006.	Remove the rudder position sensor of the automatic flight control system.	Boeing Service Bulletin 737–22–1042, Revision 1, dated April 5, 1985.
	Replace the rudder feel and centering assembly with a new all-mechanical unit.	Boeing Service Bulletin 737–27–1026, dated January 15, 1971.
	Install the rudder pressure reducer and yaw damper coupler.	Boeing Service Bulletin 737–27A1206, Revision 3, dated December 14, 2000.
	Install provisional wires for rudder system enhancement.	Boeing Service Bulletin 737–27–1246, Revision 1, dated February 21, 2002.
	Replace the P5–3 panel with a new panel.	Boeing Service Bulletin 737–27–1263, Revision 1, dated September 25, 2003.

PRIOR/CONCURRENT SERVICE INFORMATION—Continued

Prior to or concurrently with the actions in Boeing Alert Service Bulletin—	Do this action—	In accordance with—
	Replace the input lever for the auxiliary rudder power control package with a new input lever.	Smiths Aerospace Service Bulletin 1150–27–05A, dated August 28, 2003.
737–27–1253, Revision 3, dated May 12, 2006.	Install provisional wires for rudder system enhancement.	Boeing Service Bulletin 737–27–1247, Revision 1, dated July 25, 2002.
	Replace the P5–3 panel with a new panel.	Boeing Service Bulletin 737–27–1262, dated December 19, 2002.
	Relocate the wire bundle routing in the vertical stabilizer.	Boeing Alert Service Bulletin 737–27A1239, dated January 11, 2001.
737–27–1255, Revision 3, dated May 10, 2006.	Install provisional wires for rudder system enhancement.	Boeing Service Bulletin 737–27–1246, Revision 1, dated February 21, 2002.
	Replace the P5–3 panel with a new panel.	Boeing Service Bulletin 737–27–1265, Revision 1, dated April 3, 2003.
	Install a new yaw damper coupler	Boeing Service Bulletin 737–27A1206, Revision 3, dated December 14, 2000.
	Inspect and rework the trailing edge beam on the vertical fin.	Boeing Service Bulletin 737–55–1052, Revision 1, dated August 5, 2004.
	Replace the input lever for the auxiliary rudder power control package with a new input lever.	Smiths Aerospace Service Bulletin 1150–27–05A, dated August 28, 2003.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2002–20–07 R1 and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in the applicable service information described previously. For certain airplanes, this proposed AD also would require suspending a certain Master Minimum Equipment Item, until the improperly heat-treated input control rods are replaced.

Change to Existing AD

This proposed AD would retain all requirements of AD 2002–20–07 R1. Since AD 2002–20–07 R1 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2002–20–07 R1	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (f).
paragraph (b)	paragraph (b) (with new title).

Costs of Compliance

There are about 6,412 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 1,678 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
Installation of rudder control system (required by AD 2002–20–07 R1, and retained in this NPRM).	700	$140,000	$196,000	$328,888,000.
Repetitive tests, per test cycle (new action proposed by this NPRM).	2	None	$160, per test cycle ...	Up to $268,480 depending on the configuration of the airplanes.
Replacement of the input control rods (new action proposed by this NPRM) (ends repetitive tests).	5 to 7	The manufacturer states that it will supply required parts to the operators at no cost.	$400 to $560	Up to $939,680, depending the configuration of the airplanes.

Authority for This Rulemaking

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

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

that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12940 (67 FR 67518, November 6, 2002) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–26323; Directorate Identifier 2006–NM–150–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 2, 2007.

Affected ADs

(b) This AD affects the ADs specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD.

(1) This AD supersedes AD 2002–20–07 R1.

(2) For airplanes on which the actions required by paragraph (f) of this AD have been done before the effective date of this AD: Doing the actions in paragraph (f) of this AD ends the requirements of the ADs listed in Table 1 of this AD.

(3) For airplanes on which the actions required by paragraph (f) of this AD have not been done before the effective date of this AD: Doing the actions in paragraph (h) of this AD ends the requirements of the ADs listed in Table 1 of this AD.

TABLE 1.—OTHER ADS

AD	Amendment
97–09–15 R1	39–10912
99–11–05	39–11175
2000–22–02 R1	39–11948

Applicability

(c) This AD applies to all Boeing Model 737–100, –200, –200C, –300, –400, –500, –600, –700,–700C, –800 and –900 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of a fractured rod end on an input control rod of the main rudder power control unit (PCU). We are issuing this AD to prevent failure of one of the two input control rods of the main rudder PCU, which, under certain conditions, could result in reduced controllability of the airplane; and to prevent failure of any combination of two input control rods of the main rudder PCU and/or standby rudder PCU, which could result in loss of control of the airplane. We are also issuing this AD to prevent an uncommanded rudder hardover event and consequent loss of control of the airplane due to inherent failure modes, including single-jam modes, and certain latent failures or jams combined with a second failure or jam.

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.

Requirements of AD 2002–20–07 R1

Installation

(f) Except as provided by paragraphs (h) and (i) of this AD: Within 6 years after November 12, 2002 (the effective date of AD 2002–20–07), do the actions required by paragraphs (f)(1) and (f)(2) of this AD, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(1) Install a new rudder control system that includes new components such as an aft torque tube, hydraulic actuators, and associated input control rods, and additional wiring throughout the airplane to support failure annunciation of the rudder control system in the flight deck. The system also must incorporate two separate inputs, each with an override mechanism, to two separate servo valves on the main rudder PCU; and an input to the standby PCU that also will include an override mechanism.

(2) Make applicable changes to the adjacent systems to accommodate the new rudder control system.

New Requirements of This AD

For Certain Airplanes: Tests, Suspension of Certain Master Minimum Equipment Item, Replacements, Inspection, and Corrective Actions

(g) For airplanes on which the actions required by paragraph (f) of this AD have been done before the effective date of this AD: Do the actions in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, as applicable.

(1) At the applicable times listed in paragraph 1.E., ''Compliance,'' of the applicable service bulletin specified in Table 2 of this AD; except, where the service bulletin specifies a compliance time from the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD: Do the tests specified in Table 2 of this AD, until the installation required by paragraph (g)(3) of this AD has been done in accordance with the applicable service bulletin in Table 3 of this AD. Do all applicable corrective actions specified in Table 2 of this AD before further flight.

TABLE 2.—REPETITIVE TESTS

For model—	Identified as—	Do—	In accordance with the accomplishment instructions of—
(i) 737–100, –200, and –200C series airplanes.	Group 1, Configuration 1 in the service bulletin.	The ''Rudder Main Power Control Unit Force Fight Test,'' the ''Standby Rudder Actuator Shutoff Valve Test,'' and any applicable corrective action.	Boeing Alert Service Bulletin 737–27A1281, dated June 14, 2006.
(ii) 737–300, –400, and –500 series airplanes.	Group 2, Configuration 1 in the service bulletin.	The ''Rudder Main Power Control Unit Force Fight Test,'' the ''Standby Rudder Actuator Shutoff Valve Test,'' and any applicable corrective action.	Boeing Alert Service Bulletin 737–27A1281, dated June 14, 2006.

TABLE 2.—REPETITIVE TESTS—Continued

For model—	Identified as—	Do—	In accordance with the accomplishment instructions of—
(iii) 737–600, –700, –700C, –800, and –900 series airplanes.	Group 1, Configuration 1 and Group 2, Configurations 1 and 2 in the service bulletin.	The ''Rudder Main Power Control Unit Force Fight Monitor Test,'' the ''Operational Test of the Standby Hydraulic Actuation System,'' and any applicable corrective action.	Boeing Alert Service Bulletin 737–27A1280, dated May 25, 2005.

(2) As of the effective date of this AD, do not use the Master Minimum Equipment Item 27–21, ''STBY RUD ON light,'' until the actions required by paragraph (g)(3) of this AD are done.

(3) Within 24 months after the effective date of this AD, do the replacement(s) and inspection, as applicable, specified in Table 3 of this AD. Do all applicable corrective actions specified in Table 3 of this AD before further flight. Doing the applicable action(s) ends the requirements of paragraphs (g)(1) and (g)(2) of this AD.

TABLE 3.—REPLACEMENT OF INPUT CONTROL RODS, INSPECTION, AND CORRECTIVE ACTION, AS APPLICABLE

For Model—	Identified as—	Do the following action(s)—	In accordance with—
(i) 737–100, –200, and –200C series airplanes.	Groups 1 through 9, Configuration 3 in the service bulletin.	Replace both input control rods of the main rudder PCU with new input control rods.	Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1252, Revision 3, dated May 12, 2006.
(ii) 737–300, –400, and –500 series airplanes.	Groups 1 through 19, Configuration 3 in the service bulletin.	Replace both input control rods of the main rudder PCU with new input control rods.	Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1255, Revision 3, dated May 10, 2006.
(iii) 737–600, –700, –700C, –800, and –900 series airplanes.	Groups 1 through 20, Configuration 3 in the service bulletin.	Replace both input control rods of the main rudder PCU with new input control rods, inspect the input control rod of the standby rudder PCU to determine if part number (P/N) 251A3495–1 is installed, and any corrective action.	Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1253, Revision 3, dated May 12, 2006.
(iv) 737–600, –700, –700C, –800, and –900 series airplanes.	Group 1 in the service bulletin	Replace both input control rods of the main rudder PCU and the input control rod of the standby rudder PCU with a new input control rod(s).	The Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1279, dated June 20, 2006.

For Certain Other Airplanes: Install New Rudder Control System per Service Information

(h) For airplanes on which the actions required by paragraph (f) of this AD have not been done before the effective date of this AD: As of the effective date of this AD, use the applicable service bulletin specified in Table 4 of this AD to do the actions required by paragraph (f) of this AD at the time specified in that paragraph.

TABLE 4.—SERVICE BULLETINS FOR INSTALLATION OF NEW RUDDER CONTROL SYSTEM

For model—	Identified as—	Do the actions required by paragraph (f) of this AD in accordance with—
(1) 737–100, –200, and –200C series airplanes.	Groups 1 through 9, Configurations 1 and 2 in the service bulletin.	Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1252, Revision 3, dated May 12, 2006.
(2) 737–300, –400, and –500 series airplanes.	Groups 1 through 19, Configurations 1 and 2 in the service bulletin.	Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1255, Revision 3, dated May 10, 2006.
(3) 737–600, –700, –700C, –800, and –900 series airplanes.	Groups 1 through 20, Configurations 1 and 2 in the service bulletin.	Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1253, Revision 3, dated May 12, 2006.

(i) Before or concurrently with the requirements of paragraph (h) of this AD, do the actions in Table 5 of this AD.

TABLE 5.—BEFORE/CONCURRENT REQUIREMENTS

Before or concurrently with the actions specified in—	Do these actions—	In accordance with the accomplishment instructions of—
(1) Paragraph (h)(1) of this AD	(i) Remove the rudder position sensor of the automatic flight control system.	Boeing Service Bulletin 737–22–1042, Revision 1, dated April 5, 1985.
	(ii) Replace the rudder feel and centering assembly with a new all-mechanical unit.	Boeing 737 Service Bulletin 27–1026, dated January 15, 1971.
	(iii) Install the rudder pressure reducer and yaw damper coupler.	Boeing Service Bulletin 737–27A1206, Revision 3, dated December 14, 2000.
	(iv) Install provisional wires for rudder system enhancement.	Boeing Service Bulletin 737–27–1246, Revision 1, dated February 21, 2002.
	(v) Replace the P5–3 panel with a new panel	Boeing Service Bulletin 737–27–1263, Revision 1, dated September 25, 2003.
	(vi) Replace the input lever for the auxiliary rudder power control package with a new input lever.	Smiths Aerospace Service Bulletin 1150–27–05A, dated August 28, 2003.
(2) Paragraph (h)(2) of this AD	(i) Install provisional wires for rudder system enhancement.	Boeing Service Bulletin 737–27–1246, Revision 1, dated February 21, 2002.
	(ii) Replace the P5–3 panel with a new panel	Boeing Service Bulletin 737–27–1264, Revision 1, dated April 3, 2003.
	(iii) Install a new yaw damper coupler	Boeing Service Bulletin 737–27A1206, Revision 3, dated December 14, 2000.
	(iv) Inspect the trailing edge beam on the vertical fin and rework if necessary.	Boeing Service Bulletin 737–55–1052, Revision 1, dated August 5, 2004.
	(v) Replace the input lever for the auxiliary rudder power control package with a new input lever.	Smiths Aerospace Service Bulletin 1150–27–05A, dated August 28, 2003.
(3) Paragraph (h)(3) of this AD	(i) Install provisional wires for rudder system enhancement.	Boeing Service Bulletin 737–27–1247, Revision 1, dated July 25, 2002.
	(ii) Replace the P5–3 panel with a new panel	Boeing Service Bulletin 737–27–1262, dated December 19, 2002.
	(iii) Relocate the wire bundle routing in the vertical stabilizer.	Boeing Alert Service Bulletin 737–27A1239, dated January 11, 2001.

Parts Installation

(j) As of the effective date of this AD, no person may install an input control rod, P/N 251A3495–1, on any airplane.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

(3) Except as provided by paragraph (j) of this AD: AMOCs approved previously in accordance with AD 2002–20–07 R1 are approved as AMOCs for the corresponding provisions of paragraphs (f) and (h) of this AD.

Issued in Renton, Washington, on November 3, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–19227 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2006–26299]

Federal Motor Vehicle Safety Standards; Brake Hoses

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking; proposed delay of effective date.

SUMMARY: NHTSA published a final rule in December 2004 that amended the Federal motor vehicle safety standard on brake hoses. In early 2005, the agency received several petitions for reconsideration of the rule and a petition to delay the effective date of the final rule. At present, the rule is to take effect on December 20, 2006. To allow for more time to respond to petitions for reconsideration, and to give industry more time to meet new requirements, this document proposes to delay the effective date of the final rule for one year, to December 20, 2007.

DATES: You should submit your comments not later than November 30, 2006.

ADDRESSES: We invite you to submit comments on the proposed delay of the effective date of the final rule published on December 20, 2004. You may submit comments identified by docket number at the heading of this notice by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site by clicking on ''Help and Information'' or ''Help/Info.''
- *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.
- *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.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided.

Docket: For access to the docket in order 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.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

We shall consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we shall also consider comments filed after the closing date.

FOR FURTHER INFORMATION CONTACT: For technical issues you may call: Mr. Jeff Woods, Vehicle Dynamics Division, Office of Crash Avoidance Standards, at (202) 366–6206. Mr. Woods' fax number is: (202) 366–4921.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366–2992. Her fax number is: (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 106, *Brake hoses* (49 CFR 571.106) (FMVSS No. 106), specifies labeling and performance requirements for motor vehicle brake hose, brake hose assemblies, and brake hose end fittings. The purpose of FMVSS No. 106 is to reduce deaths and injuries occurring as a result of brake system failure from pressure or vacuum loss due to hose or hose assembly rupture.

2004 Final Rule

On December 20, 2004 (69 FR 76298) (DMS Docket No. NHTSA–2003–14483), NHTSA published a final rule amending FMVSS No. 106 to update the standard and incorporate the most recent substantive technical requirements of several Society of Automotive Engineers (SAE) Recommended Practices relating to hydraulic brake hoses, vacuum brake hoses, air brake hoses, plastic air brake tubing, and end fittings. The final rule specified an effective date of December 20, 2006 for these amendments. Optional early compliance with the final rule was permitted as of February 18, 2005.

Petitions for Reconsideration

In early 2005, NHTSA received petitions for reconsideration of the December 20, 2004 final rule from Cooper Standard Automotive (Fluid Division), Degussa Corporation, George Apgar Consulting, MPC, Inc., and Parker Hannifin Corporation (with separate comments from its Brass Division and from its Hose Products Division).[1] The petitions addressed a wide range of FMVSS No. 106 subjects.

Petition for Extension of the Effective Date

In a submission dated September 12, 2006, Legris petitioned NHTSA for an extension of the December 20, 2004 final rule for an additional year, to December 20, 2007. Legris stated that it learned of the changes to FMVSS No. 106 ''within the past few months'' and stated that it cannot make all necessary changes to its brake hose products before the December 20, 2006 effective date. Legris asserted that without the extension, its business and customer base will be jeopardized and it will ''be faced with a considerable loss of both sales revenue and profits, as well as losses from products already manufactured but which could not be installed in vehicles until after December 20, 2006.''

Proposed Extension of Effective Date

The petitions for reconsideration asked NHTSA to amend many of the December 20, 2004 final rule's provisions on brake hoses, brake hose assemblies, and end fittings. Our response to those petitions could affect current designs of certain types of brake hoses. The numerous issues raised in the petitions are complex. In some cases, the petitioners ask for changes that differ from those requested by other petitioners. The agency is in the process of developing its response to the petitions. A 12-month extension of the effective date, to December 20, 2007, would preserve the status quo until then. It would also give Legris and similarly situated companies additional time to meet updated FMVSS No. 106 requirements.

Because the December 20, 2006 effective date for the final rule is fast approaching, NHTSA proposes delaying the effective date for one year, to December 20, 2007. If made final, this NPRM would make no substantive change to the standard, but would delay the effective date of the December 20, 2006 final rule for another year while the agency responds to the petitions for reconsideration of the rule. Thus, NHTSA seeks public comment on extending the effective date of the final rule until December 20, 2007. Because the agency seeks to provide as much lead time as possible about its final determination whether the effective date will be extended, we have provided a 15-day comment period on the issue of the extension of the December 20, 2004 final rule's effective date. If the agency does not receive any opposing comments, it will issue a final rule adopting the extension shortly after the comment closing date.

Rulemaking Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review, and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' Further, we have determined that this action is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979).

This NPRM proposes to delay the effective date of a December 20, 2004 final rule amending FMVSS No. 106. If made final, there would be no additional costs associated with the delay of the effective date. Since the safety benefits from the December 20, 2004 final rule cannot be quantified, and are likely minor, the impact of this extension is also likely minor.

B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. If made final, this rule would not impose any new requirements or costs on manufacturers, but instead would only preserve the status quo for an additional year.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA),

[1] In July 2005, Arkema, Inc., submitted a document styled as a petition for reconsideration. NHTSA is treating the document as a petition for rulemaking instead since its regulations (49 CFR 553.35(a)) provide that a document styled as a petition for reconsideration of a final rule and received by the agency more than 45 days after the issuance of that final rule will be treated as a petition for rulemaking.

a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Since it would only delay the effective date of a final rule, if made final, this NPRM would not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

D. National Environmental Policy Act

We have analyzed this proposed rule for the purposes of the National Environmental Policy Act. We have determined that implementation of this action would not have any significant impact on the quality of the human environment.

E. Executive Order 13132, Federalism

This proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

F. Civil Justice Reform

This proposed rule would not have any retroactive effect. A petition for reconsideration or other administrative proceedings are not required before parties may file suit in court.

G. Unfunded Mandates Reform Act

If made final, this proposed rule would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 7, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–19198 Filed 11–14–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 060928250–6250–01; I.D. 092506A]

RIN 0648–AU90

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to revise the regulations implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) by expanding the southeast U.S. restricted area and modifying regulations pertaining to gillnetting within the southeast U.S. restricted area. NMFS proposes to prohibit gillnet fishing or gillnet possession during annual restricted periods associated with the right whale calving season. Exemptions to the fishing prohibitions are proposed for strikenet fishing for sharks and gillnet fishing for Spanish mackerel south of 29°00′ N. lat. An exemption to the possession prohibition is proposed for transiting through the area if gear is stowed in accordance with this rule. This action is required to meet the goals of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). This action is necessary to protect northern right whales from serious injury or mortality from entanglement in gillnet gear in their calving area in Atlantic ocean waters off the Southeast U.S.

DATES: Comments on this proposed rule must be received by 5 p.m. EST on December 15, 2006.

ADDRESSES: You may submit comments, identified by the RIN 0648–AU90, by any of the following methods:

E-mail: *sewhalerule.comments@noaa.gov*. Include RIN 0648–AU90 in the subject line of the message.

Mail: Assistant Regional Administrator for Protected Resources, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Facsimile (fax) to: 727 824–5309, Attn: Assistant Regional Administrator, Protected Resources, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this proposed rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. Copies of the draft Environmental Assessment (EA), an Initial Regulatory Flexibility Analysis (IRFA), and copies of all citations referenced in this proposed rulemaking may be obtained from the persons listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Laura Engleby, 727–824–5312, or Barb Zoodsma, 904–321–2806. Individuals who use telecommunications devices for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. eastern time, Monday through Friday, excluding Federal holidays.

Electronic Access: Regulations and background documents for the ALWTRP can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

SUPPLEMENTARY INFORMATION:

Background

The northern right whale (*Eubalaena glacialis*) was severely depleted by commercial whaling, and despite protection from commercial harvest since 1935, has not recovered. The North Atlantic population is believed to be at or less than 300 individuals, making it one of the most critically endangered large whale populations in the world (NMFS 2005).

The northern right whale has been listed as endangered under the ESA since the Act's passage in 1973 (35 FR 8495, June 2, 1970). In June 1994, NMFS designated three areas of the right whale's Atlantic range in the United States as critical habitat: (1) Great South Channel, (2) Cape Cod Bay, and (3) the southeastern U.S. (59 FR 28793, June 3, 1994). The southeastern U.S. critical habitat includes coastal waters between 31°15′ N. lat. and 30°15′ N. lat. from the coast out 15 nautical miles (27.8 km), and the coastal waters between 30°15′ N. lat. and 28°00′ N. lat. from the coast out 5 nautical miles (9.3 km) (§ 226.203 of this chapter).

As required by the ESA, NMFS developed a recovery plan for the northern right whale in 1991, which was revised and updated in 2001 and 2005. The current recovery plan states,

''the most immediate need for the North Atlantic right whale is to reduce or eliminate human-related deaths and injuries'' (NMFS 2005). Furthermore, the development and implementation of strategies to modify fishing operations and gear to reduce the likelihood of entanglement, mitigate the effect of entanglements, enhance the possibility of disentanglement, and assess the effectiveness of such strategies is a priority one recovery task, i.e., ''an action that must be taken to prevent extinction or to prevent the species from declining irreversibly'' (NMFS 2005, p. V–1).

Northern right whales in the North Atlantic occur in coastal and nearshore waters off the eastern United States and Canada, areas also used by fishing and other maritime activities that can adversely affect the species. Deaths from collisions with ships and entanglement in fishing gear are significant impediments to the recovery of the species. From 1999 to 2003, human-caused mortality and serious injury to northern right whales in the North Atlantic from fishery entanglements and ship strikes were estimated as an average of 2.6 whales per year (U.S. waters, 1.6; Canadian waters, 1.0) (Waring *et al.*, 2006). A serious injury has been defined as ''any injury that will likely result in mortality'' (§ 216.3 of this chapter). Kraus *et al.* (2005) indicated that the overall mortality rate for North Atlantic right whales increased between 1980 and 1998 to a level of at least four percent per year, a rate that is not sustainable. The 1994 amendments to the MMPA mandate that, as part of the Stock Assessment Reports, Potential Biological Removal (PBR) estimates must be determined for each marine mammal stock in U.S. waters. PBR is defined as ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.'' The PBR level for right whales is zero; thus, any mortality or serious injury to the species is considered significant.

Serious injury and mortality of right whales as a result of commercial fishing activities continues to occur at a rate above PBR. From 1999–2003, Waring *et al.* (2006) documented 31 reports of entanglements that resulted in 5 serious injuries and 3 mortalities, for an average of 1.6 mortalities and serious injuries per year over that time period.

To reduce serious injury and mortality of marine mammal stocks incidental to commercial fishing operations, MMPA section 118(f) directs NMFS to develop and implement take reduction plans (TRPs) to assist in the recovery, or prevent the depletion, of each strategic stock that interacts with a Category I or II fishery, as defined and classified in the annual List of Fisheries. Marine mammals listed under the ESA, such as right whales, are automatically considered strategic stocks under the MMPA.

On August 6, 1996 (61 FR 40819), NMFS established the Atlantic Large Whale Take Reduction Team (ALWTRT) to prepare a draft TRP to reduce serious injury and mortality of right, humpback, and fin whales incidental to commercial fishing operations, as well as to provide conservation benefits to a fourth, non-endangered species, the minke whale. The ALWTRT submitted a report to NMFS on February 1, 1997, with recommendations to reduce the serious injury and mortality of Atlantic large whales; however, the ALWTRT did not reach consensus on some recommendations. Pursuant to the MMPA, NMFS then developed a final ALWTRP and implementing regulations based, in part, on the deliberations of the ALWTRT and considerable public input. An interim final rule was published on July 22, 1997 (62 FR 39157), and a final rule was published February 16, 1999 (64 FR 7529), with an April 1, 1999, effective date. Since that time, the ALWTRP has been modified several times to include additional measures designed to reduce the serious injury and mortality of large whales in commercial fisheries.

The ALWTRP, codified at 50 CFR 229.32 of this chapter, relies on a combination of fishing gear modifications, gear handling and deployment requirements, and time/area closures to reduce the risk of large whales becoming entangled in commercial fishing gear. Among these measures are specific provisions relevant to the risks posed to right, humpback, and fin whales by commercial fishing operations.

Commercial fisheries operating in the Southeast U.S. that are regulated under the ALWTRP include the Southeastern U.S. Atlantic shark gillnet and the Southeast Atlantic gillnet fisheries (see List of Fisheries, 71 FR 48802, August 22, 2006, for current descriptions). Both fisheries are classified as Category II fisheries because they have occasional serious injuries and mortalities of marine mammals; Category II fisheries are those for which the annual mortality and serious injury of a marine mammal stock is greater than 1 percent and less than 50 percent of the stock's PBR (50 CFR 229.2).

The Southeastern U.S. Atlantic shark gillnet fishery uses large mesh (5–10 inches (0.127–0.254 m)) nets, typically more than 1,500 ft (457 m) long, to target large and small coastal sharks. The fishery has traditionally employed drift nets that are set for more than 10 hours. The fishery also deploys strikenets in which schools of sharks are targeted and encircled, and recently has also started targeting sharks with bottom set sink or stab nets (see definitions of gear types at § 229.2). The fishery has traditionally operated in coastal waters of Florida and Georgia. The shark gillnet fishery is managed by NMFS under the Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks (implementing regulations at 50 CFR part 635). Fishermen possessing or landing sharks in excess of the recreational retention limit must have either a NMFS-issued shark directed limited access permit or a shark incidental limited access permit (50 CFR 635.4(e)). The classification of this fishery as a Category II fishery is driven by observed incidental mortalities of the Western North Atlantic coastal stock of bottlenose dolphins. In addition, a right whale calf was observed in 1994 with wounds indicative of an interaction with gillnet gear in the area where this fishery operates. The calf was sighted only once and presumed dead (60 FR 67073, December 28, 1995).

The Southeast Atlantic gillnet fishery is a small mesh (<5 inches (12.7 cm)) fishery that may deploy either pelagic (mid-water) or demersal (bottom) gillnets. The fishery operates primarily in Federal waters from South Carolina to Florida, due to prohibitions on gillnets in each of these coastal states. The fishery is dynamic and fishermen may alter the configuration or mesh size of their gear at different times of the year in order to target different species. The broad variety of fish species landed in this fishery was recently recognized in the 2006 Final List of Fisheries (71 FR 48802, August 22, 2006) as including king mackerel, Spanish mackerel, whiting, bluefish, pompano, spot, croaker, little tunny, bonita, jack crevalle, and cobia. Spanish mackerel is the primary species targeted by gillnets off the Florida east coast (Gulf of Mexico Fishery Management Council *et al.*, 2004). Spanish mackerel gillnet fishing uses primarily sink nets, and the fishery is active off the east coast of Florida between Ft. Pierce to just north of Cape Canaveral during the months of October through March. NMFS-issued commercial vessel permits are required to fish for Spanish mackerel (§ 622.4(a)(2)(iv) of this title), as part of

the FMP for Coastal Migratory Pelagic Resources (implementing regulations at 50 CFR 622). Regulations for Spanish mackerel gillnet fishing at § 622.41(c)(3)(ii) of this title include restricting the soak period to no more than one hour, allowing only one gillnet to be fished, set or placed in the water at any one time, and restricting the float line to no longer than 800 yards (732 m). Gillnet gear is not an authorized gear type for directed harvest of king mackerel, little tunny, bluefish, cobia, or snapper-grouper (including jack crevalle) in waters off South Carolina, Georgia or Florida's Atlantic coast (§ 622.41(c)(1) and (d)(1) of this title); landings of these species therefore represent incidental catches. Gillnet fishing for whiting occurs primarily off Mayport, Florida, using multiple sections of net, each approximately 300 yards (274 m) long, for a total of up to 2,800 yards (2,560 m) of gillnet per vessel. Nets are set on the bottom with a height of up to 4 feet (1.13 m). Soak times are up to six hours and net soaks may extend into or over night. Pursuant to 50 CFR 229.2, the classification of the Southeast Atlantic gillnet fishery as a Category II fishery is based on an evaluation of the risk of serious injury and mortality that gillnets present to marine mammals that are found in the area of operation of this fishery, and from indications that at least occasional serious injuries and mortalities occur in this fishery, as evidenced by reports of strandings of Western North Atlantic coastal bottlenose dolphin from 1994–1998 in the area of operation of this fishery (66 FR 6551, January 22, 2001).

No other gillnet fisheries are known to operate in the Southeast U.S. restricted area and during the time when calving and nursing right whales are expected to occur.

The southeast U.S. restricted area is defined in § 229.32(f)(1)(i) as the waters from 32°00′ N. lat. (near Savannah, GA) along the coast south to 27°51′ N. lat. (near Sebastian Inlet, FL) and extending from the shore eastward out to 80°00′ W. long. NMFS also established the southeast U.S. observer area defined as the southeast U.S. restricted area plus an additional area along the coast south to 26°46.5′ N. lat. (near West Palm Beach, FL) and extending from the shore eastward out to 80°00′ W. long (50 CFR 229.32(f)(1)(ii)).

In the southeast U.S. restricted area, the restricted period is from November 15 through March 31 (50 CFR 229.32(f)(4)(i)) corresponding with the right whale calving season, as it was understood in 1996. Pursuant to 50 CFR 229.32(f)(4)(ii) and (iv), fishermen are prohibited from using shark gillnet gear, defined at § 229.2 as gillnet with 5 inches (12.7 cm) or greater stretch mesh, in the restricted area during the restricted period, except for shark fishing with strikenet gear (defined at § 229.2) of any mesh size fished in accordance with the following provisions: (1) No nets are set at night or when visibility is less than 500 yards (460 m), (2) each set is made under the observation of a spotter plane, (3) no net is set within 3 nautical miles (5.6 km) of a right, humpback, or fin whale, and (4) if a right, humpback, or fin whale moves within 3 nautical miles (5.6 km) of the set gear, the gear is removed immediately from the water (§ 229.32(f)(4)(iv)). Lastly, all gillnet fishermen are prohibited from fishing a straight set of gillnet gear at night within the southeast U.S. restricted area during the restricted period (§ 229.32(f)(4)(iii)).

In the southeast U.S. observer area, the ALWTRP regulations require observer coverage, if requested by NMFS, of the Southeastern U.S. Atlantic shark gillnet fishery during the restricted period (§ 229.32(f)(3)).

Because of the right whale's endangered status, NMFS included contingency measures in the ALWTRP regulations that would require further restriction on fishing in the Cape Cod Bay critical habitat, Great South Channel restricted area, and the southeast U.S. restricted area if a right whale mortality or serious injury resulted from the use of certain fishing gear in those areas during specific times of the year. Specifically, § 229.32(g)(1) states that if a serious injury or mortality of a right whale occurs in the southeast U.S. restricted area during the restricted period as a result of an entanglement by gillnet gear allowed to be used in that area and time, the NOAA Assistant Administrator for Fisheries (AA) shall close that area to that gear type for the rest of that time period and for that same time period in each subsequent year, unless the AA revises the restricted period or implements other measures under 50 CFR 229.32(g)(2).

The AA is authorized to preempt or alter closures implemented under 50 CFR 229.32(g)(1) in subsequent years based on any of the following: (1) NMFS verifies that certain gear characteristics are both operationally effective and reduce serious injuries and mortalities of endangered whales, (2) new gear technology is developed and determined to be appropriate, (3) revised fishing gear breaking strengths are determined to be appropriate, (4) new marking systems are developed and determined to be appropriate, (5) NMFS determines that right whales are remaining longer than expected in a closed area or have left earlier than expected, (6) NMFS determines that the boundaries of a closed area are not appropriate, (7) gear testing operations are considered appropriate, or (8) similar situations occur (50 CFR 229.32(g)(2)).

In 2005, the ALWTRT considered additional measures to further protect right whales from serious injury and mortality in commercial fishing operations, including in Southeast U.S. waters, and NMFS published a proposed rule on June 21, 2005 (70 FR 35894). NMFS prepared a Draft Environmental Impact Statement (DEIS), and under the preferred alternatives, the following ALWTRP operational measures, specific to the southeast U.S. restricted area and adjacent waters, were proposed (for a complete list, please consult the 2005 DEIS (Industrial Economics, Inc. and NMFS 2005)):

(1) Dividing, at the 29°00′ N. lat., the southeast U.S. restricted area into two sections.

(2) Modifying the restricted period to November 15 through April 15 for the southeast U.S. restricted area north of 29°00′ N. lat., and December 1 through March 31 for the southeast U.S. restricted area south of 29°00′ N. lat.

(3) Eliminating the 80°00′ eastern boundary of the southeast U.S. restricted area and extending the area, and respective requirements, out to the Exclusive Economic Zone (EZZ).

(4) Requiring weak links, sinking or neutrally buoyant groundline, no floating buoy line at the surface of the water, and anchors for gillnets not returned to port with the vessel in the Southeast Atlantic gillnet fishery.

(5) Requiring Vessel Monitoring Systems (VMS) in lieu of ALWTRP-related observer coverage requirements for the Southeastern U.S. Atlantic shark gillnet fishery.

The final rule is expected to be published in early 2007. NMFS recognizes that some of the measures in the 2005 proposed rule and some of the measures proposed in this rulemaking concerning the boundaries of the Southeast U.S. restricted area differ in some respects. NMFS will ensure that the differences are reconciled when completing both rulemakings.

Recent Events

On January 22, 2006, a dead right whale calf was reported offshore of Jacksonville Beach, Florida. The right whale calf was towed ashore and necropsied by a specialized large whale necropsy team. Evidence of recent entanglement was clearly documented by the necropsy team. Damage to the animal that was judged to be the result

of entanglement met NMFS' criteria of a serious injury (i.e., an injury likely to result in mortality) (50 CFR 216.3). The immediate cause of the whale's death (e.g., dehydration, infection) was not determined by the necropsy team. NMFS determined, based on best available information and discussions with scientific investigators, that the right whale's entanglement and serious injury by gillnet gear allowed to be used in the southeast U.S. restricted area during the restricted period ultimately led to the death of the animal. Additionally, NMFS determined that both the entanglement and death of the whale occurred within the southeast U.S. restricted area during the restricted period because: (1) all sightings of this calf occurred within the southeast U.S. restricted area; (2) all the southeast sightings were during the restricted period; (3) mother-calf pairs typically remain on the calving grounds in January; (4) the carcass was found within the southeast U.S. restricted area; and (5) based on currents, the calf's most likely location when it died was inshore and north of where the carcass was found.

As a result of these findings, NMFS enacted temporary restrictions on gillnet fishing in the southeast U.S. restricted area from February 15, 2006, through March 31, 2006 (71 FR 8223, February 16, 2006), in accordance with the ALWTRP's implementing regulations at 50 CFR 229.32(g)(1). The temporary regulation was necessary to protect right whales from further serious injury or mortality in the southeast U.S. restricted area due to entanglement in gillnet gear. Since implementing this regulation, NMFS has collected and analyzed additional information to determine, with opportunity for public comment, the scope of permanent protective measures required by the regulations.

On March 7, 2006, a final necropsy report for the dead calf was made available to NMFS. The necropsy report supported NMFS' determination that the right whale calf was seriously injured and ultimately died as a result of entanglement in gillnet gear used in the southeast U.S. restricted area during the restricted period. The mesh size of the gillnet gear involved in the entanglement could not be determined. Various mesh sizes are used within the area, subject to different restrictions established under the ALWTRP regulations, regulations established under fishery management plans, and applicable state authorities.

Therefore, NMFS believes the application of the implementing regulations at § 229.32(g)(1) with respect to the January 2006 right whale death was, and continues to be, appropriate.

On April 11 and 12, 2006, NMFS convened a meeting of the ALWTRT's Mid-Atlantic/Southeast Subgroup (the SE Subgroup) to seek input regarding future management options to protect right whales from additional serious injury and mortality from gillnetting within the southeast U.S. restricted area. Attending the SE Subgroup meeting were representatives of commercial fishermen that actively gillnet in the Southeast U.S., right whale scientists, environmentalists, Marine Mammal Commission, fishery management organizations, and state and Federal resource management agencies.

NMFS updated the SE Subgroup on: (1) the ALWTRP as it relates to the Southeast U.S. (including modifications proposed in 70 FR 35894, June 21, 2005), (2) the right whale calf necropsy findings, (3) the temporary rule restricting gillnetting in the southeast U.S. restricted area from February 16, 2006, through March 31, 2006 (71 FR 8223, February 16, 2006), (4) right whale status, (5) habitat and diving characteristics of right whales in the Southeast U.S., (6) Southeast U.S. gillnet fisheries, and (7) existing gillnet-related state and Federal regulations. Various questions and issues raised during the meeting included: (1) the need to improve how right whale carcasses are handled, (2) the method by which new management measures would be implemented, (3) the lack of information regarding the precise mesh size of the entangling gillnet implicated in the calf's death, (4) allegations that illegal gillnetting was responsible for the calf's death, (5) the lack of resources to enforce management restrictions, (6) the inadequacy of regulations regarding fishing activities not previously considered, (7) the lack of scientific permits that allow tagging right whale mothers with calves in the Southeast U.S. to study, among other things, dive profiles, (8) the belief that, due to risk to the whales, gillnetting is not compatible with a right whale calving area, and (9) the fact that PBR for right whales is zero.

The SE Subgroup discussed various gillnet fishery management options for the southeast U.S. restricted area, including using 29°00′ N. lat. to divide the southeast U.S. restricted area into northern and southern management zones, consistent with the ALWTRP proposed rule (70 FR 35894, June 21, 2005). This management approach was advocated due to the different types of fishing operations in these two areas, and to allow for better tracking of management measures relative to the seasonal movements of right whales as they progress southward along Florida during late fall/early winter and progressively northward during late winter/early spring.

Southeast U.S. restricted area south of 29°00′ N. lat. The SE Subgroup recommended management measures for the southeast U.S. restricted area south of 29°00′ N. lat. that they believed would protect right whales from serious injury and mortality in commercial gillnet gear. The recommendation included a combination of retaining some of the existing ALWTRP regulations for the two currently active gillnet fisheries operating in the area and supplementing them with new or modified requirements. For the Southeastern U.S. Atlantic shark gillnet fishery, the SE Subgroup recommended: modifying the existing restricted period of November 15 through March 31 to December 1 through March 31; revising the existing prohibition on shark gillnetting with 5 inches (12.7 cm) or greater stretch mesh to a prohibition on shark gillnetting with any size mesh during the restricted period; and retaining the exemptions at § 229.32(f)(iv) for the use of strikenet gear to target sharks during the restricted period.

For the Southeast Atlantic gillnet fishery, the SE Subgroup recommended modifying the existing restricted period of November 15 through March 31 to December 1 through March 31; and revising the prohibition on straight sets of gillnet at night to a prohibition on fishing with gillnet with an exemption for fishing for Spanish mackerel during the periods December 1 through December 31 and March 1 through March 31, if fishing was conducted in accordance with the current Spanish mackerel regulations at 50 CFR part 622 and these regulations are codified within the ALWTRP (to ensure against the possibility that regulations at 50 CFR part 622 are changed through FMP amendments). To be consistent with the shark strikenet provisions and to provide additional protection for right whales, the following new provisions would also be required for fishing for Spanish mackerel in the southeast U.S. restricted area south of 29°00′ N. lat. during the suggested restricted period: (1) No net is set at night or when visibility is less than 500 yards (460 m); (2) no net is set within 3 nautical miles (5.6 km) of a right, humpback, or fin whale; and (3) gillnet is removed immediately from the water if a right, humpback, or fin whale moves within 3 nautical miles (5.6 km) of the set gear.

The SE Subgroup's recommended measures for the Southeastern U.S.

Atlantic shark gillnet fishery and the Southeast Atlantic gillnet fishery would prohibit fishing with gillnet unless the specified restrictions were in place for each of these two fisheries to provide protection for right whales. The provisions for Spanish mackerel fishing and strikenetting for sharks allow fishing with limited amounts of gillnet (due to Spanish mackerel regulations and strikenet deployment method) and limited soak times, and therefore keep effort per fisherman relatively low overall. Furthermore, nets would not be set, or would be removed, if endangered whales were within 3 nautical miles (5.6 km) of deployed gear.

Southeast U.S. restricted area north of 29°00′ N. lat. The SE Subgroup did not reach consensus on recommended management measures for the southeast U.S. restricted area north of 29°00′ N. lat. The subgroup recognized that the area north of 29°00′ N. lat. has a higher density of right whales for a longer period during the calving season. In 2004, a small group of gillnet fishermen targeting whiting also began using this area. The SE Subgroup discussed possible options for management measures in this area, including: (1) status quo with certain measures that would allow gear and techniques used to gillnet whiting, but limit gillnetting for other species (e.g., require gillnets with a maximum stretched-mesh size of 3 inches (7.6 cm) and less than 25 meshes deep), (2) prohibit gillnetting in this area unless strikenetting, (3) prohibit gillnetting in this area altogether, and (4) prohibit gillnetting in portions of the area. Possible closed areas included the entire southeast U.S. restricted area; the right whale critical habitat area; the Mandatory Ship Reporting System (MSRS) Area (the area extends from the shoreline east to 80°51.6′ W. long. with the southern and northern boundaries at 30°00′ N. lat. and 31°27′ N. lat., respectively) (33 CFR part 169); and an area from the shoreline out to a line drawn at approximately 81° W. long. extending from approximately Savannah, Georgia, to Daytona Beach, Florida (the area suspected by some SE Subgroup members to include high concentrations of right whales not included in the other area proposals). Some fishing industry members of the SE Subgroup noted that none of these closed area options would allow them to fish safely, efficiently, or effectively.

Following the SE Subgroup meeting, a report summarizing key points of the SE Subgroup's meeting was prepared and distributed to the full ALWTRT. Comments received from SE Subgroup members after the meeting were made available to ALWTRT members upon request.

Subsequent to the SE Subgroup meeting, the Marine Mammal Commission (MMC) submitted a letter to NMFS recommending that NMFS promulgate a permanent rule to ensure protection of mother-calf pairs of right whales from entanglement in gillnet fisheries. The MMC is charged under the MMPA with recommending actions and policies to Federal agencies with respect to marine mammal protection and conservation. In their letter, dated May 15, 2006, the MMC recommended to NMFS that the rule: (1) expand the southeast U.S. restricted area to include waters within 40 miles (74.1 km) offshore of northern Georgia and South Carolina, (2) modify the restricted period to be from November 1 to April 30 in the restricted area off South Carolina, and November 15 to April 15 in the restricted area off Georgia and Florida, (3) prohibit all gillnet fishing in the expanded restricted area during the recommended restricted periods, and (4) provide exemptions for Spanish mackerel and shark gillnet fishing in the southeast U.S. restricted area south of 29°00′ N. lat.

NMFS Analysis of Need for Additional Action

Prior to implementing the temporary rule (71 FR 8223, February 16, 2006) closing the southeast U.S. restricted area to gillnet fishing in February and March 2006, NMFS determined that the death of the right whale calf was the result of entanglement in gillnet gear allowed to be used in the southeast U.S. restricted area during the restricted period. NMFS has received additional information since that time; specifically, the final necropsy report and the discussions of the SE Subgroup. The new information supports NMFS' original determination. Therefore, ALWTRP regulations at § 229.32(g)(1) require the permanent closure of the southeast U.S. restricted area during the annual restricted period. However, a complete gillnet prohibition in the southeast U.S. restricted area can be avoided if certain conditions as specified under § 229.32(g)(2) exist. Consequently, NMFS analyzed whether it was appropriate to propose a revised permanent gillnet prohibition in the southeast U.S. restricted area in accordance with § 229.32(g)(1) and (2), and whether the management measures recommended by the SE Subgroup and the MMC were consistent with the measures in § 229.32(g)(2).

Restricted Area

As recommended by the MMC, NMFS considered expanding the southeast U.S. restricted area to include waters off South Carolina. Aerial surveys for right whales conducted between 2001 and 2005 have shown consistent occurrence of right whales in waters off South Carolina throughout winter months (McLellan *et al.*, 2001; Glass *et al.*, 2005). In addition, there is evidence that some calving females may remain in this area north of the traditionally defined calving grounds. For example, during the 2004/2005 calving season, right whale #1970 and her calf were observed multiple times off South Carolina by an aerial monitoring team, but were never observed farther south off Georgia and Florida (Glass *et al.*, 2005). Acoustic monitoring conducted during 2004 and 2005 also indicated the presence of right whales off South Carolina during winter months, including detections of right whale vocalizations at a monitoring station approximately 30 miles (55.6 km) offshore (Clark, 2006). Furthermore, habitat models based on the aerial survey data collected off Florida and Georgia suggest a strong relationship between the spatial distribution of calving right whales and water temperature and bathymetry. In particular, distribution of calving right whales is strongly correlated with water temperatures between 13–15°C and water depths between 45–60 ft (15–20m) (Keller *et al.*, 2006; Garrison, 2006). These environmental conditions are typically found off South Carolina to distances of 35 nautical miles (64.8 km) from shore during winter months. The model predictions are consistent with observational evidence from aerial and acoustic surveys. The available data and analyses indicate that the continental shelf off South Carolina is a region where right whales occur on a consistent basis in winter months.

South Carolina commercial fisheries landings data (which distinguishes landings by gear-type since 2003) indicate that only shark has been landed in South Carolina from gillnet fishing, and only in 2004 and 2005. Shark was harvested off South Carolina by gillnet from April through October, 2004, and from May through September, 2005, for a total of 8,097 lbs (3,680 kg) and 18,318 lbs (8,326 kg) of shark harvested in 2004 and 2005, respectively. Commercial fisheries landings data from the Florida Fish and Wildlife Conservation Commission (FWC) indicate that in Florida, 111,210 lbs (50,444 kg) of shark were landed in 2004 alone. Consequently, expanding the southeast U.S. restricted area to waters off South Carolina would appear to only minimally impact the amount of shark

harvested in the Southeast if gillnetting is restricted or prohibited. However, the action would have conservation benefits to right whales by preventing the potential expansion of gillnetting activity into that area during the time when it is used by right whales. Therefore, in accordance with § 229.32(g)(2)(vi), NMFS has determined that the existing boundaries of the southeast U.S. restricted area are not appropriate, and that expanding the southeast U.S. restricted area to include the waters within 35 nautical miles (64.8 km) off South Carolina is necessary to prevent serious injury or mortality of right whales in that area (Figure 1).

As recommended by the MMC and consistent with recommendations of the SE Subgroup and with the 2005 ALWTRP proposed rule (70 FR 35894, June 21, 2005), NMFS also considered the appropriateness of managing the expanded southeast U.S. restricted area as two separate units divided at 29°00′ N. lat. As indicated previously, fishermen participating in the SE Subgroup meeting indicated gillnet fishing practices north of 29°00′ N. lat. differed substantially from those south of 29°00′ N. lat. and preferred that these two areas be managed independently of each other. A review of the Right Whale Sightings Database, curated by the University of Rhode Island, indicates that right whales are rarely sighted south of 29°00′ N. lat. in November or in April. However, right whales have been sighted throughout the area north of 29°00′ N. lat. and extending north to the SC/NC border from mid-November through mid-April. NMFS has determined that splitting the southeast U.S. restricted area into two zones for purposes of managing gillnet threats to calving right whales is appropriate, as it would allow fishery management measures to temporally track right whale seasonal north-south movement patterns, thereby avoiding overly restrictive fishery management measures.

NMFS considered the SE Subgroup discussions regarding possible alternative restricted areas including: the right whale calving critical habitat area; the MSRS Area; and an area from the shoreline out to a line drawn at approximately 81° W. long. extending from about Savannah, Georgia, to Daytona Beach, Florida (the area suspected by some SE Subgroup members to include high concentrations of right whales not included in the other area proposals). In considering these options, NMFS reviewed available sightings data and habitat-modeling analyses relative to right whale distribution in the Southeast U.S. (Keller *et al.*, 2006; Garrison, 2006). Right whales have routinely been observed outside of areas discussed for closure by the SE Subgroup, and habitat-modeling analyses, in particular, indicate that right whales are expected to occur outside of these areas due to suitable water temperature and bathymetry during winter. Reducing the size of the restricted area would leave right whales unprotected from gillnet fishing effort. Therefore, NMFS has determined it is not appropriate to use critical habitat, the MSRS Area, or the area west of 81° W. long. to manage gillnet fishing activity as per § 229.32(g)(1) and (2).

Restricted Periods

NMFS also considered whether right whales were remaining longer or leaving earlier than previously expected in the southeast U.S. restricted area, recognizing that a substantial amount of aerial survey data and opportunistic sightings of right whales had been collected since the ALWTRP was originally implemented in 1997. The November 15 through March 31 timeframe is currently established as the restricted period for the entire southeast U.S. restricted area. As indicated earlier, right whales are rarely sighted south of 29°00′ N. lat. in November or in April; however, right whales have been sighted throughout the area north of 29°00′ N. lat. and extending north to the SC/NC border from mid-November through mid-April. Consequently, in accordance with 50 CFR 229.32(g)(2)(v), NMFS has determined that it is appropriate to modify the annual restricted period to include two restricted periods specific to the proposed northern and southern zones of the southeast U.S. restricted area: November 15 through April 15 north of 29°00′ N. lat., and to December 1 through March 31 south of 29°00′ N. lat. This is consistent with NMFS' June 21, 2005, proposed rule to amend the ALWTRP (70 FR 35894).

Prohibition of Gillnet Fishing in the Proposed Expanded Southeast U.S. Restricted Area During New Proposed Restricted Periods

The southeast U.S. restricted area north of 29°00′ N. lat. is the core of the calving area and used extensively by mother-calf right whale pairs during the restricted period. Although strikenetting for sharks and fishing for other species with small mesh gillnets is currently authorized under the ALWRTP in this area, fishing effort in this area appears to be limited primarily to fishermen using small mesh gillnets to target whiting, as part of the Southeast Atlantic gillnet fishery. Therefore, this is the only gillnet fishery operation NMFS analyzed for a potential exemption to the prohibition under the provision of § 229.32(g)(2) for the southeast U.S. restricted area north of 29°00′ N. lat. NMFS did not consider exemptions for fisheries using gear or methods already prohibited under ALWTRP regulations, including drift gillnetting for shark (62 FR 39157, July 22, 1997).

Gillnet fishing for whiting is concentrated in the vicinity of the St. John's River entrances, near the location where the entangled, dead right whale calf was first reported. Gear and operational restrictions for gillnet fishing in this area discussed by the SE Subgroup, such as limiting nets to less than 3 inches (7.6 cm) stretched mesh and no more than 25 meshes deep, using weak links, and prohibiting night time sets, would effectively restrict gillnet fishing in this area to only the methods used to target whiting. These measures are not operationally effective to adequately reduce risk to right whales since large amounts of net would still be allowed to be in the water, fishing for whiting is not subject to any Federal FMP that would restrict future increases in fishing effort or landings, it is unknown if weak links will release very young calves, and vertical lines are thought to present a risk to right whales. NMFS considered whether other special conditions exist or could be imposed on the whiting fishery to allow for a revision of the closed area as provided under § 229.32(g)(1) and (2). Weak links are used for reducing the threat of entanglement to large whales; however, NMFS is concerned that this or other technology may not sufficiently reduce risk to right whale calves from entanglement in gillnet gear due to the substantially smaller size and reduced strength of young right whale calves relative to adults. Similarly, the appropriate breaking strength suitable for freeing small right whale calves from entangling gillnet gear is unknown. Gear marking may be helpful to facilitate monitoring right whale entanglement rates or assist in designing future bycatch reduction measures; however, it will not reduce the risk to right whales from becoming entangled in the marked gear. Gear testing may hold promise for reducing serious injury or mortality to right whales in the southeast U.S. restricted area from gillnet fishing activity in the future, but gear testing, if implemented at present, will not reduce the immediate risk of serious injury and mortality to right whales incidental to gillnet fishing activity in the proposed

expanded southeast U.S. restricted area during the restricted period. Thus, NMFS has determined, consistent with § 229.32(g)(2), that no measures currently available would adequately protect right whales from the risk of serious injury or mortality due to gillnet operations during the restricted period in the southeast U.S. restricted area north of 29°00′ N. lat. Therefore, NMFS proposes to prohibit fishing with or possessing gillnet during the restricted period in the proposed expanded southeast U.S. restricted area north of 29°00′ N. lat.

NMFS also proposes to prohibit fishing with gillnets during the restricted period in the proposed expanded southeast U.S. restricted area south of 29°00′ N. lat. The only fisheries currently active in this area during the restricted period are the strikenet component of the Southeastern U.S. Atlantic shark gillnet fishery and the Spanish mackerel component of the Southeast Atlantic gillnet fishery. Therefore, these are the only two gillnet operations NMFS considered for a potential exemption pursuant to § 229.32(g)(2). NMFS is proposing to exempt these operations from the gillnet prohibitions, with additional restrictions as discussed in more detail below, because they are operationally effective and reduce serious injuries and mortalities of right whales, as required under § 229.32(g)(2)(i). The determination to allow for limited exemptions in the area south of 29°00′ N. lat. during the restricted period is based on several factors, including right whale distribution patterns in this area and time, existing state gillnet prohibitions, and gear characteristics and operational methods used in the deployment of these two fisheries. Regarding right whale distribution patterns, aerial survey data and habitat modeling analyses indicate that right whales are distributed closer to shore (and predominantly in state waters) when they are south of 29°00′ N. lat. than when they are north of 29°00′ N. lat. during the restricted period. Current regulations prohibiting gillnets in Florida state waters provide additional protection for right whales when they are closer to shore (i.e., when they are in waters south of 29°00′ N. lat.). As discussed in more detail below, the proposed exempted gillnet operations, with the combination of existing and new regulatory requirements on the type of gear that can be used in this area and during the restricted period, are both operationally effective and capable of protecting right whales from the risk of serious injury and mortality of right whales, pursuant to § 229.32(g)(2)(i).

This approach of prohibiting gillnet fishing in the southeast U.S. restricted area south of 29°00′ N. lat. during the restricted period, while allowing for limited exemptions for specific known fishing operations considered by NMFS and determined to have a negligible risk to right whales, is consistent with § 229.32(g)(1) and (2), and effectively eliminates the risk of any new gillnet fishing operation from emerging in this area during this period without first considering the risk that particular operation poses to right whales and whether that operation meets the conditions for an exemption in § 229.32(g)(2).

Exemption for the Strikenet Component of the Southeastern U.S. Atlantic Shark Gillnet Fishery

NMFS considered if gear characteristics of the strikenet component of the Southeastern U.S. Atlantic shark gillnet fishery, as currently specified under the ALWTRP regulations at § 229.32 and under the shark regulations at part 635 of this title, were both operationally effective and capable of protecting right whales from the risk of reducing serious injury and mortality in the area south of 29°00′ N. lat. during the restricted period, pursuant to § 229.32(g)(2)(i).

The ALWTRT's recommendations and NMFS' management approach for the shark gillnet fishery under the original ALWTRP implemented in 1997 was to minimize the overlap between this fishery and right whale distribution in the Southeast (62 FR 39157, July 22, 1997). At the time of enactment of the ALWTRP, fishermen fishing for sharks with gillnets used large mesh gillnets of 5 inches or greater stretch mesh. To reduce potential take of right whales incidental to shark gillnetting activity, fishing with gillnets of 5 inches stretched mesh or greater was prohibited in the southeast U.S. restricted area during the restricted period, unless used as strikenets in accordance with § 229.32(f)(4)(iv). Fishing for sharks with strikenets generally uses less gillnet and shorter soak times than traditional shark gillnets that are deployed in straight sets. Furthermore, the ALWTRP requires that nets not be set, or must be removed, if endangered whales are within 3 nautical miles (5.6 km) of deployed gear, that no nets are set at night or in low visibility, and that sets be made under the observation of spotter planes (§ 229.32(f)(4)(iv)). With these restrictions in place, fishing for shark with strikenets was considered to present an acceptable level of risk to endangered whales.

Discussions at the SE Subgroup meeting suggest this approach of prohibiting shark gillnetting in the southeast U.S. restricted area during the restricted period under the ALWTRP, while exempting strikenetting for sharks in accordance with § 229.32(f)(iv), has been largely successful at protecting right whales from the risk of serious injury and mortality, and that the strikenet component of the Southeastern U.S. Atlantic shark gillnet fishery should continue to be allowed as an exemption to the prohibitions on gillnetting under the ALWTRP during the restricted period, but only in the area south of 29°00′ N. lat. However, at the SE Subgroup meeting, NMFS learned that, consistent with the ALWTRP regulations, gillnet fishermen would not set strikenets after sunset, but that occasionally nets were not completely removed from the water until after sunset. NMFS believes the intent of the original restriction in the ALWTRP regulations at § 229.32(f)(4)(iv) to prohibit setting at night was to eliminate the possibility of endangered whales moving undetected within close proximity of deployed gillnets during periods of low visibility. Consequently, NMFS is proposing, as an additional condition of this exemption, an amendment to the existing regulations at § 229.32(f)(4)(iv) that would specifically require all nets to be removed from the water before night or immediately if visibility decreases below 500 yards (460 m).

NMFS is also proposing that only fishermen that have a valid commercial directed shark limited access permit be exempted from the gillnet prohibition, so that fishing effort is limited to ensure that no one tries to fish in this area without following the other regulations applicable to the shark gillnet fishery at § 229.32(f)(4)(iv).

NMFS has determined that the combination of: existing gear requirements at § 229.32(f)(4)(iv), the proposed new requirements for fishermen to have a valid commercial directed shark limited access permit, the proposed new restrictions on strikenets in the water at night and during times of low visibility, known and predicted right whale distribution patterns in the southeast U.S. restricted area south of 29°00′ N. lat. during the restricted period, and existing Florida regulations prohibiting gillnets in state waters, are operationally effective and will protect right whales from the risk of serious injury or mortality in the southeast U.S. restricted area south of 29°00′ N. lat. during the restricted period, thereby

warranting an exemption, pursuant to § 299.32(g)(2)(i), to allow the use of strikenets to fish for sharks during this time and in this area. This determination is consistent with the consensus recommendation of the SE Subgroup and the MMC's recommendation.

Exemption for the Spanish Mackerel Component of the Southeast Atlantic Gillnet Fishery

NMFS considered if gear characteristics of the Spanish mackerel component of the Southeast Atlantic gillnet fishery were both operationally effective and capable of protecting right whales from the risk of serious injury and mortality in the area south of 29°00′ N. lat., pursuant to § 229.32(g)(2)(i). As noted previously, the Spanish mackerel component of the Southeast Atlantic gillnet fishery is the only directed gillnet fishery that currently operates in the southeast U.S restricted area south of 29°00′ N. lat. during the restricted period.

The SE Subgroup discussed the characteristics and deployment methods of gillnet fishing for Spanish mackerel to determine whether this fishing operation warranted an exemption under § 229.32(g)(2) from the recommended prohibition on gillnets in the southeast restricted area south of 29°00′ N. lat. during the restricted period. Members noted that right whales were found in cooler water temperatures than Spanish mackerel and that the two species may separate themselves seasonally for this reason. Furthermore, gillnet fishing for Spanish mackerel is already regulated under fishery management plan regulations in a way that greatly limits soak time and the amount of gear that can be used, thereby reducing the potential for interactions with large whales. Specifically, regulations for Spanish mackerel gillnet fishing at § 622.41(c)(3)(ii) of this title include restricting the soak period to no more than one hour, allowing only one gillnet to be fished, set or placed in the water at any one time, and restricting the float line to no longer than than 800 yards (732 m). The SE Subgroup recommended that an exemption be provided to allow gillnet fishing for Spanish mackerel in the southeast U.S restricted area south of 29°00′ N. lat. during December and March (when Spanish mackerel are likely in the southeast U.S. restricted area but south of 29°00′ N. lat.), provided: (1) the Spanish mackerel-related regulatory provisions in 50 CFR part 622 are amended to the ALWTRP, (2) fishing at night is prohibited, (3) nets are not set if endangered whales are within 3 nautical miles (5.6 km), and (4) nets are removed from the water if an endangered whale moves within 3 nautical miles (5.6 km) of the gear.

NMFS agrees with the SE Subgroup and MMC that gillnet gear characteristics when fishing for Spanish mackerel in accordance with provisions in the SE Subgroup's recommended measures represents a negligible risk to right whales. Specifically, NMFS has determined that the combination of: existing gear requirements for Spanish mackerel gillnets at § 622.41 (c)(3)(ii) of this title, new gear requirements prohibiting the setting of gear at night or in low visibility and requiring nets not to be set and to be removed from the water if endangered whales are within 3 nautical miles, known and predicted right whale distribution patterns in the southeast U.S. restricted area south of 29°00′ N. lat. during December and March, and existing Florida regulations prohibiting gillnets in state waters, are operationally effective and will protect right whales from the risk of serious injury or mortality in the southeast U.S. restricted area south of 29°00′ N. lat. from December 1–31 and from March 1–31, thereby warranting an exemption, pursuant to § 229.32(g)(2)(I) of this title, to allow the use of gillnets to fish for Spanish mackerel during this time and in this area.

Humpback and fin whales are not known to occur in Southeast U.S. waters as frequently as right whales; however, by including humpback and fin whales, in addition to right whales, within the provisions would provide important protection to right whales in the event a gillnet fishermen mistakenly identifies a right whale as a humpback or fin whale and fails to remove gear from the water. Providing this protection to humpback and fin whales is also an appropriate amendment of the ALWTRP regulations because it satisfies the MMPA's standards that such regulations reduce incidental mortality and serious injury of marine mammals taken in the course of commercial fishing covered by the plan to insignificant levels approaching a zero rate.

NMFS also considered the characteristics of gillnet fishing for whiting. However, as noted above, fishing effort targeting whiting has only occurred north of 29°00′ N. lat. to date (landings south of 29°00′ N. lat. have been bycatch), and there was no indication from fishermen at the SE Subgroup meeting that fishing for whiting would be pursued south of 29°00′ N. lat. Therefore, until such time that there is a need to consider an exemption for whiting or any other component of the Southeast Atlantic gillnet fishery, the only component of the Southeast Atlantic gillnet fishery proposed for exemption from the gillnet prohibition south of 29°00′ N. lat. is Spanish mackerel.

Transits with Gillnet in the Proposed Expanded Southeast U.S. Restricted Area North of 29°00′ N. lat. During the New Proposed Restricted Period

NMFS considered the difficulties for law enforcement in sometimes discerning between vessels with gillnet onboard that are merely transiting through a closed area versus vessels with gillnet onboard that may be engaged in illegal fishing in a closed area. Therefore, NMFS is proposing to prohibit possession of gillnet in the expanded Southeast U.S. Restricted Area north of 29°00′ N. lat., where no exemptions to the gillnet prohibitions are proposed during the restricted period. Gillnet vessels that typically fish in the southeast U.S. restricted area are rather small, and gillnet fishermen typically only make short-range, single-day trips when they are fishing and would have fish on board. NMFS believes that gillnet fishermen would not be transporting fish over long distances (i.e., through the southeast U.S. restricted area north of 29°00′ N. lat.) since these smaller fishing vessels generally do not have the capacity to hold and preserve fish while transiting safely over this large distance (i.e., between North Carolina and Cape Canaveral, FL). However, NMFS considered that some gillnet fishermen may need to transit through this portion of the expanded Southeast U.S. Restricted Area en route to fishing grounds on either side of that area. Consequently, NMFS is also proposing providing an exemption for vessels that are transiting through the expanded Southeast U.S. Restricted Area north of 29°00′ N. lat. from the prohibition of possessing a gillnet, if gear is stowed in accordance with this rule.

Observer Call-in Requirement

Present ALWTRP regulations state that no person may fish with shark gillnet gear in the southeast U.S. observer area during the restricted period unless that person calls the NMFS Southeast Regional Office in St. Petersburg, FL not less than 48 hours prior to departing on any fishing trip. However, the NMFS Southeast Fisheries Science Center Laboratory in Panama City, FL is responsible for arranging observer coverage. NMFS believes that this discrepancy may result in confusion and is, consequently, proposing changing the call-in requirement from the Southeast

Regional Office in St. Petersburg to the Panama City Laboratory.

Endangered Species Act as an Authority

NMFS is responsible for ensuring that takings of endangered right whales by commercial fishing activities do not violate the ESA as well as the MMPA. Consequently, NMFS is promulgating the proposed amendments and revisions to § 229.32(f) under the MMPA and under section 11(f) of the ESA, which authorizes regulations appropriate to enforce the ESA including to prevent unauthorized takings.

Proposed Management Measures for Gillnetting Activity in the Southeast U.S. Restricted Area

This section summarizes the modifications that NMFS is proposing to the ALWTRP in the Southeast U.S. through this proposed rule. The proposed restrictions are in accordance with requirements of § 229.32(g)(1) and (g)(2).

NMFS proposes to expand the southeast U.S. restricted area to include waters off South Carolina, within 35 nautical miles (64.8 km) of shore. NMFS is also specifically soliciting comments on the appropriateness of extending the Restricted Area to 40 nautical miles (74.1 km) offshore of South Carolina, as recommended by the MMC in its May 2006 letter to NMFS. NMFS is proposing to divide, at 29°00′ N. lat., the Southeast U.S. Restricted Area into Southeast U.S. Restricted Areas N and S, and to amend the restricted period for the two areas to be from November 15 through April 15 and December 1 through March 31, respectively. However, NMFS is also specifically soliciting comments on the appropriateness of a restricted period of November 1 through April 30 for the Southeast U.S. Restricted Area N. Figure 1 illustrates the proposed restricted area and restricted periods. NMFS notes that the June 21, 2005, proposed rule (70 FR 35894) also proposed to divide the restricted area and amend the restricted periods in the same manner as proposed in this rulemaking. Thus, unless changed in response to public comment, these provisions will be implemented in the first of these rules to be finalized.

NMFS is proposing that, during restricted periods, fishing with or possessing gillnet in the Southeast U.S. Restricted Area N be prohibited and fishing with gillnet in the Southeast U.S. Restricted Area S be prohibited. Special exemptions for the Southeast U.S. Restricted Area S would apply as follows: (1) strikenet component of the Southeastern U.S. Atlantic shark gillnet fishery - Fishing for sharks with gillnet with a 5–inch (12.7–cm) or greater stretch mesh size in the Southeast U.S. Restricted Area S is exempt from the restrictions during the restricted period if: (a) gillnet is deployed so that it encloses an area of water, (b) a valid commercial directed shark limited access permit has been issued to the vessel in accordance with § 635.4(e) of this title and is on board; (c) no net is set or remains in the water at night or when visibility is less than 500 yards (460 m), (d) each set is made under the observation of a spotter plane, (e) no gillnet is set within 3 nautical miles (5.6 km) of a right, humpback, or fin whale, and (f) gillnet is removed immediately from the water if a right, humpback, or fin whale moves within 3 nautical miles (5.6 km) of the set gear. (2) Spanish mackerel component of the Southeast Atlantic gillnet fishery - Fishing with gillnet for Spanish mackerel in the Southeast U.S. Restricted Area S is exempt from the restrictions during the periods December 1 through December 31, and March 1 through March 31, if: (a) gillnet mesh size is between 3.5 inches (8.9 cm) and 4.9 inches (12.4 cm) stretched mesh, (b) a valid commercial vessel permit for Spanish mackerel has been issued to the vessel and is on board, (c) no person may fish with, set, place in the water, or have on board a gillnet with a float line longer than 800 yd (732 m), (d) no person may fish with, set, or place in the water more than one gillnet at any time, (e) no more than two gillnets, including any net in use, may be possessed at any one time; provided, however, that if two gillnets, including any net in use, are possessed at any one time, they must have stretched mesh sizes (as allowed under the regulations) that differ by at least 0.25 inch (0.64 cm), (f) no person may soak a gillnet for more than 1 hour, (g) no net is set or remains in the water at night or when visibility is less than 500 yards (460 m), (h) no net is set within 3 nautical miles (5.6 km) of a right, humpback, or fin whale, (i) gillnet is removed immediately from the water if a right, humpback, or fin whale moves within 3 nautical miles (5.6 km) of the set gear, and (j) gillnet must be removed from the water before night or immediately if visibility decreases below 500 yards (460 m).

Exemptions for Transiting through the Proposed Expanded Southeast U.S. Restricted Area North of 29°00′ N. lat. During the New Proposed Restricted Period

Vessels with gillnet onboard may transit through the Southeast U.S. Restricted Area north of 29°00′ N. lat. during the Restricted Period if: All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck, rail, or drum; and all buoys, high flyers, and anchors are disconnected from all gillnets. No fish may be possessed aboard such a vessel in transit.

Definitions

NMFS is proposing to remove the definitions for ''Shark gillnetting,'' ''Strikenet *or* to fish with strike gillnet gear,'' and ''to strikenet for sharks'' from the regulations at § 229.2. NMFS' proposed regulatory language more effectively addresses these definitions by including them where they are used in § 229.32(f). Similarly, NMFS is proposing to modify language at § 229.32(g)(1) to be consistent with the modifications of the restricted areas contained in this proposed rule.

Other Changes to the ALWTRP

NMFS is proposing to revise the notification requirements for fishermen fishing for shark with gillnet in the southeast U.S. observer area to clarify that the Southeast Fisheries Science Center Panama City Laboratory, and not the Southeast Regional Office, should be notified prior to fishing. NMFS is also proposing to extend the period that fishermen are required to notify the Panama City Laboratory to November 15 to April 15 north of 29°00′ N. lat. and modify the period from December 1 to March 31 south of 29°00′ N. lat. to be consistent with the proposed change in the restricted period at § 229.32(f)(4)(i).

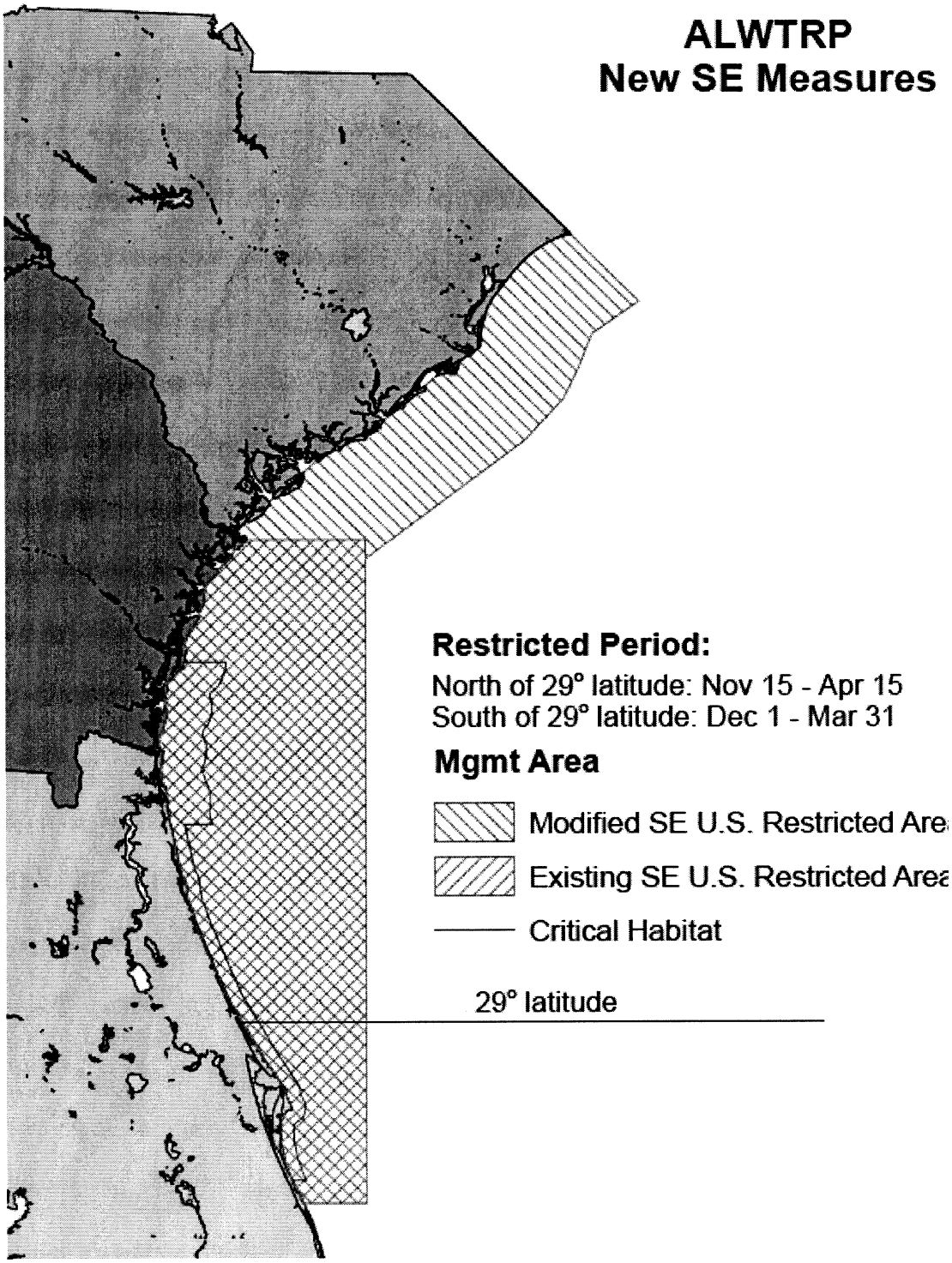

Figure 1. Proposed and existing Southeast U.S. Restricted Area and Proposed Restricted Periods.

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Classification

In accordance with section 118(f)(9) of the MMPA, NMFS has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales. In addition, pursuant to section 11(f) of the ESA, NMFS is promulgating these regulations to enforce the ESA's prohibitions on the taking of endangered right whales.

An Environmental Assessment for this action was prepared and is available from the agency upon request.

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management programs of Florida, Georgia, and South Carolina. This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule has been determined not to be significant under Executive Order (E.O.) 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). 5 U.S.C. 601 *et seq*. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble of this proposed rule. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

In summary, the purpose for this proposed rule is to implement the requirements of § 229.32(g)(1) and to reduce serious injury and mortality to North Atlantic right whales incidental to commercial gillnet fishing in the Southeast U.S. Atlantic Ocean, in response to the death of a right whale calf in January 2006. The implemented provisions would include expanding the Southeast U.S. Restricted area, with certain exemptions. The Marine Mammal Protection Act and the Endangered Species Act provide the statutory bases for the proposed rule.

No duplicative, overlapping, or conflicting Federal rules have been identified. No new reporting or recordkeeping requirements are associated with the proposed rule.

Commercial fishing vessels that operate in the proposed expanded southeast U.S. restricted area from November 15 through April 15 (waters off South Carolina, Georgia, and northeast Florida) and use gillnets would be affected by this rule. This rule is expected to have greatest impact on gillnet fishermen targeting whiting, shark and Spanish mackerel. Six to eight shark gillnet fishing vessels and up to 56 finfish gillnet fishing vessels, will be affected by this rule. The Small Business Administration defines a small entity in the commercial fishing sector as a firm that is independently owned and operated, is not dominant in its field of operation, and has average annual gross receipts not in excess of $4 million (2002 NAICS 11411). It is assumed that all of the affected vessels represent small businesses. All of the vessels that are engaged in shark and finfish gillnet fishing in the proposed expanded southeast U.S. restricted area are small businesses. This proposed rule would affect all of those businesses. Consequently, it will affect a substantial number of small businesses.

The proposed action would prohibit gillnet fishing in a northern zone of the proposed expanded restricted area, during the restricted period, without exemptions. The proposed action would reduce average annual shark gillnet revenue in the northern zone by $4,029. Total shark gillnet landings in Florida north of 29°00′ N lat. from November 1 through April 30 varied from zero to 38,229 lbs during the years from 2000 through 2004, with an annual average of 12,768 lbs (5,804 kg) and a dockside value of $7,712. These averages represent an over-estimation of losses from reduced shark gillnet landings in Florida from the northern zone because the restricted period is actually from November 15 through April 15, not November 1 through April 30. If November landings during the restricted period represent 50 percent of all November landings, and if April landings during the restricted period represent 50 percent of all April landings, the proposed action would reduce total shark gillnet landings in Florida from the northern zone by $3,856 and 6,384 lbs (2,902 kg). The proposed action would reduce average annual shark gillnet landings by 6,636 lbs (3,016 kg) and average annual shark gillnet revenue in the northern zone (South Carolina and Florida combined) by $4,029 ($3,856 from Florida plus $173 from South Carolina), assuming not all November and April landings occur in the restricted period.

The proposed action would prohibit gillnet fishing during the restricted period in a southern zone of the proposed expanded restricted area with certain limited exemptions for shark and Spanish mackerel gillnet fishing. The southern zone is composed of Trip Ticket area 732, which lies entirely in Florida waters. This rule would have no effect on shark gillnet revenues in the southern zone because current shark gillnet operations in the southern zone are substantially the same as the requirements for the exemptions proposed in this action.

The average annual shark gillnet revenue lost as a result of this proposed rule is $4,029 ($4,029 from the northern zone plus $0 from the southern zone), which represents about 2 percent of annual shark gillnet revenues from the combined zones. As six to eight shark

gillnet fishing vessels would be affected by this proposed rule, each shark gillnet fishing vessel would lose on average from $504 to $672 annually from lost shark landings.

It is estimated that Spanish mackerel gillnet fishermen in the northern zone would lose on average 1,509 lbs (686 kg) of Spanish mackerel with an average dockside value of $1,159 annually. During the 6–month period from November 1 through April 30 from 2000 through 2004, an average of 102 lbs (46 kg) of Spanish mackerel with a dockside value of $86 were landed from gillnets and caught in the northern zone. In the first four months of 2005, however, 1,509 lbs (686 kg) with a dockside value of $1,159 were landed from gillnets. It is possible that, since 2005, Spanish mackerel fishers are increasingly targeting the species in the northern zone during these 5 months. Consequently, November through December 2004 and January through April 2005 landings of Spanish mackerel were used to estimate losses of gillnet landings to Spanish mackerel fishers in the northern zone, although this method may significantly over-estimate losses to Spanish mackerel gillnet fishers who operate in the northern zone. These northern zone landings represent less than half a percent of annual Spanish mackerel landings in the southeast U.S. restricted area.

Annual losses to Spanish mackerel gillnet fishers in the southern zone would be $2,928 on average. Spanish mackerel gillnet fishers will not be able to take the species in the southern zone during the months of January and February. From 2000 through 2004, landings during these 2 months averaged 5,442 lbs (2,474 kg), with a dockside value of $2,928, annually. This analysis assumes Spanish mackerel gillnet fishers will not experience any losses of landings during the other months of the restricted period because exemptions to this alternative are consistent with existing Spanish mackerel gillnet operations during these other months. Consequently, annual losses to Spanish mackerel gillnet fishers in the southern zone would be $2,928 (5,442 lbs; 2,474 kg). These southern zone landings represent about 1.5 percent of annual Spanish mackerel gillnet landings in the southeast U.S. restricted area.

The combined loss of landings from the northern and southern zones of Spanish mackerel would be 6,951 lbs (3,160 kg; $4,087). This combined loss represents approximately 2 percent of lbs annually landed in the southeast U.S. restricted area.

Average annual losses of king whiting from the northern zone would be 356,604 lbs (162,093 kg) with a dockside value of $276,824. Average annual landings of king whiting during the 5–month period between November through April from 2000 through 2004 vary significantly from landings during the first 4 months of 2005. Consequently, November and December 2004 figures and the January through April 2005 figures are used to estimate average annual losses of gillnet landings of king whiting from the northern zone. If all November and April landings occur within the restricted period, average annual losses of king whiting landings in the northern zone would be 419,418 lbs with a value of $327,053. However, if November and April landings are evenly distributed throughout those months, estimated loss of landings during the restricted period would represent 50 percent of November and April landings, respectively (since the restricted period begins November 15 and ends April 15), average annual losses of king whiting from the northern zone would be 356,604 lbs (162,093 kg) with a dockside value of $276,824.

Average annual losses of king whiting landings from the southern zone would be 4,255 lbs (1,934 kg) with a dockside value of $4,318. During the above 4–month period from 2000 through 2004, an average of 4,255 lbs (1,934 kg) of king whiting were landed in the southern zone with a dockside value of $4,318, annually. Figures from January 1 through March 31, 2005, do not suggest that king whiting gillnet fishers are increasingly targeting the species in the southern zone.

The combined loss of king whiting landings from the northern and southern zones would be 360,859 lbs (164,027 kg; $281,142). The combined loss represents at least 70 percent of lbs landed annually in the southeast U.S. restricted area.

Three other alternative operational measures were considered in this proposed rulemaking. Alternative 1 was a no-action alternative, rejected because it would not address the risk of serious injury or mortality posed by commercial gillnet fishing to right whales in their calving area evidenced by the 2006 death of a right whale calf.

Alternative 2 would implement permanent limited operational restrictions in the expanded southeast U.S. restricted area during the current restricted period of November 15 through March 31, annually. The enactment of operational restrictions, as detailed in section 2.2.2 of the EA, would provide a reduction in the likelihood of gillnet gear interactions with endangered right whales, reducing the risk of serious injury and mortality. This alternative would also result in a reduction in the risk of injury or mortality to other species that may become incidentally entangled in gillnet gear. However, the restrictions would only reduce and not eliminate the threat of serious injury and mortality of right whales from gillnet.

Alternative 3 would implement the immediate closure of the expanded southeast U.S. restricted area to all gillnets from November 15 through March 31 annually on a permanent basis. No exemptions would be provided during the closure. Losses of gillnet landings caused by Alternative 3 would be equal to losses of gillnet landings caused by Alternative 2 plus losses of king whiting gillnet landings. Alternative 2 would reduce gillnet dockside revenues by $84,506 ($16,944, $50,447, $642, $4,742, and $11,731 from reduced landings of shark, Spanish mackerel, King mackerel, Bluefish, and ''Other Species'', respectively). Average annual losses to king whiting fishers caused by Alternative 3 would be 348,301 lbs (158,319 kg), with dockside revenues of $271,696. Combined, Alternative 3 would result in losses of dockside revenue of $356,202.

NMFS does not believe the proposed action contains policies with federalism implications under E.O. 13132. However, the Assistant Secretary for Legislative and Intergovernmental Affairs will provide notice of the proposed action and request for comments to the appropriate official(s) of the states adjacent to the proposed expanded Southeast U.S. Restricted Area.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act (PRA). Any information collection requirements subject to PRA and related to VMS or observer requirements were addressed in previous rulemakings.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: November 8, 2006.

Samuel D. Rauch III,

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

For reasons set out in the preamble, 50 CFR part 229 is proposed to be amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 is revised to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*; § 229.32(f) also issued under 16 U.S.C. 1531 *et seq.*

2. In § 229.2, the definitions of ''*Shark gillnetting*,'' ''*Strikenet or to fish with strikenet gear*,'' and ''*To strikenet for sharks*'' are removed.

3. In § 229.32, paragraphs (f)(1)(i), (f)(3), (f)(4), and (g)(1) are revised to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(f) * * *

(1) * * *

(i) *Southeast U.S. Restricted Area.* The Southeast U.S. Restricted Area consists of the area bounded by straight lines connecting the following points in the order stated from south to north, unless the Assistant Administrator changes that area in accordance with paragraph (g) of this section:

Point	N. Lat.	W. Long.
SERA1	27°51′	(1)
SERA2	27°51′	80°00′
SERA3	32°00′	80°00′
SERA4	32°36′	78°52′
SERA5	32°51′	78°36′
SERA6	33°15′	78°24′
SERA7	33°27′	78°04′
SERA8	(2)	(2)

[1]Florida shoreline.
[2]Shoreline at South Carolina/North Carolina state border.

(A) *Southeast U.S. Restricted N.* The Southeast U.S. Restricted Area N consists of the Southeast U.S. Restricted Area from 29°00′ N. lat. northward.

(B) *Southeast U.S. Restricted Area S.* The Southeast U.S. Restricted Area S consists of the Southeast U.S. Restricted Area southward of 29°00′ N. lat.

* * * * *

(3) *Observer requirement.* No person may fish with gillnet with webbing of 5 inches (12.7 cm) or greater stretched mesh in the southeast U.S. observer area from November 15 through April 15 of the following year north of 29°00′ N. lat. and from December 1 to March 31 of the following year south of 29°00′ N. lat. unless the operator of the vessel calls the Southeast Fisheries Science Center Panama City Laboratory in Panama City, FL, not less than 48 hours prior to departing on any fishing trip in order to arrange for observer coverage. If the Panama City Laboratory requests that an observer be taken on board a vessel during a fishing trip at any time from November 15 through April 15 of the following year north of 29°00′ N. lat. and from December 1 to March 31 of the following year south of 29°00′ N. lat., no person may fish with such gillnet aboard that vessel in the southeast U.S. observer area unless an observer is on board that vessel during the trip.

(4) *Restricted periods, closure, and exemptions.*

(i) *Restricted periods.* The restricted period for the Southeast U.S. Restricted Area N is from November 15 through April 15, and the restricted period for the Southeast U.S. Restricted Area S is from December 1 through March 31, unless the Assistant Administrator revises the restricted period in accordance with paragraph (g) of this section.

(ii) *Closure for gillnets.*

(A) Except as provided under paragraph (f)(4)(v) of this section, fishing with or possessing gillnet in the southeast U.S. restricted area N during the restricted period is prohibited.

(B) Except as provided under paragraph (f)(4)(iii) of this section and (f)(4)(iv) of this section, fishing with gillnet in the southeast U.S. restricted area S during the restricted period is prohibited.

(iii) *Exemption for Southeastern U.S. Atlantic shark gillnet fishery.* Fishing with gillnet for sharks with webbing of 5 inches (12.7 cm) or greater stretched mesh is exempt from the restrictions under paragraph (f)(4)(ii)(B) of this section if:

(A) The gillnet is deployed so that it encloses an area of water;

(B) A valid commercial directed shark limited access permit has been issued to the vessel in accordance with § 635.4(e) and is on board;

(C) No net is set at night or when visibility is less than 500 yards (460 m);

(D) The gillnet is removed from the water before night or immediately if visibility decreases below 500 yards (460 m);

(E) Each set is made under the observation of a spotter plane;

(F) No gillnet is set within 3 nautical miles (5.6 km) of a right, humpback, or fin whale; and

(G) The gillnet is removed immediately from the water if a right, humpback, or fin whale moves within 3 nautical miles (5.6 km) of the set gear.

(iv) *Exemption for Southeast Atlantic gillnet fishery.* Fishing with gillnet for Spanish mackerel is exempt from the restrictions under paragraph (f)(4)(ii)(B) of this section from December 1 to December 31, and from March 1 to March 31 if:

(A) Gillnet mesh size is between 3.5 inches (8.9 cm) and 4 7/8 inches (12.4 cm) stretched mesh;

(B) A valid commercial vessel permit for Spanish mackerel has been issued to the vessel in accordance with § 622.4(a)(2)(iv) and is on board;

(C) No person may fish with, set, place in the water, or have on board a gillnet with a float line longer than 800 yd (732 m);

(D) No person may fish with, set, or place in the water more than one gillnet at any time;

(E) No more than two gillnets, including any net in use, may be possessed at any one time; provided, however, that if two gillnets, including any net in use, are possessed at any one time, they must have stretched mesh sizes (as allowed under the regulations) that differ by at least .25 inch (.64 cm);

(F) No person may soak a gillnet for more than 1 hour. The soak period begins when the first mesh is placed in the water and ends either when the first mesh is retrieved back on board the vessel or the gathering of the gillnet is begun to facilitate retrieval on board the vessel, whichever occurs first; providing that, once the first mesh is retrieved or the gathering is begun, the retrieval is continuous until the gillnet is completely removed from the water;

(G) No net is set at night or when visibility is less than 500 yards (1,500 ft, 460 m);

(H) The gillnet is removed from the water before night or immediately if visibility decreases below 500 yards (1,500 ft, 460 m);

(I) No net is set within 3 nautical miles (5.6 km) of a right, humpback, or fin whale; and

(J) Gillnet is removed immediately from the water if a right, humpback, or fin whale moves within 3 nautical miles (5.6 km) of the set gear.

(v) *Exemption for vessels in transit with gillnet aboard.* Possession of gillnet aboard a vessel in transit is exempt from the restrictions under paragraph (f)(4)(ii)(A) of this section if: All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck, rail, or drum; and all buoys, high flyers, and anchors are disconnected from all gillnets. No fish may be possessed aboard such a vessel in transit.

(g) * * *

(1) *Entanglements in critical habitat or restricted areas.* If a serious injury or mortality of a right whale occurs in the Cape Cod Bay critical habitat from January 1 through May 15, the Great South Channel Restricted Area from April 1 through June 30, the Southeast U.S. Restricted Area N from November

15 through April 15, or the Southeast U.S. Restricted Area S from December 1 through March 31 as the result of an entanglement by lobster or gillnet gear allowed to be used in those areas and times, the Assistant Administrator shall close that area to that gear type (i.e., lobster trap or gillnet) for the rest of that time period and for that same time period in each subsequent year, unless the Assistant Administrator revises the restricted period in accordance with paragraph (g)(2) of this section or unless other measures are implemented under paragraph (g)(2) of this section.

* * * * *

[FR Doc. 06–9206 Filed 11–9–06; 2:35 pm]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 71, No. 220

Wednesday, November 15, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Food for Peace; Announcement of Draft FY 2007 Food for Peace Guidelines and Procedures for International Food Relief Partnership Transportation and Distribution Applications; Notice

Pursuant to the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480, as amended), notice is hereby given that the draft FY 2007 Food for Peace Guidelines and Procedures for International Food Relief Partnership Transportation and Distribution Applications are available to interested parties for general viewing and comments.

Individuals who wish to access the draft guidelines and procedures should visit the Food for Peace Web site at *http://www.usaid.gov/our_work/humanitarian_assistance/ffp/*, or contact the Office of Food for Peace, via AMEX International, Attn: 2007 IFRP Applications, 1300 Pennsylvania Avenue, NW., Suite 700, Washington, DC 20004 or *IFRP@amexdc.com.*

William Hammink,

Director, Office of Food for Peace, Bureau for Democracy, Conflict and Humanitarian Assistance.

[FR Doc. E6–19256 Filed 11–14–06; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Bulk Grain Available for Sale Online

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the Commodity Credit Corporation (CCC) will make available for sale a portion of its grain inventory beginning November 20, 2006, via the Internet at *http://www.GrainLink.com.* This is the first time that CCC will use GrainLink to provide online marketing services to sell bulk grain, including wheat, rice, soybeans, barley, corn, grain sorghum, and oats that CCC owns via the Internet. This notice is to announce the sale and introduce this new process to the industry.

DATES: *Effective Date:* November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Jose Gonzalez, Inventory Program Manager, Warehouse and Inventory Division, Farm Service Agency, USDA, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553. Telephone: (202) 690–2534. E-mail: *jose.gonzalez@usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: CCC acquires bulk grain through the forfeiture of marketing assistance loans obtained in accordance with Title 1, Subtitle B, of the Farm Security and Rural Investment Act of 2002. CCC's general sales policy is to maximize the returns to the Corporation. The authorities for selling CCC-owned grain include the CCC Charter Act and section 165 of the Federal Agriculture Improvement and Reform Act of 1996. The regulations at 7 CFR part 1402 contain CCC policy for certain commodities available for sale by CCC.

CCC has contracted with Farms Technology, LLC, of Overland Park, Kansas to provide online marketing services to sell CCC-owned bulk grain (wheat, rice, soybeans, barley, corn, grain sorghum, and oats), via an Internet based cash grain marketing platform called *GrainLink.com*. CCC will entertain offers from prospective buyers for the purchase of grain owned by CCC that is included in the inventory listed on *GrainLink.com*. Prospective buyers may also visit the DACO Web site at *http://www.fsa.usda.gov/daco/default.htm* to review the entire catalog of grain inventory. Under ''Related Topics'', click on ''Procurement and Sales'' and then ''Sales'' to access inventories of various commodities. Parties interested in purchasing CCC-owned grain that is not available for sale via *GrainLink.com* may contact CCC merchandisers directly at (816) 926–3816 to discuss grain availability.

A portion of CCC's grain inventory will be available for sale at *http://www.GrainLink.com* beginning November 20, 2006, from 9:30 a.m. to 1:30 p.m. central daylight time (CDT). This inventory will be made available for advance review only, from 9 a.m. to 4 p.m. CDT, on November 16 and November 17, 2006. Additional CCC grain inventory may be placed on GrainLink at anytime following November 20, 2006, without prior notification to the public. Interested parties are encouraged to check the GrainLink Web site on a regular basis for inventory that may be made available for sale.

To allow access to GrainLink's ''Real Time Bid Service'' Farms Technology requires users to enter into a participation agreement and pay a monthly subscription fee. There are no commission charges to place bids online; however, successful bidders are charged a commission fee of $.01 per bushel (wheat, barley, oats, corn, soybeans) or $.01 per hundredweight (grain sorghum or rice) for completed sales.

Additional information on Farms Technology services is available by contacting Jason Tatge, Chief Executive Officer, by telephone at (888) 393–6471, or by e-mail at *Jason@farmstech.com*.

Any questions about this notice may be directed to Jose Gonzalez by calling (202) 690–2534 or e-mail *jose.gonzalez@usda.gov.*

Signed at Washington, DC, November 9, 2006.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 06–9212 Filed 11–9–06; 3:40 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Cherry Dinner Project, Clearwater National Forest, Latah County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of timber harvest prescribed fire, watershed restoration, and access management activities in the Cherry Dinner project area on the Palouse Ranger District of the Clearwater National Forest. The Cherry Dinner project area is located between the towns of Helmer and Bovill within the Hog Meadow Creek and Little Boulder Creek drainages, approximately 25 air-miles north of the town of Orofino, Idaho.

DATES: Comments on this project must be received, in writing, within 30 days following the publication of this notice in the **Federal Register**. A 45-day public comment period will follow the release of the draft environmental impact statement that is expected in April 2007. The final environmental impact statement is expected in September 2007.

ADDRESSES: Written comments and suggestions concerning the scope of this project should be sent to Kara Chadwick (*kchadwick@fs.fed.us*), District Ranger, Palouse Ranger District, 1700 Highway 6, Potlatch, ID 83855.

FOR FURTHER INFORMATION CONTACT: George Harbaugh (*gharbaugh@fs.fed.us*), Project Leader, Lochsa Ranger District. Phone: (208) 926–4274.

SUPPLEMENTARY INFORMATION: The Cherry Dinner project area contains approximately 20,470 acres, of which 14,670 acres are National Forest lands and 5,800 acres are other ownership (State, timber companies, and private). The legal location is mostly in portions of T40N, R1W and small portions of T40N, R1E, T41N, R1W, and T39N, R1W, Boise Meridian, Latah County, Idaho. The proposed actions would occur on National Forest lands and are all outside the boundaries of any inventoried roadless area or any areas considered for inclusion to the National Wilderness System as recommended by the Clearwater National Forest Plan or by any past or present legislative wilderness proposals.

Purpose and Need for Action is to: (1) Improve species diversity and productivity by reestablishing seral species, such as western white pine, ponderosa pine, and western larch, which historical dominated the cover type in this area; (2) reduce fuel buildup in stands in the wildland urban interface (WUI) where fire suppression has interrupted the short-return fire interval and resulted in unnaturally high amounts of fuel and overgrown understory, and create a more defensible space to control wildfire on Forest Service land adjacent to private structures and homes; (3) reduce long-term sedimentation to streams caused by existing unsurfaced roads, and stabilize stream banks made unstable by motorized vehicles, cattle trailing, and channelization (historic railroad grades); (4) update fish/water quality standards in Appendix K of the Clearwater Forest Plan to better meet the Clean Water Act standards of supporting fisheries and reflect better information on fisheries collected in stream surveys; and (5) provide for a reasonable level of human access, reduce user conflicts, and provide the necessary resource protection required by law, regulation, and good stewardship practices.

The Proposed Action would harvest timber from about 2,210 acres, using regeneration harvest methods, improvement cuts, and commercial thinning. Road activities associated with the timber sales would include constructing 8.1 miles of permanent road, reconstructing 9.4 miles of existing roads, and constructing 1.5 miles of temporary road (to be decommissioned after harvest activity). Understory slashing and prescribed fire would be applied on 310 acres to reintroduce fire, not associated with timber harvest. Watershed improvements would include 24.2 miles of road decommissioning, putting 24.6 miles of existing roads into intermittent stored service (self-maintaining), and stabilizing 4.8 miles of streambanks along the East Fork Potlatch River and its tributaries. Access management would consist of constructing a 0.5 mile OHV connector trail and managing area roads and trails based on a Roads Analysis. Other components of the proposed action include designating approximately 1,700 of forest to be managed for old growth and raising fish/water quality standards on 3 streams to incorporate better information on fish and their habitat. There is also the opportunity to precommercial thin approximately 200 acres of young stands scattered throughout the project area.

Possible Alternatives the Forest Service will consider include the ''no action'' alternative in which none of the proposed activities would be implemented. Additional alternatives being considered examine varying levels and locations for the proposed activities to achieve the proposal's purpose and need, as well as to respond to the issues and other resource concerns.

The Responsible Official is the Forest Supervisor of the Clearwater National Forest, 12730 Highway 12, Orofino, ID 83544. The Responsible Official will decide if the proposed project will be implemented and will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to Forest Service Appeal Regulations. The responsibility for preparing the DEIS and FEIS has been delegated to Kara Chadwick, District Ranger, Palouse Ranger District, 1700 Highway 6, Potlatch, ID 83855.

The Scoping Process for the EIS is being initiated with this notice, and written comments regarding the analysis should be received within 30 days following the publication of this notice in the **Federal Register**. Additional scoping will follow the release of the DEIS, expected in April 2007. This proposal also includes eight openings greater than 40 acres that would be created by timber harvest. A 60-day public review period was initiated on April 19, 2005, and approval to exceed 40 acres was received from the Regional Office on November 22, 2005. However, additional comments on this issue will be accepted during this 30-day scoping period.

Issues identified through previous scoping that could be affected by proposed activities include: Access management, air quality, economic feasibility, fish habitat, heritage resources, sensitive and management indicator species of wildlife, sensitive plants, snag habitat, soil productivity, spread of noxious weeds, tribal treaty rights, and water quality. Issues expected not to be affected by the proposal include impacts of grazing, old growth habitat, risk of landslides, and threatened and endangered wildlife and plant species. Issues found to be outside the scope of the project or not consistent with Forest Plan standards include developing a wildland fire use plan and using prescribed fire over timber harvest.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v.

NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: November 7, 2006.

Thomas K. Reilly,

Forest Supervisor.

[FR Doc. 06–9199 Filed 11–14–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), The Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting, which is open to the public.

DATES: Wednesday, December 6, 2006, beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Doug Gochnour, Designated Federal Officer, at 208–392–6681 or e-mail *dgochnour@fs.fed.us.*

Dated: November 8, 2006.

Richard A. Smith,

Forest Supervisor, Boise National Forest.

[FR Doc. 06–9198 Filed 11–14–06; 8:45 am]

BILLING CODE 3410–11–M

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; correction.

SUMMARY: The Natural Resources Conservation Service (NRCS) published in the **Federal Register** notice of October 24, 2006, (71 FR 62246) a document with an incorrect URL. The incorrect URL is located in the **SUMMARY** section on page 62247. This notice corrects the previously published document.

The Department of Agriculture (USDA), NRC 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, 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_7_1_a.pdf.*

DATES: *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, NRCS, Room 5245–South, 1400 Independence Avenue, SW., Washington, DC 20250–9410.

FOR FURTHER INFORMATION CONTACT: Terry D'Addio: (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, 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 November 3, 2006.

Arlen L. Lancaster,

Chief.

[FR Doc. E6–19267 Filed 11–14–06; 8:45 am]

BILLING CODE 3410–16–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Wednesday, November 15, 2006, 2 p.m.–3:15 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))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Carol Booker at (202) 203–4545.

Dated: November 8, 2006.

Carol Booker,

Legal Counsel.

[FR Doc. 06–9215 Filed 11–13–06; 10:24 am]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 44–2006)

Foreign–Trade Zone 202 -- Los Angeles, California, AreaApplication for Expansion

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board) by the Board of Harbor Commissioners of the City of Los Angeles, grantee of FTZ 202, requesting authority to expand its zone to include a site in Lebec, California, adjacent to the Los Angeles–Long Beach Customs port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 8, 2006.

FTZ 202 was approved on July 14, 1994 (Board Order 693, 59 FR 37464, 7/22/94), expanded on August 26, 1996 (Board Order 842, 61 FR 46763, 9/5/96) and on July 9, 1999 (Board Order 1043, 64 FR 38887, 7/20/99), and expanded/reorganized on April 30, 2004 (Board Order 1331, 69 FR 26065, 5/11/04). The zone project currently consists of 22 sites (5,704 acres) and a temporary site (10 acres) located at port facilities, industrial parks and warehouse facilities in Los Angeles, San Bernardino, Kern and Riverside Counties.

The applicant is now requesting authority to expand the zone to include a site (177 acres, Proposed Site 23) within the 1,450–acre Tejon Industrial Complex located directly off Interstate 5 at the Highway 99 junction just north of the Los Angeles County border in Lebec (Kern County). The site is owned by Tejon Industrial Corporation and Tejon Dermody Industrial LLC and is partially developed with the remaining parcels available for build–to-suit. The site will provide public warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 16, 2007. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period to January 29, 2007.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce, Export Assistance Center, 11150 West Olympic Boulevard, Suite 975, Los Angeles, CA 90064; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2814B, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

Dated: November 8, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–19303 Filed 11–14–06; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Docket 42–2006

Foreign–Trade Zone 61 - San Juan, Puerto RicoApplication for Expansion

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Puerto Rico Trade and Export Company, grantee of FTZ 61, requesting authority to expand FTZ 61 in the San Juan, Puerto Rico, area, adjacent to the San Juan Customs port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 3, 2006.

FTZ 61 was approved on October 20, 1980 (Board Order No. 165, 45 FR 71408, 10/28/80). The zone project currently consists of the following sites: *Site 1* (60 acres)-located within the 203–acre International Trade Center, at Highway 165, km. 2.4, Guaynabo;

Temporary Site 2 (3 acres, 117,270 sq. ft.)-warehouse facilities within the Centro Mercantil Internacional (CMI) complex, West Street, Guaynabo (expires 1/31/07); *Temporary Site 3* (14 acres)-warehouse facilities, located at Highway 22 and J.F. Kennedy Avenue, km. 3.9, San Juan (expires 11/1/08); and, *Temporary Site 4* (5 acres)-North Distribution Center (Able Sales warehouse), located at PR Highway 869, km.1.1, Catano (expires 3/1/07).

The applicant is requesting authority to expand Site 1 to include additional acreage and to include 11 additional sites in the San Juan area: *Expand Site 1* to include an additional 184 acres in Guaynabo–*Parcel A* (180 acres)-International Trade Center Grounds, Highway 165, km. 2.4 (which will include the existing 60–acre site); *Parcel B* (42 acres)-tract of undeveloped land, intersection of State Road 22 and State Road 28; *Parcel C* (12 acres)-tract of developed land, at Highway 28 and Cano Avenue; *Parcel D* (5acres)-Amelia Distribution Center, intersection of Highway 165 and Calle Amelia; *Parcel E* (5 acres)-warehouse building, within the Centro Mercantil Internacional Complex, West Street, at the International Trade Center Grounds (which will include Temporary Site 2 on a permanent basis) (new total–244 acres); *Proposed Site 2* (11 acres)-North Distribution Center, located at km. 1.1 on Highway 869, Cata o (which will include Temporary Site 4 on a permanent basis); *Proposed Site 3* (15 acres)-Cata o Equipment and Storage Complex, intersection of Highway 165 and Las Palmas Avenue, Catano; *Proposed Site 4* (2 acres)-Bayamon Logistics, Storage and Distribution Center, intersection of Calle C and Highway 28, Bayamon; *Proposed Site 5* (3 acres)-Corujo Industrial Park, located at Road 866, Km. 1.7, Hato Tejas; *Proposed Site 6* (4 acres)-warehouse facilities located on the north side of Highway 2, one mile east of Highway 165, Toa Baja; *Proposed Site 7* (2 acres)-Baldioroty de Castro Warehouse and Distribution Center, located at intersection of km 10.3, Marginal de la Avenida de Baldioroty de Castro, Carolina; *Proposed Site 8* (5 acres)-Manati chemical warehouse, intersection of Highways 686 and 670, Manati; *Proposed Site 9* (7 acres)-warehouse facilities located at km. 28.6 on Highway 1, Caguas; *Proposed Site 10* (14 acres)-storage complex at J.F. Kennedy Avenue and km 3.9, San Juan (which will include Temporary Site 3 on a permanent basis); Proposed Site 11 (32 acres)-Mayaguez Regional Distribution Center, located at 201 Algarrobo Avenue, Mayaguez; and, *Proposed Site 12* (310 acres, 2 parcels)-Yabucoa Industrial Park, at the intersection of Highway 901 and Highway 53, Yabucoa. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 16, 2007.

Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period (to January 29, 2007).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce, 420 Ponce de Leon Avenue, Midtown Bldg., 10th Fl., San Juan, Puerto Rico 00918; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 1115, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Dated: November 3, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–19301 Filed 11–14–06; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 43–2006)

Foreign–Trade Zone 68 -- El Paso, Texas, Request for Manufacturing Authority (Vacuum Cleaner Products)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the City of El Paso, grantee of Foreign–Trade Zone (FTZ) 68, requesting authority on behalf of Electrolux Home Care Products Ltd. (Electrolux) for authority to manufacture vacuum cleaners and vacuum cleaner parts under FTZ procedures within FTZ 68 in El Paso, Texas. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 7, 2006.

Electrolux operates a manufacturing and distribution facility (3 buildings, 300 employees) located at: 9600 Pan American Way; 9500 Plaza Circle; and, 9660 Plaza Circle in El Paso, within FTZ 68. The facility is used to manufacture and distribute vacuum cleaners and related parts and accessories (up to 1,800,000 units annually). The dutiable inputs used in the manufacturing process include: lubricants; shampoo; tape; foam filters; plastics; bags and bag hardware; articles of conveyance; straps; rubber belts; gaskets, washers and seals; grommets; belts; filter packages; screws; springs; micro–sprayers; insulated electrical conductors; motor assemblies; vacuums and vacuum components; button assemblies; switches; motor control centers; and, printed circuit assemblies. Duty rates on the imported components range from 2.0 percent to 8.5 percent. The finished products that Electrolux would manufacture under FTZ procedures include: foam filters; bag hardware; rubber belts; cartons; filters; micro–sprayers; insulated electrical conductors; vacuum cleaners and components; motor assemblies; and, button assemblies. Duty rates on the finished products range from duty free to 4.2 percent.

This application requests authority for Electrolux to conduct the activity under FTZ procedures, which would exempt Electrolux from Customs duty payments on the foreign components used in export production. Approximately 2.5 percent of production is exported. On domestic sales, the company could choose the lower duty rate that applies to the finished products for the foreign components noted above. Electrolux also anticipates realizing additional savings through duty deferral, the elimination of duties on materials that become scrap/waste during production, inventory tax reduction and other logistical benefits. The application indicates that the FTZ–related savings would improve the facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is January 16, 2007. Rebuttal comments in response to material submitted during the forgoing period may be submitted during the

subsequent 15–day period (to January 29, 2007.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following addresses: the City of El Paso, 501 George Perry Boulevard, Suite 1, El Paso, Texas 79906; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 1115, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

Dated: November 7, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–19302 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–812)

Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Notice of Amended Final Results Pursuant to Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 31, 2006, the United States Court of International Trade (CIT) sustained the final remand redetermination made by the Department of Commerce (the Department) pursuant to the CIT's third remand of the final results of the May 1, 1999—December 31, 1999 administrative review of dynamic random access memory semiconductors of one megabit or above (DRAMs) from the Republic of Korea (Korea). *See Hynix Semiconductor, Inc., Hynix Semiconductor America, Inc. v. United States and Micron Technology, Inc.*, 442 F. Supp. 2d 1359 (Ct. Int'l Trade 2006) (*Hynix IV*). Because all litigation in this matter has now concluded, the Department is now issuing its amended final results in accordance with the CIT's decision.

EFFECTIVE DATE: November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Mark Manning, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–6320 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 2001, the Department published a notice of final results of the antidumping duty administrative review of DRAMs from Korea covering the period May 1, 1999 through December 31, 1999. *See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 66 FR 52097 (October 12, 2001) (*Final Results*). Subsequently, Hynix Semiconductor, Inc. (Hynix) filed suit at the CIT contesting the *Final Results*.

In these *Final Results*, the Department stated that: (1) ''. . .as a result of the continually changing methodology we found that the reduced R&D costs recognized by Hyundai and LG Semicon Co. Ltd. (LG),[1] through the amortization and deferral of their R&D expenses, and resulting allocation of R&D expenses to merchandise, does not reasonably reflect the cost of producing the subject merchandise.'' *See Final Results* and accompanying Decision Memorandum at Comment 2; (2) ''. . .we have continued to allocate all semiconductor R&D expenses over the total semiconductor cost of goods sold, a methodology which does not overstate costs, but which we believe reasonably and accurately identifies the R&D expenses attributable to subject merchandise.'' *See Final Results* and accompanying Decision Memorandum at Comment 3; and (3) '' {w} e also based depreciation. . . on the pre–1998 useful lives employed by Hyundai because. . .we believe that the useful lives adopted in 1999, and the resulting depreciation, are distortive.'' *See Final Results* and accompanying Decision Memorandum at Comment 5.

In January 2003, the CIT remanded the Department's *Final Results* in *Hynix Semiconductor, Inc., Hynix Semiconductor America., Inc. v. United States and Micron Technology, Inc.*, No. 01–00988, Slip Op. 03–13 (Ct. Int'l Trade 2003) (*Hynix I*). In *Hynix I*, the CIT ordered the Department to: (1) reconsider and further explain why the use of Hynix's amortized R&D costs would not reasonably reflect Hynix's actual R&D expenses for this period of review, and to identify what distortions, if any, would arise in the cost of production (COP) calculation if amortized R&D costs were used; and to reconsider and address Hynix's assertion that all 1996 R&D costs that should have been carried forward into this period of review, if amortized, were fully taken into account prior to or within the Fifth Administrative Review, when the Department used expensed R&D costs in the COP calculation; (2) reconsider and further explain why Hynix's deferral of certain R&D costs does not reasonably reflect the R&D costs related to the subject merchandise; (3) further explain whether the subject merchandise has benefitted from R&D activities for non–memory products and identify substantial evidence in the record to justify this conclusion; and (4) explain how the revised average useful lives (AULs) reported by Hynix are not standard industry practice; how and where in the record Hynix's reported AULs were overstated; and whether the use of Hynix's reported AULs would not reasonably reflect depreciation in the COP. *See Hynix I* at 2–3.

In the Department's first redetermination on remand, *Final Results of Redetermination Pursuant to Court Remand; Hynix Semiconductor, Inc., Hynix Semiconductor America., Inc. v. United States and Micron Technology, Inc.* (June 6, 2003) (*Remand Results*), the Department, as ordered by the CIT, fully explained, and supported with substantial evidence, its positions regarding Hynix's R&D costs and AULs. As a result, the Department reached the same conclusions it reached in the *Final Results*, namely that: (1) Hynix's amortization of its R&D costs does not reasonably reflect Hynix's actual R&D expenses for this period of review; (2) Hynix's deferral of certain R&D costs does not reasonably reflect the R&D costs related to the subject merchandise; (3) Hynix's production of subject merchandise has benefitted from R&D activities for non–memory products; and (4) the use of Hynix's reported AULs does not reasonably reflect the cost of production.

On November 23, 2003, the CIT remanded the Department's *Remand Results. See Hynix Semiconductor, Inc., Hynix Semiconductor America., Inc. v. United States and Micron Technology, Inc.*, No. 01–00988, Slip Op. 03–152 (Ct. Int'l Trade 2003) (*Hynix II*). Specifically, the CIT sustained the Department's findings that Hynix's indefinite deferral of certain R&D expenses does not accurately reflect Hynix's cost of producing the subject merchandise for this period of review. *See Hynix II* at 9. In *Hynix II*, however, the CIT again remanded the Department's findings regarding Hynix's amortization of R&D costs, cross–fertilization and AULs.

On December 12, 2003, the petitioner submitted comments on the CIT's findings in *Hynix II*. Specifically, the

[1] After the Fifth Administrative Review was completed, respondent Hyundai acquired LG. Subsequent to the acquisition, the name of the combined company was changed to Hynix Semiconductor, Inc.

petitioner addressed each of the remanded issues and suggested that the Department reopen the administrative record and send a questionnaire to Hynix concerning these issues. The Department declined to reopen the administrative record for further information given the CIT's findings in *Hynix II* and the specific directions contained in the CIT's remand order of November 24, 2003.

In its *Final Results of Redetermination Pursuant to Court Remand: Hynix Semiconductor, Inc, Hynix Semiconductor America, Inc. v. the United States and Micron Technology, Inc.* (Court No. 01–00988) (December 17, 2003) (*Final Results of Remand*), the Department, unable to provide further support, recalculated Hynix's R&D costs to exclude R&D costs for non–subject merchandise; recalculated Hynix's R&D costs to allow for amortization, and; recalculated Hynix's AULs to allow for its reported accounting adjustment. The CIT affirmed the Department's final results of redetermination in their entirety and the case was dismissed. *See Hynix Semiconductor, Inc., v. United States*, 318 F. Supp. 2d 1314 (Ct. Int'l Trade 2004) (*Hynix III*).

In *Hynix III*, the CIT noted that Micron had pointed out a possible clerical error in the calculation of the assessment rate. The CIT stated that it had found no indication that Micron had brought this clerical error to the Department's attention prior to filing comments to the *Final Results of Remand*. Further, the CIT stated that the Department had made no mention of the clerical error in the *Final Results of Remand* and that Hynix had not mentioned the clerical error in their comments to the *Final Results of Remand*. However, the CIT noted that Micron had notified the Department of this error three days after the Department had issued the *Final Results* in October 2001. The Department agreed with Micron and corrected the error, noting that correction of the error ''would have no impact on the dumping margin and would not require publication of amended final results.'' The CIT declined to address this issue but left it to the Department to determine whether there was a clerical error, as alleged by Micron, and to correct that error as it deemed appropriate. On April 19, 2004, consistent with the decision of the U.S. Court of Appeals for the Federal Circuit, in *Timken Co. v. United States*, 893 F. 2d 337 (Fed. Cir. 1990), the Department notified the public that the CIT's decision was ''not in harmony'' with the Department's *Final Results. See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Notice of Court Decision and Suspension of Liquidation*, 69 FR 20856 (April 19, 2004).

Subsequent to the *Hynix III* decision, Hynix appealed the CIT's decisions to the Court of Appeals for the Federal Circuit (Federal Circuit) and Micron cross–appealed. On appeal, the Federal Circuit affirmed the use of Hynix's product–specific R&D expenses and the disallowance of the indefinite deferral of certain R&D. The Federal Circuit reversed the CIT's decision requiring the Department to accept Hynix's amortized R&D expenses and remanded the case to the CIT with instructions to remand the case to the Department to recalculate Hynix's weighted–average antidumping duty by expensing Hynix's R&D costs as in the *Final Results. See Hynix Semiconductor, Inc. v. United States*, 424 F 3d 1363 (Fed. Cir. 2005) (*Hynix Semiconductor*) at 1369–1373.

Upon consideration of the decision by the Federal Circuit in *Hynix Semiconductor*, the CIT ordered that the *Final Results of Remand* be remanded to the Department. In its remand, the CIT instructed the Department to recalculate Hynix's weighted–average antidumping duty by expensing R&D cost in a manner consistent with the decision by the Federal Circuit.

On March 31, 2006, the Department issued its *Final Results of Redetermination Pursuant to Court Remand; Hynix Semiconductor, Inc., Hynix Semiconductor America, Inc., v. United States and Micron Technology, Inc.* (*Final Results of Remand II*). In the *Final Results of Remand II*, the Department recalculated Hynix's weighted–average antidumping duty by expensing R&D costs in accordance with the decision by the Federal Circuit.

On July 31, 2006, the CIT found that the Department complied with the CIT's remand order in *Hynix III* and sustained the Department's *Final Results of Remand II*. See *Hynix IV*, 442 F. Supp. 2d 1359 (Ct. Int'l Trade 2006). We are issuing these amended final results to reflect the results of the remand determination because no party has further appealed and there is now a final and conclusive decision in the court proceeding.

Amended Final Results of Review

We are amending the final results of the May 1, 1999—December 31, 1999 administrative review of the antidumping duty order on DRAMs from Korea. The weighted–average antidumping duty for Hynix is 2.70 percent.

In sum, these amended final results of review differ from the *Final Results* in that, pursuant to instructions from the CIT, the Department calculated Hynix's R&D expenses based upon product–specific costs and used Hynix's reported AULs. *See Hynix III*; *see also Hynix IV*.

Assessment

The Department shall determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with section 351.212(b)(1) of the Department's regulations, we have calculated importer–specific assessment rates by dividing the dumping margins found on the subject merchandise examined by the estimated entered value of such merchandise. Where the importer–specific assessment rates are above *de minimis*, we will instruct CBP to assess antidumping duties on that importer's entries of subject merchandise. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these amended final results of review.

These amended final results of administrative review are issued and published in accordance with section 516A(c)(1) of the Act.

Dated: November 6, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–19292 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–831

Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, 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) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 2005, the Department published a notice of initiation of a review of fresh garlic from

the People's Republic of China (''PRC''), covering the period November 1, 2004, through October 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 76024 (December 22, 2005). On December 28, 2005, the Department published a notice of initiation of new shipper reviews of fresh garlic from the PRC covering the period November 1, 2004, through October 31, 2005. *See Fresh Garlic from the People's Republic of China: Initiation of New Shipper Reviews*, 70 FR 76765 (December 28, 2005).

On April 28, 2006, the Department aligned the statutory time lines of the 11th administrative review and all but one of the new shipper reviews.[1] On June 14, 2006, the Department published a notice of an extension of time limits for the 11th administrative review and new shipper reviews. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews*, 70 FR 34304 (June 14, 2006), which extended the deadline for the preliminary determination to October 2, 2006. On August 14, 2006, Qingdao Xintianfeng Foods Company Ltd. (''QXF''), whose new shipper review had not been aligned with the administrative review, agreed to waive the new shipper time limits, pursuant to 19 CFR 351.214(j)(3).[2] On August 23, 2006, QXF submitted a letter stating that it agreed to the alignment of the new shipper review with the 11th administrative review and thus waiving the new shipper time limits. On August 14, 2006, the Department aligned the statutory time lines of the 11th administrative review with QXF's new shipper review.[3]

In August 2006, the Department conducted verifications of sales and factors of production (''FOP'') for the five new shipper reviews and one administrative review company. On September 19, 2006, the Department published a second notice of an extension of time limits for the 11th administrative review and new shipper reviews, which extended the deadline for the preliminary determination to November 16, 2006. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 11th Administrative Review and New Shipper Reviews*, 71 FR 54796 (September 19, 2006).

Extension of Time Limit of Preliminary Results

The Department determines that completion of the preliminary results of these reviews within the statutory time period is not practicable, given the extraordinarily complicated nature of the proceeding. The 11th administrative review and new shipper reviews cover nine companies, and to conduct the sales and factor analyses for each requires the Department to gather and analyze a significant amount of information pertaining to each company's sales practices and manufacturing methods. The Department requires more time within which to complete our analysis. Furthermore, the five new shipper reviews involve extraordinarily complicated methodological issues such as the use of intermediate input methodology, potential affiliation issues and the examination of importer information. Additionally, the Department requires additional time to analyze the verification findings of the new shipper reviews.

Therefore, given the number and complexity of issues in this case, and in accordance with sections 751(a)(3)(A) and 751(a)(2)(B)(iv) of the Act, we are extending the time period for issuing the preliminary results of review by 14 days until November 30, 2006. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published pursuant to sections 751(c)(3)(A) and 751(a)(2)(B)(iv) of the Act, and 19 CFR 351.214(h)(i)(1).

Dated: November 7, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–19294 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See* the Department's letter to All Interested Parties, dated April 28, 2006.

[2] *See* the Department's letter to All Interested Parties, dated August 14, 2006, where the Department notes that QXF agreed to waive the new shipper time limits.

[3] Id.

DEPARTMENT OF COMMERCE

International Trade Administration

(A–489–807)

Notice of Initiation of New Shipper Antidumping Duty Review: Certain Steel Concrete Reinforcing Bars from Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey published on April 17, 1997. *See Antidumping Duty Order: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 18748 (April 17, 1997) (*Rebar from Turkey Order*). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d), we are initiating an antidumping new shipper review of Ege Celik Endustrisi Sanayi ve Ticaret A.S., a producer of subject merchandise, and its affiliated export trading company, Ege Dis Ticaret A.S. (collectively ''Ege Celik'').

EFFECTIVE DATE: November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Alice Gibbons, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482–0656 or (202) 482–0498, respectively.

SUPPLEMENTARY INFORMATION: The Department received a timely request from Ege Celik, in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on rebar from Turkey. *See Rebar from Turkey Order*.

Pursuant to 19 CFR 351.214(b)(2), Ege Celik certified that it is both the exporter and producer of the subject merchandise, that it did not export subject merchandise to the United States during the period of the investigation (POI) (January 1, 1995, through December 31, 1995), and that it was not affiliated with any exporter or producer that exported the subject merchandise to the United States during the POI. Ege Celik also submitted documentation establishing the date on which its shipment of subject merchandise first entered for consumption, the volume shipped, and the date of its first sale to an unaffiliated customer in the United States, pursuant to 19 CFR 351.214(b)(2)(i).

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot–rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low–alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable under subheadings 7213.10.000 and 7214.20.000 of the *Harmonized Tariff Schedule of the*

United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Initiation of Review

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d), we are initiating a new shipper review of the antidumping duty order on rebar from Turkey produced and exported by Ege Celik. *See* the Memorandum from the Team to the File through James Maeder, Office Director, entitled ''Initiation of AD New Shipper Review: Certain Steel Concrete Reinforcing Bars from Turkey,'' dated November 2, 2006. Pursuant to 19 CFR 351.214(i), we will issue the preliminary results of this review no later than 180 days after the date on which the review is initiated, and the final results of this review no later than 90 days after the date on which the preliminary results are issued.

Pursuant to 19 CFR 351.214(g)(1)(i)(B), if a new shipper review is initiated in the month immediately following the semiannual anniversary month, the period of review will be the six–month period immediately preceding the semiannual anniversary month. Therefore, the POR for the new shipper review for Ege Celik is April 1, 2006, through September 30, 2006.

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d).

Dated: November 7, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–19293 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Thursday, December 7, 2006, from 8:30 a.m. until 5 p.m., and Friday, December 8, 2006, from 8:30 a.m. until 5 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) and amended by the Federal Information Security Management Act of 2002 (Pub. L. 107–347) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the Board's activities are available at *http://csrc.nist.gov/ispab/.*

DATES: The meeting will be held on December 7, 2006, from 8:30 a.m. until 5 p.m. and December 8, 2006, from 8:30 a.m. until 5 p.m.

ADDRESSES: The meeting will take place at the George Washington University Cafritz Conference Center, 800 21st Street, NW., Room 101 & 308, Washington, DC.

Agenda

—Welcome and Overview.
—NIST Briefing.
—Continuity of Vital Operations and Services During Crises.
—Security Metrics Panel.
—Privacy Technology Project.
—HSPD–12 Plan.
—IG PCIE Panel.
—SCADA Briefing.
—Consensus Procurement of Industrial Control Systems.
—NIAP Status Briefing.
—Wrap-Up.

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. It would be appreciated if 25 copies of written material were submitted for distribution to the Board and attendees no later than December 1, 2006. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Ms. Pauline Bowen, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–2938.

Dated: November 8, 2006.

James Hill,

Acting Deputy Director.

[FR Doc. E6–19275 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110806B]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Vessel Monitoring System (VMS)/Enforcement Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, November 30, 2006, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the New England Fishery Management Council office, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. Discussion of discuss safety, regulation compliance, and familiarizing industry with proper use of VMS.
2. Discussion of an Office for Law Enforcement issue: the capabilities and limitations of VMS as an enforcement tool.
3. The agenda will also include: fishery management measure enforceability and priority ranking; industry and law enforcement feedback on VMS usage and how it can be improved for both (example: potential using VMS to notify when a vessel is seeking safe refuge in a storm).
4. The committee will also discuss coordination with the Law Enforcement

Working Group and plan the agenda and schedule for five more VMS/Enforcement meetings.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: November 9, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–19226 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designation under the Textile and Apparel Commercial Availability Provisions of the African Growth and Opportunity Act (AGOA)

November 8, 2006.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Designation

EFFECTIVE DATE: November 15, 2006.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain combed and ring spun yarn, of a 92 percent cotton/8 percent cashmere blend, comprised of 2/32 Nm resulting in a 16 Nm yarn size, classified in subheading 5205.42.0020 of the Harmonized Tariff Schedule of the United States (HTSUS) for use in men's knit sweaters, cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA hereby designates such apparel articles of such yarn, that are cut from fabric formed, or knit-to-shape, and sewn or otherwise assembled in one or more eligible AGOA beneficiary countries as eligible to enter free of quotas and duties under HTSUS subheading 9819.11.24.

FOR FURTHER INFORMATION CONTACT: Maria K. Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Presidential Proclamation 7350 of October 2, 2000; Section 1 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The AGOA provides for quota-and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The AGOA also provides for quota-and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. *See Procedures in Considering Request Under the Textile and Apparel ''Short Supply'' Provisions of The African Growth and Opportunity Act and The United-States Caribbean Basin Trade Partnership Act*, 66 FR 13502 (March 6, 2001).

On July 5, 2006 the Chairman of CITA received a petition from Shibani Inwear of Mauritius alleging that a certain combed and ring spun yarn, of a 92 percent cotton/8 percent cashmere blend, comprised of 2/32 Nm resulting in a 16 Nm yarn size, classified in subheading 5205.42.0020 of the HTSUS cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requested quota- and duty-free treatment under the AGOA for men's knit sweaters that are both cut from fabric formed, or knit-to-shape, and sewn or otherwise assembled in one or more AGOA beneficiary countries from such yarn.

On July 12, 2006, CITA published a notice in the **Federal Register** requesting public comments on the petition. *See Request for Public Comments on Commercial Availability Request under the African Growth and Opportunity Act (AGOA)*, 71 FR 39307 (July 12, 2006).

In response to a previous commercial availability request by the same petitioner on the subject yarn, submitted on March 6, 2006, CITA sought advice from the U.S. International Trade Commission (ITC).

In response to the previous commercial availability request for this subject yarn, on March 31, 2006, CITA and the Office of the U.S. Trade Representative (USTR) sent memoranda seeking the advice of the Industry Trade Advisory Committees (ITACs) for Textiles and Clothing and for Distribution Services.

As CITA had recently obtained advice from the ITC, and the ITC has confirmed that its advice is unchanged from the previous report, and the relevant ITACs had no comments regarding the subject yarn, CITA did not request advice again. On July 28, 2006, CITA and the USTR sent memoranda informing the Senate Finance Committee and the House Ways and Means Committee (collectively, the Congressional Committees) that CITA was available to consult on the request.

Based on the information and advice received and its understanding of the industry, CITA determined that the yarn set forth in the petition cannot be supplied by the domestic industry in commercial quantities in a timely manner. On September 5, 2006, CITA and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and advice obtained. A period of 60 calendar days since this report was submitted has expired.

CITA hereby designates men's knit sweaters that are both cut from fabric formed, or knit-to-shape, and sewn or otherwise assembled in one or more eligible beneficiary sub-Saharan African country from certain combed and ring spun yarn, of a 92 percent cotton/8 percent cashmere blend, comprised of 2/32 Nm resulting in a 16 Nm yarn size, classified in subheading 5205.42.0020 of the HTSUS, as eligible to enter free of quotas and duties, provided all other yarns used in the referenced apparel articles are U.S. formed, subject to the special rules for findings and trimmings, certain interlinings and de minimis fibers and yarns under section 112(d) of the AGOA, and that such articles are imported directly into the customs territory of the United States from an eligible AGOA beneficiary country.

An ''eligible beneficiary sub-Saharan African country'' means a country

which the President has designated as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a), and which has been the subject of a finding, published in the **Federal Register**, that the country has satisfied the requirements of section 113 of the AGOA (19 U.S.C. 3722), resulting in the enumeration of such country in U.S. note 1 to subchapter XIX of chapter 98 of the HTSUS.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E6–19305 Filed 11–14–06; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Early Reading First National Evaluation

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled Early Reading First National Evaluation (18–13–08). The system will contain information about participants in the Early Reading First program (Title I, Part B, Subpart 2, Elementary and Secondary Education Act of 1965 (ESEA)), as well as about children attending preschools that applied for but did not receive Early Reading First program funds.

The evaluation obtained a sample of sites from the universe of applicants that applied for Early Reading First (ERF) grants that were awarded in 2003. The treatment group consists of 28 grantees that received ERF funds. The comparison group consists of 37 applicants that did not receive ERF funds and that received average scores from peer reviewers in the interval below the average score of the lowest-scoring funded application. A random sample of three to five preschool classrooms was selected from each ERF grantee in the treatment group and each unfunded applicant site in the comparison group. In each site, up to 33 children were randomly selected from those whose parents have given consent for them to participate in the study.

Specific data collection activities will include direct in-person assessments of children, telephone surveys of parents, self-administered teacher surveys and teacher ratings of children, self-administered preschool director surveys, informal grantee director in-depth interviews, classroom observations, and extraction of records on children. Information collected will include the following: Names; addresses; demographic information such as race/ethnicity, age, educational background, and family income for children in the sample and their parents; preschool staff answers to interview questions; children's results from early literacy and language assessments; and teacher reports of children's social and emotional outcomes.

DATES: The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on the proposed routine uses for the system of records included in this notice on or before December 15, 2006.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 9, 2006. This system of records will become effective at the later date of—(1) The expiration of the 40-day period for OMB review on December 19, 2006 or (2) December 15, 2006, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Dr. Ricky Takai, Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502D, Washington, DC 20208–0001. Telephone: (202) 208–7083. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov.* You must include the term ''Early Reading First National Evaluation'' in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 502D, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Ricky Takai. Telephone: (202) 208–7083. If you use a telecommunications devise for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of a new system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in part 5b of title 34 of the Code of Federal Regulations.

The Privacy Act applies to information about individuals that contains individually identifiable information and that is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of new or altered systems of records in the **Federal Register** and to prepare reports to the Administrator of the Office of Information and Regulatory Affairs, OMB, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Chair of the House Committee on Government Reform.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

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at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498, or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the CFR is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: October 2, 2006.

Grover Whitehurst,

Director, Institute of Education Sciences.

For the reasons discussed in the preamble, the Director of the Institute of Education Sciences, U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–13–08

SYSTEM NAME:

Early Reading First National Evaluation.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502D, Washington, DC 20208–0001.

Decision Information Resources, Inc., 2600 Southwest Freeway, Suite 900, Houston, TX 77098.

Mathematica Policy Research, Inc., 600 Alexander Park, Princeton, NJ 08540.

Center for Improving the Readiness of Children for Learning and Education, University of Texas-Houston Health Sciences Center Medical School, 7000 Fannin Street, Houston, TX 77030.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on Early Reading First children and their parents and project staff from Early Reading First programs participating in the national evaluation. In addition, the system contains records for children, parents, and staff in some preschools not receiving Early Reading First funds. The evaluation will obtain a sample of sites from the universe of applicants that applied for Early Reading First (ERF) grants that were awarded in 2003. The treatment group consists of 28 grantees that received ERF funds. The comparison group consists of 37 applicants that did not receive ERF funds and that received average scores from peer reviewers in the interval below the average score of the lowest-scoring funded application. A random sample of three to five preschool classrooms was selected from each ERF grantee in the treatment group and each unfunded applicant site in the comparison group. In each site, up to 33 children were randomly selected from those whose parents have given consent for them to participate in the study. Parents of children in those classrooms were asked to sign a consent form with contact information.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of the names and addresses of children in the evaluation and their parents as well as demographic information—such as race/ethnicity, age, educational background, and family income; names of preschool staff in the evaluation; parent and preschool staff responses to survey questions, children's results from early literacy and language assessments and teacher reports of children's social and emotional outcomes. Information collected will include the following: Names; addresses; demographic information such as race/ethnicity, age, educational background, and family income for children in the sample and their parents; and preschool staff answers to interview questions. Specific data collection activities will include direct in-person assessments of children, telephone surveys of parents, self-administered teacher surveys and teacher ratings of children, self-administered preschool director surveys, informal grantee director in-depth interviews, classroom observations, and extraction of records on children.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 6376, 9561(b) and 9563.

PURPOSE(S):

The information in this system is used for the following purposes: (1) To fulfill the requirements under section 1226 of the Elementary and Secondary Education Act (ESEA), for an evaluation of the Early Reading First program; and (2) to provide information on effective practices in Early Reading First for the purpose of improving the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement. Any disclosure of individually identifiable information from a record in this system must also comply with the requirements of section 183 of the Education Sciences Reform Act (20 U.S.C. 9573) providing for confidentiality standards that apply to all collections, reporting, and publication of data by the Institute of Education Sciences.

Contract Disclosure. If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department maintains records on CD–ROM and the contractors maintain data for this system on computers and in hard copy.

RETRIEVABILITY:

Records in this system are indexed by a number assigned to each individual that is cross-referenced by the individual's name on a separate list.

SAFEGUARDS:

All physical access to the Department site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system.

The contractor, Decision Information Resources, Inc. (DIR), and its subcontractors Mathematica Policy Research, Inc. (MPR) and the Center for Improving the Readiness of Children for Learning and Education (CIRCLE) at University of Texas-Houston Health Sciences Center have established a set of

procedures to ensure confidentiality of data. All employees sign a pledge that emphasizes the importance of confidentiality and describes their obligations. Access to sample selection data is limited to those who have direct responsibility for providing the sample and maintaining the sample-locating information. At the conclusion of the research, these data are destroyed. Identifying information is maintained on separate forms and files, which are linked only by sample identification numbers. Access to the file that links sample identification numbers with the respondents' identification and contact information is limited to a small number of individuals who have a need to know this information. Access to the hardcopy documents is strictly limited. Documents are stored in locked files and cabinets. Discarded material is shredded. Computer data files are protected with passwords, and access is limited to specific users. Especially sensitive data are maintained on removable storage devices that are kept physically secure when not in use. An Institutional Review Board (IRB) has reviewed and approved the data collection protocol and the procedures used to ensure confidentiality. The parent consent form required for children's participation in the study states that information collected about the child will be kept confidential. The interviewers' introductory comments given at the beginning of each parent and grantee director interview includes all the information that respondents need for deciding to give informed consent (verbal) for that interview.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department's Records Disposition Schedules (ED/RDS). In particular, the Department will follow the schedules outlined in Part 3 (Research Projects and Management Study Records) and Part 14 (Electronic Records).

SYSTEM MANAGER AND ADDRESS:

Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502D, Washington, DC 20208–0001.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the systems manager. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in the system of records, contact the system manager. Your request must meet the requirements of regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of regulations in 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information is obtained from interviews with parents of Early Reading First participants and with Early Reading First staff, and from direct assessments of children attending Early Reading First preschools. In addition, information will be obtained from interviews with parents of children attending non-Early Reading First preschools and with non-Early Reading First preschool staff, and from direct assessments of children enrolled in non-Early Reading First preschools.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6–19290 Filed 11–14–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Department of Energy, Office of Energy Efficiency and Renewable Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000.

The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

Dates and Times: November 28, 2006 from 8 a.m.–4:30 p.m.

November 29, 2006 from 8 a.m.–3 p.m.

ADDRESSES: L'Enfant Plaza Hotel, Main Ballroom and Quorum Room, 480 L'Enfant Plaza, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Neil Rossmeissl, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–8668 or Harriet Foster at (202) 586–4541; E-mail: *harriet.foster@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To provide advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Review update process for Vision for Bioenergy and Bioproducts in the United States and Roadmap for Biomass Technologies in the U.S.
- Announce release of the updated Vision.
- Review Committee recommendations for fiscal year 2006.
- Meet with Interagency Biomass Research and Development (R&D) Board.
- Discuss Analysis and Policy subcommittee business.
- Provide input on update to Roadmap.
- Receive update on USDA Federal Biobased Products Procurement Preference Program.
- Receive update on USDA—DOE collaboration.
- Receive update on DOE activities from the Designated Federal Officer (DFO).
- Receive update on USDA research portfolio analysis under Farm Bill section 9008.
- Review status of 2006 and 2007 USDA—DOE joint biomass research solicitations.
- Discuss organization of an Outreach subcommittee.
- Discuss the new BRDI Web site.
- Discuss recommendations for fiscal year 2007.
- Review 2007 Work Plan and discuss 2007 meeting schedule.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Neil Rossmeissl at 202–586–8668 or the Biomass Initiative at 202–586–4541 or *harriet.foster@ee.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting.

Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to the holiday.

Minutes: The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on November 9, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–19281 Filed 11–14–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–351–001]

Bluewater Gas Storage, LLC; Notice of Compliance Filing

November 7, 2006.

Take notice that on November 1, 2006, Bluewater Gas Storage, LLC (Bluewater) submitted a compliance filing pursuant to the Commission order issued on October 27, 2006 in Docket Nos. CP06–351–000, CP06–367–000 and CP06–368–000 (BGS Kimball Gas Storage, LLC and Bluewater Gas Storage, LLC, 117 FERC ¶ 61,122 (2006)).

Bluewater states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 22, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19225 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–56–000]

Discovery Gas Transmission LLC; Notice of Non-Conforming Agreement

November 7, 2006.

Take notice that on November 2, 2006, Discovery Gas Transmission LLC (Discovery) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 23 and Original Sheet No. 24, to become effective November 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19216 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–54–000]

Nautilus Pipeline Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

November 7, 2006.

Take notice that on November 1, 2006, Nautilus Pipeline Company, LLC (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, to become effective December 1, 2006:

Sixth Revised Sheet No. 3.
Eighth Revised Sheet No. 69.
Original Sheets Nos. 219–244.

Nautilus states that copies of its filing have been mailed to all affected customers of Nautilus and any interested state commissions. However, due to the voluminous nature of this filing, Nautilus is not providing copies of the filed agreements or red-lines of such agreements as part of each service copy. Nautilus states that the entire filing will be posted on its public Web site and that it will provide copies of such agreements to any affected customer or interested state commission who requests such copies.

Any person desiring to intervene or to protest this filing must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19223 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–45–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 7, 2006.

Take notice that Northern Natural Gas Company (Northern) on November 3, 2006 tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute Sixth Revised Sheet No. 54A, proposed to be effective on December 1, 2006.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online 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. E6–19222 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–72–003]

PPL EnergyPlus, LLC v. New York Independent System Operator, Inc.; Notice of Filing

November 6, 2006.

Take notice that on October 27, 2006, New York Independent System Operator, Inc. filed a status report, pursuant to the Commission's June 29, 2006 Order, concerning the New York Independent System Operator, Inc and its stakeholders' consideration of changing the method for allocating Import Rights to external Installed Capacity.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time, November 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19213 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–439–002]

Southern Natural Gas Company; Notice of Compliance Filing

November 7, 2006.

Take notice that on November 1, 2006, Southern Natural Gas Company (Southern) submitted a compliance filing pursuant to the Commission order dated October 20, 2006 in Docket No. CP06–439–000.

Southern states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 22, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19217 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–17–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Application

November 6, 2006.

Take notice that on October 30, 2006, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, Kentucky 42301 filed in Docket No. CP07–17–000, an application pursuant to section 7 of the Natural Gas Act (NGA), as amended, for authorization to expand the existing certificated boundary and buffer zone, redefine the cap rock of the gas storage formation, and permanently plug and abandon 13 injection/withdrawal wells within Southern Star's Piqua Natural Gas Storage Field located in Allen and Woodson Counties, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to David N. Roberts, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, Kentucky 42301, or call (270) 852–4654.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web (*http://www.ferc.gov*) site under the ''e-Filing'' link.

Comment Date: November 27, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19214 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–55–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

November 7, 2006.

Take notice that on November 2, 2006, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as

part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, with an effective date of December 3, 2006.

Texas Eastern states that copies of its filing have been served upon all affected customers of Texas Eastern and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19224 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–245–020]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

November 7, 2006.

Take notice that on November 2, 2006, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the pro forma tariff sheets listed in Appendix A to the filing.

Transco states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online 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. E6–19220 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–622–001]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

November 7, 2006.

Take notice that on November 3, 2006, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, to become effective October 29, 2006:

Substitute Sixth Revised Sheet No. 232B.
Substitute First Revised Sheet No. 232B.01.

Williston Basin states that the filing is being made in compliance with the Commission's order issued on October 29, 2006, in the above-referenced proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19221 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF06–35–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Eastern Market Expansion Project and Request for Comments on Environmental Issues

November 7, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Columbia Gas Transmission Corporation's (Columbia) planned Eastern Market Expansion Project located in certain counties in West Virginia, Virginia, and Ohio.

This notice announces the opening of the scoping process we will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on December 11, 2006.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties in this proceeding; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Columbia representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. Columbia would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, Columbia could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' is available for viewing on the FERC Internet website (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

The planned Eastern Market Expansion Project consists of:

(a) Expanding the existing Crawford Storage Field in Fairfield and Hocking Counties, Ohio;

(b) Expanding the existing Coco Storage Field in Kanawha County, West Virginia;

(c) Installing an additional 12,600 horsepower at four existing compressor stations in West Virginia; and

(d) Constructing three sections of 26- to 36-inch-diameter pipeline loop totaling about 15.5 miles in Clay and Randolph Counties, West Virginia and Warren, Clarke, and Fauquier Counties, Virginia.

A general overview map of the major project facilities is provided in Appendix 1.[1]

Columbia indicates that these facilities would provide an additional 97,050 dekatherms per day of storage deliverability and associated firm pipeline transportation capacity to four local gas distribution companies in the Mid-Atlantic region.

Columbia anticipates filing an application with the FERC in March 2007. If approved, Columbia would seek approval to begin construction by April 1, 2008, with a proposed in-service date of April 1, 2009.

Land Requirements

Construction of the project facilities would disturb about 327 acres of land. Following construction, about 272 acres of the total would be retained for the operation of the pipeline and the aboveground facilities. Columbia currently plans to use a nominal right-of-way (ROW) width of 75 feet to construct its pipelines, with occasional increases in width for additional workspace at waterbody, wetland, road, and railroad crossings. For operation of the pipeline facilities, Columbia plans to use a 70-foot-wide permanent ROW. Temporary extra workspaces may also be required in areas with site-specific constraints, such as side-slope construction and areas needed for pipe storage and equipment yards. The well connect lines at the Coco and Crawford Storage Fields would require a ROW width of 50 feet for construction, with the same width maintained as permanent ROW for operation. For new well installation at the Coco and Crawford Storage Fields, a 400-foot-by-400-foot work area would be utilized while for reconditioned wells a 300-foot-by-300-foot work area would be used. After installation, a 300-foot-radius buffer would be associated with each well.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and information provided by Columbia. This list of issues may be changed based on your comments and our analysis:

- Impacts on residential areas;
- The effect of blasting on groundwater;
- Potential noise impacts associated with construction and operation;
- Difficult ROW restoration in areas of side-slope construction; and
- Impact on visual resources due to vegetation clearing to create a new ROW.

The EA Process

The FERC will be the lead federal agency for the preparation of the EA. The document will satisfy the requirements of the National Environmental Policy Act (NEPA). The Eastern Market Expansion Project is in the preliminary design state.

For this project, the FERC staff has initiated its NEPA review prior to receiving the application. The purpose of the Commission's Pre-Filing Process is to involve interested stakeholders early in project planning and to identify and resolve issues before an application is filed with the FERC. A docket number (PF06–35–000) has been established to place information filed by Columbia, and related documents issued by the Commission, into the public record. Once a formal application is filed with the FERC, a new docket number will be established.

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, we are requesting public comments on the scope of the issues that should be addressed in the

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (excluding maps) at the ''eLibrary'' link or from the Commission's Public Reference Room or call (202) 502–8371. For instructions on connecting to eLibrary refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

EA. We will consider all comments received during scoping in the preparation of the EA.

Staff's independent analysis and evaluation of the issues will be included in the EA. The EA will also include possible alternatives to the proposed project or portions of the project, and will make recommendations on how to lessen or avoid impacts on the various resource areas of concern. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies; elected officials; environmental and public interest groups; other interested parties; affected landowners; Native American tribes; libraries, and newspapers; and the Commission's official service list for this proceeding. A 30-day comment period will be allotted for review of the EA, if it is published.

FERC staff will be involved in discussions with other jurisdictional agencies to identify their issues and concerns. These agencies include the National Park Service; U.S. Fish and Wildlife Service (West Virginia, Virginia, and Ohio Field Offices); U.S. Army Corps of Engineers (Huntington, Pittsburgh, and Norfolk Districts); West Virginia Department of Environmental Protection; West Virginia Department of Natural Resources; West Virginia State Historic Preservation Office (SHPO); Virginia Marine Resource Commission; Virginia Department of Conservation and Recreation; Virginia Department of Environmental Quality; Virginia Game and Inland Fisheries; Virginia SHPO; Ohio Environmental Protection Agency; Ohio Department of Natural Resources; and Ohio SHPO. By this notice, we are asking these and other federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally enter cooperating agency status with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposal. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, DG2E;
- Reference Docket No. PF06–35–000 on the original and both copies; and
- Mail your comments so that they will be received in Washington, DC on or before December 11, 2006.

Please note that the Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet website at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing''.

When Columbia submits its application for authorization to construct and operate the Eastern Market Expansion Project, the Commission will publish a Notice of Application in the **Federal Register** and will establish a deadline for interested persons to intervene in the proceeding. Because the Commission's Pre-Filing Process occurs before an application to begin a proceeding is officially filed, petitions to intervene during this process are premature and will not be accepted by the Commission.

Environmental Mailing List

The determination of whether to distribute the EA for public comment will be based on the response to this notice. If the EA is published and you are interested in receiving it, please return the Information Request (Appendix 2).

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and a docket number field (*i.e.*, PF06–35–000), and follow the instructions. Searches may also be done using the phrase ''Eastern Market Expansion Project'' in the Text Search field. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to the eSubscription link in the FERC Internet Web site.

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19219 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12447–001]

Fort Dodge Hydroelectric Development Company; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

November 7, 2006.

Take notice that the following hydroelectric license application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* P–12447–001.

c. *Date Filed:* March 21, 2006.

d. *Applicant:* Fort Dodge Hydroelectric Development Company.

e. *Name of Project:* Fort Dodge Mill Dam Hydroelectric Project.

f. *Location:* Located on the Des Moines River in Webster County, Iowa. This project would not occupy Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas J. Wilkinson, Jr., Fort Dodge Hydroelectric Development Company, 1800 1st Ave. NE., Ste. 200, Cedar Rapids, IA 52402; (319) 364–0171.

i. *FERC Contact:* Patrick Murphy, (202) 502–8755, *patrick.murphy@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days

from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The Fort Dodge Mill Dam Project would consist of: (1) The existing 342-foot-long by 18-foot-high concrete dam with a 230-foot-long spillway and 5 Tainter gates; (2) an existing 90-acre reservoir with a normal full pond elevation of 990 feet above mean sea level; (3) an existing 40-foot-wide concrete intake structure with trash rack and stop log guides; (4) an existing powerhouse to contain two proposed turbine generating units with a total installed capacity of 1,400 kW; (5) a proposed 2,400-foot-long, 13.8-kV transmission line; and (6) appurtenant facilities. The applicant estimates that the total average annual generation would be about 7,506 MWh.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

All filings must: (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscribenow.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural schedule:* The Commission staff proposes to issue an Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application. The application will be processed according to the following schedule, but revisions to the schedule may be made as appropriate:

Issue Notice of availability of the EA: April 2007.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

o. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Magalie R. Salas,

Secretary.

[FR Doc. E6–19218 Filed 11–14–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0079; FRL–8242–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; 8-Hour Ozone National Ambient Air Quality Standard Implementation Rule; EPA ICR No. 2236.02, OMB Control No. 2060–0594

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on April 30, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 16, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0079, by one of the following methods:

- *www.regulations.gov:* Follow the on-line 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–2003–0079, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460.
- Hand Delivery: U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2003–0079. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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 *www.regulations.gov* are not affected by the flooding and will remain the same.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0079. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. {For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: John Silvasi, Air Quality Policy Division, Office of Air Quality Planning and Standards, Mail Code C504–03, Research Triangle Park, North Carolina 27711, telephone number (919) 541–3407, facsimile number (919) 541–5509, electronic mail e-mail address: *silvasi.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

The EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0079 established a public docket for each of the ICRs identified in this document (see the Docket ID. numbers for each ICR that are provided in the text, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Docket is 202–566–1752.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

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

(iv) 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.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

[Docket ID No. EPA–HQ–OAR–2003–0079]

Affected entities: Entities potentially affected by this action are State and local governments and EPA Regional offices. There are other entities that may be indirectly affected, as they may comment on the draft submissions before they are forwarded to EPA's Regional Offices. These include potentially regulated entities, representatives of special interest groups, and individuals.

Title: 8-hour Ozone National Ambient Air Quality Standard Implementation Rule.

ICR numbers: EPA ICR No. 2236.02, OMB Control No. 2060–0594.

ICR status: This ICR is currently scheduled to expire on April 30, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Paperwork Reduction Act requires the information found in this Information Collection Request (ICR) number 2236.02, to assess the burden (in hours and dollars) of the 8-hour Ozone National Ambient Air Quality Standard Implementation (NAAQS) Rule as well as the periodic reporting and record keeping necessary to maintain the rule. The rule was proposed June 2, 2003 (68 FR 32802) and promulgated in two Phases: Phase 1 published April 30, 2004 (69 FR 23951) and Phase 2 published November 29, 2005 (70 FR 71612). The preamble to the proposed and final regulation addressed the administrative burden in general terms. The preamble to the final Phase 2 rule stated that an ICR would be prepared (70 FR at 71692).

The rule includes requirements that involve collecting information from States with areas that have been designated nonattainment for the 8-hour ozone NAAQS.

The time period covered in this ICR is a three year period from May 1, 2007 through April 30, 2010. The information collection milestones include State submission of an attainment demonstration State Implementation Plan (SIP), a Reasonable Further Progress (RFP) SIP submission, and a Reasonable Available Control Technology (RACT) SIP. However, not all of the milestones and associated burden and administrative cost estimates apply to every designated nonattainment area. Areas with cleaner air quality have fewer requirements.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9,511 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 30.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 30.

Estimated total annual burden hours: 285,333 hours.

Estimated total average annual costs per respondent: $316,720. This includes an estimated burden cost of $316,720 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Additional Background on Burden Estimation Method

The methodology and draft estimates of incremental administrative burden for this ICR are documented in a separate supporting statement in the docket. They were submitted to EPA's Ozone National Ambient Air Quality Standards Implementation Workgroup for their review and comment. This workgroup is comprised of representatives from EPA Regional Offices 1 through 9 as well as EPA's Offices of General Counsel, Policy-Economics and Innovation, and Air and Radiation (including the Offices of Transportation and Air Quality, Air Quality Planning and Standards, and Policy Analysis and Review).

The workgroup provided constructive criticism on earlier drafts which resulted in clarifications to the methodology section, revisions to the categorization of non-attainment areas by regional office, and changes to the temporal allocation of regional office administrative burden. The workgroup reviewed the June 2006 ICR supporting statement which was forwarded to OMB's Office of Information and Regulatory Affairs. The workgroup believed there would be differences between the realized incremental administrative burden of the states and regional offices versus what was in the supporting statement. However, the estimates in the ICR supporting statement were judged to be appropriate (e.g. in the right ballpark).

Past Estimates of Burden and Comments Received

In 1997, the Agency prepared a Regulatory Impact Analysis (RIA) for the 8-hour Ozone Standard promulgation. The RIA's estimated total incremental administrative burden for the states was 22,000 to 25,000 hours.[1] The incremental burden hour estimate developed in this ICR supporting statement is more than 800,000 hours. Differences between the estimates are the result of variations in the data inputs and presumed implementation framework. Here are some examples:

- The Subpart 1 approach to implementation was envisioned for all 8-hour non-attainment areas when the 1997 RIA was prepared. The envisioned Subpart 1 approach was less prescriptive and would result in a lower administrative burden than the promulgated Phase I and Phase II implementation rules. Under those promulgated implementation rules, the more prescriptive Subpart 2 requirements apply to areas with the worst ozone problems.
- The burden estimates in the 1997 RIA presumed that the SIP activities being performed in areas that were in non-attainment with the 1-hour standard would also apply to the 8-hour standard. Hence, for these areas there would be a lower incremental burden associated with the 8-hour standard. The current supporting statement for this ICR presumes that, although the 1-hour SIP activities are helpful, they are not as relevant as previously assumed for developing a SIP for an 8-hour standard. This is because SIP development efforts for the 8-hour standard require different emissions inventories, compliance and attainment timing, and regulatory baselines.

The Agency (EPA) presented the 1997 RIA burden estimate ($1.1 million) in the preamble to the proposed implementation rule (June 2, 2003 (68 FR 32802)). Three comments were received during the public comment period regarding the dollar estimates of incremental burden.[2] Two local air pollution control agencies in California representing subpart 2 non-attainment areas for the 8-hour standard commented that the $1.1 million dollar estimate as a total for all non-attainment areas was low. One local agency was in a subpart 2-marginal area for the 8-hour ozone standard. That local agency comment noted that their burden in developing the 1-hour SIP was more than $2 million. The other local agency was in a subpart 2-serious area for the 8-hour standard. That local agency noted that the cost of developing their 1-hour ozone SIP was more than $1 million. In this ICR supporting statement, EPA estimates that the average incremental burden for implementing the 8-hour standard in the California Subpart 2 non-attainment areas is $1.1 million in each area over the 3 year reporting period. See Table 5 and section 6(b). The EPA's estimates recognize that, although the environmental progress already realized in California is substantial, California's ozone non-attainment problems are generally more challenging than elsewhere in the United States.

The third public comment on the 1997 RIA burden estimate came from the state of Texas. The commenter noted that the total burden for three 8-hour ozone nonattainment areas (that include Houston, Dallas, and Beaumont) associated with developing and fulfilling outstanding 1-hour as well as 8-hour ozone SIP obligations could exceed $2.5 million. The EPA's estimate for two subpart 2 8-hour non-attainment areas in Texas in this ICR supporting

[1] EPA's Regulatory Impact Analysis for the Revised Ozone and PM NAAQS and the Proposed Regional Haze Rule (*http://www.epa.gov/ttn/oarpg/naaqsfin/ria.html*) page 10–17, Table 10.6.

[2] See *http://www.regulations.gov*; docket documents EPA–HQ–OAR–2003–0079–0140, EPA–HQ–OAR–2003–0079–0239, and EPA–HQ–OAR–2003–0079–0260.

statement is $2.3 million over the 3 year reporting period. See Table 5 and Section 6(b).

The estimated incremental burden cost provided in this ICR is more consistent with the dollar burden estimates provided in the 3 commenters than the previous estimates in the 1997 RIA.

What Is the Next Step in the Process for This ICR?

The EPA will consider the comments received under this notice and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: November 6, 2006.

Scott L. Mathias,

Acting Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, Office of Air and Radiation.

[FR Doc. E6–19376 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8242–2]

Clean Air Act Advisory Committee; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

The charter for the Environmental Protection Agency's Clean Air Act Advisory Committee (CAAAC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 section 9(c). The purpose of CAAAC is to provide advice and recommendations to the EPA Administrator on issues associated with policy and technical issues associated with implementation of the Clean Air Act.

It is determined that CAAAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

Inquiries may be directed to Pat Childers, CAAAC Designated Federal Officer, U.S. EPA, Mail Code 6102A, 1200 Pennsylvania Ave., NW., Washington, DC 20460, or by e-mail *childers.pat@epa.gov*.

Dated: November 2, 2006.

William L. Wehrum,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. E6–19282 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8242–3]

Listening Session on Exploring Bottled Water as an Alternative Compliance Option in Limited Situations for Non-Transient, Non-Community Water Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a listening session on the viability of bottled water as an alternative compliance option for chronic contaminants regulated under the Safe Drinking Water Act (SDWA). The purpose of this meeting is to identify information and data needed for EPA to evaluate the efficacy of bottled water as an alternative compliance option for non-transient, non-community water systems.

DATES: The listening session will be held in Washington, DC, on Tuesday, December 12, 2006, from 8:30 a.m. to 5 p.m. Registration will open at 8 a.m.

ADDRESSES: The listening session will take place at RESOLVE, Inc., 1255 23rd St., NW., Suite 275, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Interested participants from the public should contact Jennifer Moller, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water, Drinking Water Protection Division (Mail Code 4606M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. There is no charge for attending this workshop as an observer, but seats are limited, so register as soon as possible. Please contact Jennifer Moller at *Moller.Jennifer@epa.gov* or call 202–564–3891 to receive additional details.

SUPPLEMENTARY INFORMATION:

Background: At the request of the Association of State Drinking Water Administrators (ASDWA), EPA is convening a meeting to discuss information needed to explore whether and in what limited situations bottled water may be a safe and effective alternative compliance option to treatment technology and point-of-use devices. Under the Safe Drinking Water Act (SDWA) bottled water is allowed for use in very limited situations, such as in emergency situations or as a temporary measure under variances and exemptions. There is no statutory prohibition on the use of bottled water to achieve compliance. However, bottled water is prohibited by regulation (40 CFR 141.101) for use by a public water system to achieve compliance with a maximum contaminant level (MCL).

Public Comment: An opportunity for public comment will be provided during the listening session. Oral statements will be limited to five minutes; it is preferred that only one person present the statement on behalf of a group or organization. Written comments may be provided at the meeting or may be sent by mail to Jennifer Moller at the mail or e-mail address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Special Accommodations: For information on access or services for individuals with disabilities, please contact Jennifer Moller at *Moller.Jennifer@epa.gov.* To request accommodation of a disability, please contact Jennifer Moller, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 8, 2006.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E6–19266 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0163; FRL–8099–7]

Aldicarb Revised Risk Assessments; Notice of Availability and Solicitation of Risk Reduction Options

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's revised risk assessments for the N-methyl carbamate pesticide aldicarb. In addition, this notice solicits public comment on risk reduction options for aldicarb, as well as an initial impacts and/or preliminary benefits assessmentfor a number of

aldicarb uses. The public is encouraged to suggest risk management ideas or proposals to address the risks identified. EPA is developing an Interim Reregistration Eligibility Decision (IRED) for aldicarb through the full, 6-Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Subsequently, EPA will complete the cumulative assessment for N-methyl carbamate pesticides, including aldicarb. Additional risk mitigation for dietary concerns may be necessary for aldicarb at that time. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before January 16, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0163, by one of the following methods:

• *Federal e-Rulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0163. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Tracy Perry, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0128; fax number: (703) 308-8005; e-mail address: *perry.tracy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through 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.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Background

A. What Action is the Agency Taking?

EPA is making available the Agency's revised risk assessments, initially issued for comment through a **Federal Register** notice published on May 17, 2006 (71 FR 28693) (FRL-8064-8); a response to comments; and related documents for aldicarb. EPA is encouraging the public to submit information and suggestions for the risk management of aldicarb to

aid the Agency in its reregistration decision for this chemical (please refer to the Note to Reader in the aldicarb public docket). EPA is also soliciting public comment on preliminary benefits assessments for specific crops. EPA developed the risk assessments for aldicarb as part of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Aldicarb is a restricted use systemic insecticide, acaricide and nematicide used to control leaf phylloxera; bud moth; citrus nematode (suppression); aphids; mites; white flies; thrips; fleahoppers, leafminers; leafhoppers; overwintering boll weevil; lygus; nematodes (suppression); cotton leaf perforator; seedcorn maggot; Mexican bean beetle; flea beetles; Colorado potato beetle; greenbug; chinch bug; three cornered alfalfa hopper (suppression); and sugar beet root maggot. Aldicarb is registered for use on agricultural crops including citrus, cotton, dry beans, peanuts, pecans, potatoes, sorghum, soybeans, sugar beets, sugarcane, sweet potatoes, and seed alfalfa (CA). In addition, aldicarb may be applied to field grown ornamentals (CA) and tobacco, and on coffee grown in Puerto Rico. There are no aldicarb products intended for sale to homeowners or for use in residential settings.

EPA is providing an opportunity, through this notice, for interested parties to provide risk management proposals or otherwise comment on risk management for aldicarb. Risks of concern associated with the use of aldicarb are: risks from rural drinking water wells in peanut/cotton growing regions in the southern coastal plain (Alabama, Georgia, South Carolina), ecological risks to mammals, birds, fish and aquatic invertebrates. In targeting these risks of concern, the Agency solicits information on effective and practical risk reduction measures.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004 (69 FR 26819)(FRL–7357–9), explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, aldicarb is being reviewed through the full 6-Phase public participation process.

All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. Comments and proposals will become part of the Agency Docket for aldicarb. Comments received after the close of the comment period will be marked ''late'' EPA is not required to consider these late comments.

After considering comments received, EPA will develop and issue for comment the aldicarb IRED. Further risk mitigation measures may be needed when EPA considers its cumulative assessment of the N-methyl carbamate pesticides.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 8, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–19360 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0875; FRL–8102–5]

Notice of Filing of Pesticide Petitions for Establishment or Amendment to Regulations for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or amendment of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before December 15, 2006

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0875 and pesticide petition numbers (PP) 4E6867 and 6E7066, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0875. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania, Ave., NW, Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*..

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Submitting CBI*. Do not submit this information to EPA through 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.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerances

(PP) 4E6867 and *6E7066*. The Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 291 W., Princeton, NJ 08540], proposes to amend the tolerance(s) in 40 CFR 180.466 for residues of the insecticide, fenpropathrin, (alpha-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate) in or on certain raw agricultural commodities. *4E6867* proposes tolerances for residues of fenpropathrin in or on fruit, stone, group 12 at 5.0 parts per million (ppm); nut, tree, group 14 at 0.10 ppm, pistachio at 0.10 ppm and almond, hulls at 5.0 ppm, *6E7066* proposes tolerances for residues of fenpropathrin in or on avocado, black sapote, canistel, mamey sapote, mango, papaya, sapodilla and star apple at 1.0 ppm; barley, grain at 0.30 ppm; barley, hay at 2.5 ppm; and barley, straw at 4.5 ppm.

Adequate analytical methodology is available to detect and quantify fenpropathrin at residue levels in numerous matrices. The methods use

solvent extraction and partition and/or column chromatography clean-up steps, followed by separation and quantitation using capillary gas liquid chromatography (GLC) with FID. The extraction efficiency has been validated using radiocarbon samples from the plant and animal metabolism studies. The enforcement methods have been validated at independent laboratories and by EPA. The limit of quantification (LOQ) for fenpropathrin in raw agricultural commodity samples is usually 0.01 ppm. The available analytical enforcement methodology was previously reviewed in the **Federal Register** of March 2, 2000 (65 FR 11234) (FRL–6492–6).

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 6, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–19169 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0743; FRL–8101–8]

Notice of Filing of Pesticide Petition for Establishment of Regulations for Residues of Cymoxanil in or on Caneberry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petition proposing the establishment of regulations for residues of cymoxanil in or on caneberry.

DATES: Comments must be received on or before December 15, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0743 and pesticide petition number (PP) 6E7100, by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0743. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 regulations.gov or e-mail. The Federal regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-3194; e-mail address: *brothers.shaja@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Submitting CBI*. Do not submit this information to EPA through 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.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180.503 for residues of cymoxanil in or on caneberry. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of cymoxanil residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 6E7100. Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 West, Princeton, NJ 08540, proposes to establish a tolerance for residues of the fungicide, cymoxanil, 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino) acetamide in or on caneberry at 4.0 parts per million (ppm).

An analytical enforcement method is available for determining these plant residues by high performance level chromatography (HPLC) with ultraviolet (UV) detection. The limit of quantitation allows monitoring of crops with cymoxanil residues at or above the levels proposed in these tolerances.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 6, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–19270 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0886; FRL–8242–1]

Draft Certification Procedures for Light-Duty Diesel Vehicles and Heavy-Duty Diesel Engines Using Selective Catalyst Reduction (SCR) Technologies for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is requesting comment on draft guidance discussing our intended approach for the certification of light-duty diesel vehicles and heavy-duty diesel engines using selective catalyst reduction (SCR) systems to meet EPA emissions standards.

DATES: Comments must be received on or before December 15, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0886, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov.*
- Fax: (202) 566–1741, Attention Docket ID No. EPA–HQ–OAR–2006–0886.
- Mail: Air Docket, Attention Docket ID No. EPA–HQ–OAR–2006–0886, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: USEPA, Air Docket, 1301 Constitution Ave, NW., Room B102, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2006–0886. 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–2006–0886. Our 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 for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov.*

The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means we 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 us 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, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD you submit. If we cannot read your comment due to technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic files should avoid the use of special characters, should not use any form of encryption, and should be free of any defects or viruses. For additional information about our public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to Section I of 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 for which 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 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.

FOR FURTHER INFORMATION CONTACT: Linc Wehrly, Environmental Protection Agency, 2565 Plymouth Road; telephone number: 734–214–4826; fax number: 734–214–4053; e-mail address: *werhly.linc@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

1. *Submitting CBI.* Do not submit CBI to us 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 that you mail to EPA, mark the outside of the disk or CD as CBI and then identify electronically within the disk or CD 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.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rule or notice 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.

3. *Docket Copying Costs.* You may be charged a reasonable fee for photocopying docket materials, as provided by 40 CFR part 2.

II. Manufacturer Guidance Certification Procedure for Light-Duty Diesel Vehicles Using Selective Catalyst Reduction (SCR) Technologies

A. Background

On February 10, 2000, EPA published the Tier 2 emission standards for light-duty vehicles and trucks. These standards established common, ''fuel neutral'' emission requirements for gasoline and diesel vehicles. They also set common standards for all passenger cars, light trucks, and medium-duty passenger vehicles. The Tier 2 standards allow emission averaging and require new vehicles to meet an average NO_X emission level of 0.07 grams per mile (g/mi). On January 18, 2001, EPA published a rule setting stringent new requirements for heavy-duty highway engines and vehicles starting in 2007. Manufacturers plan to meet these requirements by optimizing engine designs for low emissions and adding high-efficiency aftertreatment. The diesel engine NO_X standard, which is phased-in between model years 2007 and 2010, is 0.20 grams per brake horsepower-hour (g/bhp-hr).

Diesel engine and vehicle manufacturers have examined the use of several different types of NO_X reduction technologies in order to meet these requirements. One type of NO_X reducing technology, selective catalyst reduction (SCR), is of particular interest to diesel manufacturers because it can achieve as high as 90% NO_X conversion efficiencies. An SCR system uses a nitrogen containing reducing agent (usually ammonia or urea) injected into the exhaust gas upstream of the catalyst. The reducing agent needs to be periodically replenished. Without the reducing agent, the efficiency of the SCR catalyst drops to zero and NO_X emissions can potentially increase substantially.

EPA intends to issue guidance to vehicle and engine manufacturers to discuss our intended approach for the certification of light-duty diesel vehicles and heavy-duty engines using SCR systems. In advance of issuing this guidance, EPA is requesting comment on the various elements of this draft approach to ensure that the public can provide input to EPA regarding this issue.

EPA has place the draft guidance document in EPA Air Docket EPA–HQ–OAR–2006–0886. Interested parties should submit comments according to the guidelines described at the beginning of this notice. After fully considering comments received, we will issue a final guidance document.

Dated: November 6, 2006.

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. E6–19264 Filed 11–14–06; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Farm Credit Administration (FCA or Agency) is publishing its notice under the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) (Pub. L. 107–174), as required by the No FEAR Act and 5 CFR part 724. Under the No FEAR Act, agencies are required to notify employees, former employees, and applicants of their rights and remedies under Federal antidiscrimination and whistleblower protection laws applicable to them. The Office of Personnel Management (OPM) has published implementing regulations at 5 CFR part 724, which require notice and training, and include model language for agency notices.

DATES: November 15, 2006.

FOR FURTHER INFORMATION CONTACT: Eric Howard, Equal Employment Opportunity Director, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4481, TTY (703) 883–4056,

or

Jennifer Cohn, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: For the reasons noted above, FCA is publishing this No FEAR Act Notice (also available at the Agency's Web site at *http://www.fca.gov*).

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.'' Public Law 107–174, Summary. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Public Law 107–174, title I, General Provisions, section 101(1).

The Act also requires this Agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency 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, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 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 your agency. *See, e.g.* 29 CFR part 1614. 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. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site—*http://www.osc.gov*.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection 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 and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal 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 offices within your agency (*e.g.*, EEO/civil rights office, human resources office or legal office). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site (*http://www.eeoc.gov*) and the OSC Web site (*http://www.osc.gov*).

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, including the provisions of law specified in 5 U.S.C. 2302(d).

Dated: November 8, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E6–19211 Filed 11–14–06; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

November 3, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 16, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1032.

Title: Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment, CS Docket No. 97–80 and PP Docket No. 00–67.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 611.

Estimated Time per Response: 30 seconds–40 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 97,928 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On March 17, 2005, the FCC released a Second Report and Order (2005 Deferral Order), In the *Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices,* CS Docket No. 97–80, FCC 05–76, in which the Commission set forth reporting requirements for certain cable providers, the National Cable and Telecommunications Association (NCTA), and the Consumer Electronics Association (CEA). The cable providers are responsible for filing status reports regarding deployment and support of point of deployment modules, more commonly known as CableCARDs. The NCTA and CEA are required to file status reports to keep the FCC abreast of negotiations over bidirectional support and software-based security solutions for digital cable products available at retail.

On October 9, 2003, the FCC released the Second Report and Order and Second Further Notice of Proposed Rulemaking (2nd R&O), In the *Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment,* CS Docket No. 97–80, PP Docket No. 00–67, FCC 03–225, the Commission adopted final rules that set technical and other criteria that manufacturers would have to meet in order to label or market unidirectional digital cable televisions and other unidirectional digital cable products as ''digital cable ready.'' This regime includes testing and self-certification standards, certification recordkeeping requirements, and consumer information disclosures in appropriate post-sale materials that describe the functionality of these devices and the need to obtain a security module from their cable operator. To the extent manufacturers have complaints regarding the certification process, they may file formal complaints with the Commission. In addition, should manufacturers have complaints regarding administration of the Dynamic Feedback Arrangement Scrambling Technique or DFAST license which governs the scrambling technology needed to build unidirectional digital cable products, they may also file complaints with the FCC. The 2nd R&O also prohibits MVPDs from encoding content to activate selectable output controls on unidirectional digital cable products, or the down-resolution of unencrypted broadcast television programming. MVPDs are also limited in the levels of copy protection that could be applied to various categories of programming. As a part of these encoding rules is a petition process for new services within existing business models, a PR Newswire Notice relating to initial classification of new business models, and a complaints process for disputes regarding new business models.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–19041 Filed 11–14–06; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

November 7, 2006.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 15, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit your Paperwork Reduction Act (PRA) comments by email or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 and Allison E. Zaleski, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–6466 or via the Internet at *Allison_E._Zaleski@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918. If you

would like to obtain a copy of the information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0580.

Title: Section 76.1710, Operator Interests in Video Programming.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,500.

Estimated Time per Response: 15 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 22,500 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.1710 requires cable operators to maintain records in their public file for a period of three years regarding the nature and extent of their attributable interests in all video programming services. The records must be made available to members of the public, local franchising authorities and the Commission on reasonable notice and during regular business hours. The records will be reviewed by local franchising authorities and the Commission to monitor compliance with channel occupancy limits in respective local franchise areas.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–19188 Filed 11–14–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 06–203; DA 06–2285]

Wireless Telecommunications Bureau Seeks Comment on Topics To Be Addressed in Hearing Aid Compatibility Report

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document seeks comment on the three topics to be addressed in the Hearing Aid Compatibility staff report to assist in the examination of three topics: The impact of our rules in achieving greater compatibility between hearing aids and digital wireless phones; the development of new technologies that could provide greater or more efficient accessibility of wireless telecommunications to hearing aid users; and the impact of the compatibility requirements on cochlear implant and middle ear implant users and their ability to use digital wireless phones.

DATES: Comments are due December 15, 2006 and Reply comments are due January 5, 2007.

ADDRESSES: You may submit comments, identified by WT Docket No. 06–203, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Christina Clearwater or Peter Trachtenberg, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, (202) 418–1310.

SUPPLEMENTARY INFORMATION: On November 8, 2006, the Wireless Telecommunications Bureau released a public notice in which it seeks comments on topics to be addressed in the hearing aid compatibility report. Interested parties may file comments by December 15, 2006 and reply comments by January 5, 2007.

Background

On August 13, 2003, the Commission released the *Hearing Aid Compatibility Report and Order*, 68 FR 54,173, September 16, 2003 which adopted several measures to enhance the ability of persons with hearing disabilities to access digital wireless telecommunications. Among other actions, the Commission established technical standards that digital wireless handsets must meet to be considered hearing aid-compatible, including a standard for radio frequency interference that would enable acoustic coupling between hearing aids and digital wireless phones, and a separate standard for handset production of an audio signal-based magnetic field that would enable inductive coupling between digital wireless phones and hearing aids operating in telecoil mode. The Commission further established phased-in deployment benchmark dates for the offering of hearing aid-compatible digital wireless handset models.

In particular, the Commission required handset manufacturers and providers of public mobile services that did not fall within the *de minimis* exception to offer, for each air interface they use, at least two digital wireless handset models that meet the Commission's radio frequency interference standard by September 16, 2005, and to ensure that at least 50 percent of their handset offerings for each air interface comply with the interference standard by February 18, 2008. The Commission further required these entities to offer at least two handset models for each air interface they used that comply with the technical standard for inductive coupling by September 18, 2006. In order to monitor efforts to make compliant handsets available, the Commission required manufacturers and wireless carriers to report every six months on efforts toward compliance with the hearing aid-compatibility requirements for the first three years of implementation (on May 17, 2004, November 17, 2004, May 17, 2005, November 17, 2005, May 17, 2006, and November 17, 2006), and then annually thereafter through the fifth year of implementation (on November 19, 2007, and November 17, 2008).

In addition to establishing these requirements, the Commission provided that, ''[s]hortly after three years after the effective date of this Order, FCC staff will deliver to the Commission a report'' that examines three topics: (1) ''the impact of our rules in achieving greater compatibility between hearing aids and digital wireless phones;'' (2) ''the development of new technologies that could provide greater or more efficient accessibility of wireless telecommunications to hearing aid users;'' and (3) ''the impact of this Order's compatibility requirements on cochlear implant and middle ear implant users and their ability to use digital wireless phones.'' The Commission stated that the report would ''form the basis for the Commission to initiate a proceeding to evaluate: (1) Whether to increase [or] decrease the 2008 requirement to provide 50 percent of phone models that comply with a U3 rating; (2) whether to adopt HAC implementation benchmarks beyond 2008; and (3) whether to

otherwise modify the HAC requirements.''

The Wireless Telecommunications Bureau (Bureau) now invites the public to comment on the three topics to be addressed in the staff report. As the Bureau will examine the filed compliance reports as part of its review of these issues, parties that have filed such reports need not re-file the same information in response to this Public Notice. Interested parties may file comments no later than December 15, 2006. Reply comments are due no later than January 5, 2007. All filings should refer to WT Docket No. 06–203.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

—The filing hours at this location are 8 a.m. to 7 p.m.
—All hand deliveries must be held together with rubber bands or fasteners.
—Any envelopes must be disposed of before entering the building.
—Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
—U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.
—All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Three (3) copies of the comments and reply comments should also be sent to the Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554, Attn: Christina Clearwater and Peter Trachtenberg. Parties shall also send one copy to Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (800) 378–3160, or via e-mail to *Joshir@erols.com.*

Comments filed in response to the public notice are available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The comments may also be purchased from Best Copy and Printing, Inc., telephone (800) 378–3160, facsimile (301) 816–0169.

Federal Communications Commission.

James D. Schlichting,

Deputy Chief, Wireless Telecommunications Bureau.

[FR Doc. E6–19254 Filed 11–14–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011405–020.

Title: Ocean Carrier Working Group Agreement.

Parties: Latin America Agreement; Israel Trade Conference; Trans-Atlantic Conference Agreement; Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; United States Australasia Discussion Agreement; Westbound Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; A.P. Moller-Maersk A/S; Evergreen Marine Corporation (Taiwan) Ltd.; King Ocean Service de Venezuela, S.A.; Star Shipping A/S; Tropical Shipping & Construction Company, Limited; Wallenius Wilhelmsen Logistics AS; Zim Integrated Shipping Services, Ltd.; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment updates the membership of various agreement parties.

Agreement No.: 011979.

Title: CSAV/NYK Venezuela Space Charter Agreement.

Parties: Compania Sud Americana de Vapores S.A. and Nippon Yusen Kaisha.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The agreement would authorize CSAV to charter space to NYK for the carriage of motor vehicles from Baltimore to ports in Venezuela.

Agreement No.: 011980.

Title: South Atlantic Chassis Pool Agreement.

Parties: The Ocean Carrier Equipment Management Association and its member lines; the Association's subsidiary Consolidated Chassis Management LLC and its affiliates; Georgia Ports Authority; and South Carolina State Ports Authority.

Filing Party: Jeffrey F. Lawrence, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The agreement would authorize the parties to establish and operate chassis pools at port and inland locations in the South Atlantic region of the United States. The parties request expedited review.

Dated: November 9, 2006.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–19306 Filed 11–14–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuance

Notice is hereby given that the following Ocean Transportation

Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409), and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
018977N	Alas Cargo LLC, 548 E. Sepulveda Blvd., Suite D, Carson, CA 90745	October 20, 2006.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E6–19307 Filed 11–14–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 016358N.
Name: Associated Cargo Services, Inc. dba Pacific Micronesian Lines.
Address: 2976–K Alvarado Street, San Leandro, CA 94577.
Date Revoked: October 27, 2006.
Reason: Failed to maintain a valid bond.

License Number: 019135F.
Name: Covenant International Corp.
Address: 7860 NW., 80th Street, Miami, FL 33166.
Date Revoked: October 26, 2006.
Reason: Failed to maintain a valid bond.

License Number: 003443F.
Name: Tradewinds Shipping Corp.
Address: 420 Sackett Point Road, Unit 4–B, North Haven, CT 06473.
Date Revoked: October 23, 2006.
Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E6–19308 Filed 11–14–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 8, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Guardian Bancshares, Inc., Sylacauga, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Alabama Trust Bank, National Association, Sylacauga, Alabama, which will be merged into Alabama Trust Interim National Bank, Sylacauga, Alabama.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Pacific Business Bancorp; to become a bank holding company by acquiring 100 percent of the voting shares of Pacific Business Bank (in organization), both of Irvine, California.

Board of Governors of the Federal Reserve System, November 9, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–19229 Filed 11–14–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E6-18824) published on page 65524 of the issue for Wednesday, November 8, 2006.

Under the Federal Reserve Bank of Atlanta heading, the entry for Reserve Financial Associates, LLC, Columbus, Ohio, is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Reserve Financial Associates, LLC, Skilken Financial Associates, LLC, Sofia Financial Associates, LLC, all of Columbus, Ohio, and RFA Acquisition Company, Inc., Naples, Florida; to become bank holding companies by acquiring 100 percent of the voting shares of Business Bank of Florida Corp., and thereby indirectly acquire voting shares of Florida Business Bank, both of Melbourne, Florida.

Comments on this application must be received by December 4, 2006.

Board of Governors of the Federal Reserve System, November 9, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–19230 Filed 11–14–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-07–0573]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Adult and Pediatric HIV/AIDS Confidential Case Reports (OMB Control No. 0920–0573)—Revision-National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is seeking a three-year OMB approval to continue data collection of the HIV/AIDS case reports with revision of currently approved data collection. Revisions include additional data elements on testing and treatment, specimen quality and sequence information for drug resistance and HIV–1 subtypes, and clinical and behavioral information on HIV-infected mothers and their infants.

The National Adult and Pediatric HIV/AIDS Confidential Case Reports are collected as part of the HIV/AIDS Surveillance System. CDC, in collaboration with health departments in 59 reporting areas (states, territories, possessions, and the District of Columbia), conducts national surveillance for cases of human immunodeficiency virus (HIV) infection and the acquired immunodeficiency syndrome (AIDS), the end-stage of disease caused by infection with HIV. HIV/AIDS surveillance data collection by CDC is authorized and protected under Section 306 of the Public Health Service Act (42 U.S.C. 242k).

Currently, all 59 areas mandate and collect AIDS surveillance data. In addition, 50 of the areas currently mandate and collect confidential name-based surveillance data on HIV cases which have not progressed to AIDS. The Adult HIV/AIDS Confidential Case Report form is used for patients ≥ 13 years of age. The Pediatric HIV/AIDS Confidential Case Report form is used for patients ≤ twelve years of age at the time of diagnosis. We anticipate that over the next three years all 59 areas will mandate collection of confidential name-based HIV surveillance data. Therefore, the estimated burden for the next three years is based on HIV case reporting in 59 areas.

The purpose of HIV/AIDS surveillance data is to monitor trends in HIV/AIDS and describe the characteristics of infected persons (e.g., demographics, risk behaviors, clinical and laboratory markers of HIV disease, manifestations of severe HIV disease, and deaths due to AIDS). Because HIV infection results in untimely death and most often infects younger adults in the prime years of life, large amounts of Federal, State, and local government funding have been allocated to address all aspects of HIV infection, including prevention and treatment. HIV/AIDS surveillance data are the only nationally available data on persons reported with HIV and AIDS and are widely used at all government levels to assess the impact of HIV infection on morbidity and mortality, to allocate medical care resources and services, and to guide prevention and disease control activities.

HIV/AIDS case reports are sent to state/local health departments by laboratories, physicians, hospitals, clinics, and other health care providers. Areas use a microcomputer system developed by CDC (the HIV/AIDS Reporting System, HARS) to store and analyze data, as well as transmit encrypted data to CDC. An improved HIV reporting system (eHARS) is currently in development and is scheduled to replace HARS during the period of this clearance.

We anticipate making a modification to the layout of both the Adult and the Pediatric HIV/AIDS confidential case report forms during this period which would include the addition of a blank space in the top portion and bottom portion of the forms. Areas could then have the option of using this space to assign a local form number. This form number would be for local use only and not be reported to CDC.

The burden estimate for this revision includes estimated burden for evaluations of HIV/AIDS surveillance and case report updates. In addition, the burden estimate also includes additional data on HIV testing and treatment history for the purpose of estimating HIV incidence. The availability of a serologic testing algorithm for recent HIV seroconversion (STARHS) allows surveillance systems to determine how many among a group of new diagnoses are from new infections. In order to derive a population-based estimate of HIV incidence based on data from those individuals who choose to have an HIV antibody test and who test positive (those reported to HIV surveillance systems), additional data are needed to assign statistical weights to individual STARHS results. These additional data include STARHS results, information on testing reason, frequency, location, dates tested, prior positive and negative tests, and use of HIV-related medicines.

The table also includes burden estimates of additional information requested on specimen quality and genotyping test results for drug resistance and HIV–1 subtypes as part of variant, atypical and resistant HIV surveillance (VARHS). These data will be reported to CDC by participating health departments for the purpose of calculating population-based estimates of prevalence of HIV drug resistance and HIV–1 subtypes among individuals with newly diagnosed HIV.

The burden estimate also includes enhanced data collection on HIV-infected mothers and their infants in 15 areas. Proposed data collection for enhanced perinatal surveillance (EPS) will supplement information collected on both the adult and pediatric case report form and include data on prenatal care, clinical history, testing, and antiretroviral therapy. These clinical and behavioral data will be used to better monitor the effects of HIV testing, prevention, and treatment guidelines and to maximally reduce perinatal HIV transmission.

No other Federal agency collects this type of national HIV/AIDS data. In addition to providing technical assistance for use of the case report forms, CDC also provides reporting areas with technical support for the HARS software. There is no cost to respondents. The total estimated annual burden hours are 57,774.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Average number of responses per respondent	Average burden per response (in hours)
State Health Departments	Adult Case Report: AIDS	59	890	20/60
	Adult Case Report: HIV	59	932	20/60
State Health Departments	Peds Case Report: AIDS	59	3	20/60
	Peds Case Report: HIV	59	11	20/60
State Health Departments	Case Report Updates	59	85	5/60
State Health Departments	Incidence	30	2,833	10/60
State Health Departments	VARHS	24	2,917	5/60
State Health Departments	EPS	15	200	25/60

Dated: November 8, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19258 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–0571]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Minimum Data Elements (MDEs)/ System for Technical Assistance Reporting (STAR) for the National Breast and Cervical Cancer Early Detection Program (NBCCEDP)—(OMB Number 0920–0571)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The NBCCEDP was established in response to the Congressional Breast and Cervical Cancer Mortality Prevention Act of 1990. This Act mandates a program that will provide early detection, breast and cervical cancer screening services for under-served women.

CDC proposes to aggregate breast and cervical cancer screening, diagnostic and treatment data from NBCCEDP grantees at the State, territory and tribal level. These aggregated data will include demographic information about women served through funded programs. The proposed data collection will also include infrastructure data about grantee management, public education and outreach, professional education, and service delivery.

Breast cancer is a leading cause of cancer-related death among American women. The American Cancer Society (ACS) estimated that 211,240 new cases would be diagnosed among women in 2005, and 40,410 women would die of this disease. Mammography is extremely valuable as an early detection tool because it can detect breast cancer well before the woman can feel the lump, when it is still in an early and more treatable stage. Women older than age 40 that receive annual mammography screening reduce their probability of breast cancer mortality and increase their treatment options.

Although early detection efforts have greatly decreased the incidence of invasive cervical cancer in recent decades, ACS estimated that 10,370 new cases would be diagnosed in 2005 and 3,710 women would die of this disease. Papanicolaou (Pap) tests effectively detect precancerous lesions in addition to invasive cervical cancer. The detection and treatment of precancerous lesions can prevent nearly all cervical cancer-related deaths.

Because breast and cervical cancer screening, diagnostic and treatment data are already collected and aggregated at the State, territory and tribal level, the additional burden on the grantees will be small. Continuation of this program will require grantees to report a minimum data set (MDE) on screening and follow-up activities electronically to the CDC on a semi-annual basis. The program will require grantees to report infrastructure data (STAR) to the CDC annually using a web-based system. Information collected will be used to obtain more complete breast and cervical cancer data, promote public education of cancer incidence and risk, improve the availability of screening and diagnostic services for under-served women, ensure the quality of services provided to women, and develop outreach strategies for women that are never or rarely screened for breast and cervical cancer. Data collection will continue for the next three years.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,244.

ESTIMATED ANNUALIZED BURDEN HOURS

Reports	Number of respondents*	Number of responses per respondent	Average burden per response (in hours)
*Infrastructure Report (STAR)	68	1	25
*Screening and Follow-up (MDE)	68	2	4

* Respondents include State, territorial and tribal grantees.

Dated: November 8, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19260 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-07–0469]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Program of Cancer Registries—Cancer Surveillance System—Extension (OMB number 0920–0469)-National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The American Cancer Society estimated that about 1.37 million Americans were newly diagnosed with cancer in 2005 and that about 570,000 died from cancer in that same year. The National Institutes of Health estimates that in 2005, the cost of cancer was about $209 billion, including $74 billion direct costs to treat cancer, and $136 billion indirect costs in lost productivity due to illness and premature death.

In 2002, CDC implemented the National Program of Cancer Registries (NPCR)—Cancer Surveillance System (CSS) to collect, evaluate and disseminate cancer incidence data collected by population-based cancer registries. In 2002, CDC began annually publishing *United States Cancer Statistics (USCS).* The latest USCS report published in 2005 provided cancer statistics for 93% of the United States population from all cancer registries whose data met national data standards. Prior to the publication of USCS, at the national level, cancer incidence data were available for only 14% of the population of the United States.

With this expanded coverage of the U.S. population, it will now be possible to better describe geographic variation in cancer incidence throughout the country and provide incidence data on minority populations and rare cancers to further plan and evaluate state and national cancer control and prevention efforts.

Therefore, CDC's Division of Cancer Prevention and Control proposes to continue to aggregate existing cancer incidence data from states funded by the National Program of Cancer Registries into a national surveillance system.

These data are already collected and aggregated at the state level, thus, the additional burden for the states is small. Funded states are asked to continue to report cancer incidence data to CDC on an annual basis. Each state is requested to report a cumulative file containing incidence data from the first diagnosis year for which the cancer registry collected data with the assistance of NPCR funds (e.g., 1995) through 12 months past the close of the most recent diagnosis year (e.g., 2004).

NCCDPHP is requesting a 3 year clearance for this project. The total number of eligible respondents is 63 which includes 50 States, 12 territories, and the District of Columbia. The total estimated annualized burden hours are 126 (i.e., 2 hours per respondent). There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
States, Territories, and the District of Columbia (Cancer Registries)	63	1	2

Dated: November 8, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19261 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–06BV]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Travel-Related Infectious Diseases Risk Perception, Prevention Measures, and Behaviors during Travel to Latin America Visiting Friends and Relatives (VFR) versus non-VFR Travelers—New—National Center for Infectious

Diseases (NCID)—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The proposed project will focus on travelers visiting friends and relatives (VFR) in Latin America. An estimated 44% of all international travel is VFR related. Although multiple definitions exist, VFR travelers typically refer to those who were born in a resource-poor country, now living in a resource-rich country, and returning to their country of birth to visit friends and relatives. VFR travelers have received particular attention recently for being at higher risk than other travel groups for acquiring communicable diseases during visit to their home countries. However, there are few studies that characterize and explore this health disparity between VFR and non-VFR travelers.

The proposed study would be the first to focus on travel-related health risks in U.S resident VFR and non-VFR travelers to Latin America. The study objectives are to characterize and understand the health disparities between VFR and non-VFR travelers to Latin America by comparing (1) pre-travel health preparations, (2) perceived susceptibility and severity to travel-related communicable diseases, (3) health-risk behaviors during travel, and (4) compliance with prevention measures during travel.

Knowledge gained from this study will enable CDC to develop targeted, theory-driven infectious diseases prevention messages, both pre-travel and during travel, that will be specific to subpopulations of travelers (VFR versus non-VFR). Expected outcomes of targeted messaging include reducing

- The burden of illness among travelers,
- the importation of communicable diseases into the U.S., and
- the global spread of infectious diseases.

The proposed study will provide departing airport passengers with a self-administered 35-item questionnaire and a follow-up telephone questionnaire four weeks after their return. There is no cost to the respondent other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)	Total burden hours
Screener Interview	2800	1	5/60	233
Self-Administered	700	1	15/60	175
Telephone Interview	490	1	10/60	82
Total				490

Dated: November 8, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19262 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–0009]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Disease Surveillance Program I—Case Reports—Revision—(OMB No. 0920–0009), National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Formal surveillance of 19 separate reportable diseases has been ongoing to meet the public demand and scientific interest in accurate, consistent, epidemiologic data. These ongoing disease reports include: Active Bacterial Core Surveillance (ABCs), Creutzfeldt-Jakob Disease(CJD), Cyclospora, Dengue, Hantavirus, Idiopathic CD4+T-lymphocytopenia, Kawasaki Syndrome, Legionellosis, Lyme disease, Malaria, Plague, Q Fever, Reye Syndrome, Tick-borne Rickettsial Disease, Trichinosis, Tularemia, Typhoid Fever, and Viral Hepatitis. Tularemia and Methicillin-Resistant *Staphylococcus aureaus* (MRSA) are new additions to this submission. Case report forms from state and territorial health departments enable CDC to collect demographic, clinical, and laboratory characteristics of cases of these diseases. This information is used to direct epidemiologic investigations, identify and monitor trends in reemerging infectious diseases or emerging modes of transmission, to search for possible causes or sources of the diseases, and develop guidelines for prevention and treatment. The data collected will also be used to recommend target areas most in need of vaccinations for selected diseases and to determine development of drug resistance.

Because of the distinct nature of each of the diseases, the number of cases reported annually is different for each. There is no cost to respondents other than their time. The total annual burden hours are 13,371.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Form	Number of respondents	Number responses/ respondent	Total responses	Hrs/response
ABCs	329	21	6,909	10/60
ABCs Invasive MRSA	18	256	4,608	10/60

ESTIMATE OF ANNUALIZED BURDEN HOURS—Continued

Form	Number of respondents	Number responses/ respondent	Total responses	Hrs/response
CJD	20	2	40	20/60
Cyclosporiasis	55	10	550	15/60
Dengue Case Investigation	55	182	10,010	15/60
Hantavirus Pulmonary Syndrome	46	3	138	20/60
Idiopathic CD4+T-lymphocytopenia	10	2	20	10/60
Kawasaki Syndrome	55	8	440	15/60
Legionellosis Case Report	23	11.7	269	20/60
Lyme Disease Report	52	385	20,020	10/60
Malaria Case Surveillance Report	55	20	1,100	15/60
Plague Case Investigation Report	55	0.20	11	20/60
Q Fever	55	1	55	10/60
Reye Syndrome Case Surveillance Report	50	1	50	20/60
Tick-borne Rickettsial Disease Case Report	55	18	990	10/60
Trichinosis Surveillance Case Report	55	.45	25	20/60
Tularemia	55	2.2	121	20/60
Typhoid Fever Surveillance Report	55	6	330	20/60
Viral Hepatitis Case Record	55	200	11,000	25/60

Dated: November 8, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19263 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Assessment of Proposed Revisions to the Youth Tobacco Survey: Impact on Measures of Youth Tobacco Use, Request for Application Number (RFA) DP07–001

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Time and Date: 2:30 p.m.–5:30 p.m., December 12, 2006 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to RFA DP07–001, ''Assessment of Proposed Revisions to the Youth Tobacco Survey: Impact on Measures of Youth Tobacco Use.''

For Further Information Contact: Brenda Colley Gilbert, Acting Director, Office of Extramural Research, National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway, NE., MS K92, Atlanta, GA 30341, telephone 770.488.8390.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: November 8, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–19234 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Occupational Health and Safety Research, Member Conflict, Program Announcement (PA) 04–038

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Time and Date: 1 p.m.–2:30 p.m., November 28, 2006 (Closed).

Place: Teleconference. National Institute for Occupational Safety and Health, CDC, 2400 Century Parkway, NE., Atlanta, GA 30345.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to ''Occupational Health and Safety Research,'' PA 04–038.

For Further Information Contact: Charles N. Rafferty, Ph.D., Designated Federal Official, 100 Clifton Road, Mailstop E–74, Atlanta, GA 30333, telephone (404) 498–2582.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: November 8, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–19235 Filed 11–14–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of Proposed Modification or Alteration to a System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify an existing system of records titled, ''Unique Physician/Practitioner Identification Number (UPIN),'' System No. 09–70–0525, most recently modified at 69 FR 75316 (December 16, 2004). We propose to delete published routine use number 1 that permits the release of the identification of each physician or non-physician practitioner who has been assigned a UPIN and who is participating in the Medicare program. Selected UPIN information to carry out this requirement is available as a public use file, and as such, should not be treated as a routine use disclosure. We will broaden the ''Purpose'' section of this notice to include this requirement as one of the primary purposes of this system.

We propose to modify existing routine use number 2 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charges with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will be renumbered as routine use number 1. We will delete routine use number 6 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject.

We will broaden the scope of routine uses number 8 and 9, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating ''waste'' which refers to specific beneficiary/recipient practices that result in unnecessary cost to all Federally-funded health benefit programs. We also propose to add a routine use for the release of information to assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment-related projects. The added routine use will be numbered as routine use number 3.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the SOR is to: (1) Collect and maintain an unique identification of each physician, non-physician practitioner, or medical group practice requesting or receiving Medicare payment, and (2) provide beneficiaries and other interested entities with the identification of each physician or non-physician practitioner assigned an UPIN and who are participating in the Medicare program. Information retrieved from this SOR will be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant, or CMS grantee; (2) assist another Federal and/or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (4) assist Quality Improvement Organizations; (5) provide the American Medical Association with information needed for them to assist us in identifying physicians; (6) support litigation involving the Agency; and (7) combat fraud, waste, and abuse in certain health benefits programs. We have provided background information about the modified system in the ''Supplementary Information'' section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. *See Effective Dates* section for comment period.

DATES: *Effective Dates:* CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 7, 2006. To ensure that all parties have adequate time in which to comment, the modified system, including routine uses, will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Kimberly Brandt, Director, Program Integrity Group, Office of Financial Management, CMS, 7500 Security Boulevard, C3–02–17, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–5704.

SUPPLEMENTARY INFORMATION:

Description of the Modified System of Records

A. Statutory and Regulatory Basis For System of Records

In 1988, CMS modified an SOR under the authority of §§ 1842 (r)—(42 U.S.C. 1395u) of Public Law 101–508; 1861(s)(1)—(42 U.S.C. 1395x); §§ 1833 (q)(1)—(42 U.S.C. 1395l); 1842(b)(18)—(42 U.S.C. 1395u); (1842 (h)(4) & (5)—(42 U.S.C. 1395u); and 4164 of Omnibus Budget Reconciliation Act of 1990 (OBRA). Section 1871 (a)(1)—(42 U.S.C. 1395hh) provides that the Secretary shall prescribe such regulations as may be necessary to carry out the administration of the insurance program under Title XVIII. Section 1833 (d)—(42 U.S.C. 1395l), prohibits making payment under Part B for services which are payable under Part A. It contains records of all physicians, non-physician practitioners and medical group practice as defined by section 1861(r)—(42 U.S.C. 1395x), 1877(h)(4)—(42 U.S.C. 1395) of Title XVIII of the Act, who provide services for which payment is made under Medicare. By

uniquely identifying all Part B health professional and practitioners and groups, CMS believes we will eliminate the possibility of double payment.

Medicare carriers currently identify physicians, non-physician practitioners and groups using their own systems of assigned numbers. These individualized systems allow for Physician Identification Numbers (PIN) ranging from 4 to 16 alphabetic and or numeric characters. Some carriers assign separate PIN to the same physician providing medical services in more than one locality, office or practice and lack the capability to cross reference the PIN and related physician data (*e.g.*, group affiliation).

Other carriers maintain a single PIN or cross-referenced PIN for each physician practicing within the carrier's geographic area of responsibility. The assignment of a unique identification number will help eliminate the possibility of double billing where physicians, non-physician practitioners, and groups can furnish medical services in, as well as bill for these services from several locations or States which are in different carrier jurisdictions. In addition, independent physicians who have been found to be ineligible for Medicare payments in one area, location or State are prevented from receiving inappropriate or illegal payment in one or more other areas, locations or States.

In order to rectify the problems inherent in these individualized identification systems, CMS proposed to expand the Registry under Congressional mandate (Section 9202 of the Consolidated Omnibus Reconciliation Act of 1985, Pub. L. 99272) that created uniform record system under UPIN. The proposed changes to this national system or Registry of Unique Physician/Practitioner Identification Number will enable CMS to more readily identify all physicians, non-physician practitioners, and group practices deemed ineligible for Medicare payments and maintain more comprehensive data on physician credentials.

B. Collection and Maintenance of Data in the System

The records contain a UPIN for each physician, non-physician practitioner, and medical group practices defined by §§ 1124(A)—(42 U.S.C. 1320A–3), 1861(r), 1842(b)(18)(ii)(iii)(iv)(v)(r), and 1877(h)(4) of the Act who request or receive Medicare reimbursement for medical services. The system contains a UPIN, tax identification, and social security number for each physician, non-physician practitioner and medical group. Also, the system contains information concerning a provider's birth, residence, medical education, and eligibility information necessary for Medicare reimbursement.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release UPIN information that can be associated with each physician, non-physician practitioner and medical group practices as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use. Identifiable data includes individual records with UPIN information and identifiers. Non-identifiable data includes individual records with UPIN information and masked identifiers or UPIN information with identifiers stripped out of the file.

We will only disclose the minimum personal data necessary to achieve the purpose of UPIN. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. In general, disclosure of information from the system of records will be approved only for the minimum information necessary to accomplish the purpose of the disclosure after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; *e.g.*, maintain unique identification of each physician, non-physician practitioner, or medical group practice requesting or receiving Medicare payment.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the UPIN without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We propose to establish or modify the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or grantees who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this SOR.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant, or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant, or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant, or grantee to return or destroy all information at the completion of the contract.

2. To assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent pursuant to agreements with CMS to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/State Medicaid programs within may require UPIN information for purposes related to this system.

The RRB requires UPIN information to enable them to assist in the implementation and maintenance of the Medicare program.

SSA requires UPIN data to enable them to assist in the implementation and maintenance of the Medicare program.

The Internal Revenue Service may require UPIN data for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plan or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y (b).

Disclosure under this routine use shall be used by State Medicaid agencies pursuant to agreements with HHS for administration of State supplementation payments for determinations of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under section 1843 of the Act, for quality control studies, for determining eligibility of recipients of assistance under Titles IV and XIX of the Act, and for the complete administration of the Medicaid program. UPIN data will be released to the State only on those individuals who are patients under the services of a Medicaid program within the State or who are residents of that State.

Occasionally State licensing boards require access to the UPIN data for review of unethical practices or nonprofessional conduct.

We also contemplate disclosing information under this routine use in situations in which State auditing agencies require UPIN information for auditing of Medicare eligibility considerations. Disclosure of physicians' customary charge data are made to State audit agencies in order to ascertain the corrections of Title XIX charges and payments. CMS may enter into an agreement with State auditing agencies to assist in accomplishing functions relating to purposes for this SOR.

State and other governmental worker's compensation agencies working with CMS to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

3. To assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

The collected data will provide the research, evaluation and epidemiological projects a broader, longitudinal, national perspective of the data. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare patients and the policy that governs the care. CMS understands the concerns about the privacy and confidentiality of the release of data for a research use. Disclosure of data for research and evaluation purposes may involve aggregate data rather than individual-specific data.

4. To support Quality Improvement Organizations (QIO) in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

QIOs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to State agencies. QIOs will assist the State agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

5. To support the American Medical Association (AMA), for the purpose of assisting CMS to identify medical doctors when CMS is unable to establish an identity, provided the AMA agrees to:

a. Use the information provided by CMS solely to identify a medical doctor;

b. Make no copies of the information it receives from the CMS, except for one back-up copy;

c. Return such information to CMS upon completion of its matching operation, and erase the back-up copy;

d. Establish appropriate administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the records; and,

e. Sign a written statement attesting to its understanding of, and willingness to abide by these provisions.

CMS exchanges information with the AMA for the purpose of attempting to identify medical doctors when the UPIN Registry is unable to establish identity after matching carrier-submitted data to the data extract provided by the AMA. The AMA would attempt to establish medical doctor identity by matching the UPIN data to data maintained in the AMA Physician Master File.

6. To assist the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. any employee of the Agency in his or her official capacity, or

c. any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. the United States Government,

is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

7. To assist a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste or abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

8. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

Other agencies may require UPIN information for the purpose of combating fraud, waste or abuse in such federally funded programs.

B. Additional Circumstances Affecting Routine Use Disclosures

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, subparts A and E) 65 FR 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (*See* 45 CFR 164–512 (a) (1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: November 1, 2006.

Charlene Frizzera,

Acting Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0525

SYSTEM NAME:

''Unique Physician/Practitioner Identification Number'' (UPIN), HHS/CMS/OFM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850. The system is also located at CMS contractors and agents at various locations (*see* Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All physicians, non-practitioners and medical groups practices, defined by §§ 1124(A), 1861(r), 1842(b)(I)(ii)(iii)(iv)(v)(r), and 1877(h)(4) of the Social Security Act who request or receive Medicare reimbursement for medical services.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains an UPIN, tax identification, and social security number (SSN) for each physician, non-physician practitioner and medical group. Also, the system contains information concerning a provider's birth, residence, medical education, and eligibility information for Medicare reimbursement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the collection and maintenance of this system is given under the provisions of §§ 1842(r)–(42 U.S.C. 1395u) of Pub. L. 101–508; 1861(s)(1)–(42 U.S.C. 1395x); §§ 1833(q)(1)–(42 U.S.C. 1395l); 1842(b)(18)–(42 U.S.C. 1395u); § 1842(h)(4) & (5)–(42 U.S.C. 1395u); and 4164 of Omnibus Budget Reconciliation Act of 1990 (OBRA).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to: (1) Collect and maintain an unique identification of each physician, non-physician practitioner, or medical group practice requesting or receiving Medicare payment, and (2) provide beneficiaries and other interested entities with the identification of each physician or non-physician practitioner assigned an UPIN and who are participating in the Medicare program. Information retrieved from this SOR will be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant, or CMS grantee; (2) assist another Federal and/or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (4) assist Quality Improvement Organizations; (5) provide the American Medical Association with

information needed for them to assist us in identifying physicians; (6) support litigation involving the Agency; and (7) combat fraud, waste, and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the UPIN without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We propose to establish or modify the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or grantees who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.

2. To assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent pursuant to agreements with CMS to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/State Medicaid programs within may require UPIN information for purposes related to this system.

3. To assist an individual or organization for research, evaluation or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects.

4. To support Quality Improvement Organizations (QIO) in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

5. To support the American Medical Association (AMA), for the purpose of assisting CMS to identify medical doctors when CMS is unable to establish an identity, provided the AMA agrees to:

a. Use the information provided by CMS solely to identify a medical doctor;

b. Make no copies of the information it receives from the CMS, except for one back-up copy;

c. Return such information to CMS upon completion of its matching operation, and erase the back-up copy;

d. Establish appropriate administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the records; and,

e. Sign a written statement attesting to its understanding of, and willingness to abide by these provisions.

6. To assist the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government,

Is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

7. To assist a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program.

8. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

B. Additional Circumstances Affecting Routine Use Disclosures

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, subparts A and E) 65 FR 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (*See* 45 CFR 164–512(a)(1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

The records are retrieved alphabetically by the provider name, social security number or by their assigned UPIN.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply

but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS and the repository of the National Archive and Records Administration will retain identifiable UPIN assessment data for a total period not to exceed fifteen (15) years.

SYSTEM MANAGER AND ADDRESS:

Director, Program Integrity Group, Office of Financial Management, CMS, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager, who will require the system name, health insurance claim number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), social security number (SSN) (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay), address, date of birth, and sex.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

CMS obtains the identifying information in this system from carriers. Information in these records concerning the eligibility of physicians, practitioners, and medical groups for Medicare reimbursement is obtained either directly from such entities through Medicare Regional Offices, contractors, PRO, Department of Justice, State or local judicial systems, medical licensing and certification agencies or organizations, medical societies and medical associations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A. Health Insurance Claims

Medicare records are maintained at the CMS Central Office (*see* section 1 below for the address). Health Insurance Records of the Medicare program can also be accessed through a representative of the CMS Regional Office (*see* section 2 below for addresses). Medicare claims records are also maintained by private insurance organizations that share in administering provisions of the health insurance programs. These private insurance organizations, referred to as carriers and intermediaries, are under contract to the Centers for Medicare & Medicaid Services and the Social Security Administration to perform specific tasks in the Medicare program (*see* section three below for addresses for intermediaries, section four addresses the carriers, and section five addresses the Payment Safeguard Contractors.

1. Central Office Address

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

2. CMS Regional Offices

Boston Region—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont. John F. Kennedy Federal Building, Room 1211, Boston, Massachusetts 02203. Office Hours: 8:30 a.m.–5 p.m.

New York Region—New Jersey, New York, Puerto Rico, Virgin Islands. 26 Federal Plaza, Room 715, New York, New York 10007, Office Hours: 8:30 a.m.–5 p.m.

Philadelphia Region—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia. Post Office Box 8460, Philadelphia, Pennsylvania 19101. Office Hours: 8:30 a.m.–5 p.m.

Atlanta Region—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee. 101 Marietta Street, Suite 702, Atlanta, Georgia 30223, Office Hours: 8:30 a.m.–4:30 p.m.

Chicago Region—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin. Suite A—824, Chicago, Illinois 60604. Office Hours: 8 a.m.–4:45 p.m.

Dallas Region—Arkansas, Louisiana, New Mexico, Oklahoma, Texas, 1200 Main Tower Building, Dallas, Texas. Office Hours: 8 a.m.–4:30 p.m.

Kansas City Region—Iowa, Kansas, Missouri, Nebraska. New Federal Office Building, 601 East 12th Street—Room 436, Kansas City, Missouri 64106. Office Hours: 8 a.m.–4:45 p.m.

Denver Region—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. Federal Office Building, 1961 Stout St.—Room 1185, Denver, Colorado 80294. Office Hours: 8 a.m.–4:30 p.m.

San Francisco Region—American Samoa, Arizona, California, Guam, Hawaii, Nevada. Federal Office Building, 10 Van Ness Avenue, 20th Floor, San Francisco, California 94102. Office Hours: 8 a.m.–4:30 p.m.

Seattle Region—Alaska, Idaho, Oregon, Washington. 1321 Second Avenue, Room 615, Mail Stop 211, Seattle, Washington 98101. Office Hours 8 a.m.–4:30 p.m.

3. Intermediary Addresses (Hospital Insurance)

Medicare Coordinator, Assoc. Hospital Serv. Maine (ME BC), 2 Gannett Drive South, Portland, ME 04106–6911.

Medicare Coordinator, Anthem New Hampshire, 300 Goffs Falls Road, Manchester, NH 03111–0001.

Medicare Coordinator, BC/BS Rhode Island (RI BC), 444 Westminster Street, Providence, RI 02903–3279.

Medicare Coordinator, Empire Medicare Services, 400 S. Salina Street, Syracuse, NY 13202.

Medicare Coordinator, Cooperativa, P.O. Box 363428, San Juan, PR 00936–3428.

Medicare Coordinator, Maryland B/C, P.O. Box 4368, 1946 Greenspring Ave., Timonium, MD 21093.

Medicare Coordinator, Highmark, P5103, 120 Fifth Avenue Place, Pittsburgh, PA 15222–3099.

Medicare Coordinator, United Government Services, 1515 N. Rivercenter Dr., Milwaukee, WI 53212.

Medicare Coordinator, Alabama B/C, 450 Riverchase Parkway East, Birmingham, AL 35298.

Medicare Coordinator, Florida B/C, 532 Riverside Ave., Jacksonville, FL 32202–4918.

Medicare Coordinator, Georgia B/C, P.O. Box 9048, 2357 Warm Springs Road, Columbus, GA 31908.

Medicare Coordinator, Mississippi B/C MS, P.O. Box 23035, 3545 Lakeland Drive, Jackson, MS 39225–3035.

Medicare Coordinator, North Carolina B/C, P.O. Box 2291, Durham, NC 27702–2291.

Medicare Coordinator, Palmetto GBA A/RHHI, 17 Technology Circle, Columbia, SC 29203–0001.

Medicare Coordinator, Tennessee B/C, 801 Pine Street, Chattanooga, TN 37402–2555.

Medicare Coordinator, Anthem Insurance Co. (ANTHM IN), P.O. Box 50451, 8115 Knue Road, Indianapolis, IN 46250–1936.

Medicare Coordinator, Arkansas B/C, 601 Gaines Street, Little Rock, AR 72203.

Medicare Coordinator, Group Health of Oklahoma, 1215 South Boulder, Tulsa, OK 74119–2827.

Medicare Coordinator, Trailblazer, P.O. Box 660156, Dallas, TX 75266–0156.

Medicare Coordinator, Cahaba GBA, Station 7, 636 Grand Avenue, Des Moines, IA 50309–2551.
Medicare Coordinator, Kansas B/C, P.O. Box 239, 1133 Topeka Ave., Topeka, KS 66629–0001.
Medicare Coordinator, Nebraska B/C, P.O. Box 3248, Main PO Station, Omaha, NE 68180–0001.
Medicare Coordinator, Mutual of Omaha, P.O. Box 1602, Omaha, NE 68101.
Medicare Coordinator, Montana B/C, P.O. Box 5017, Great Falls Div., Great Falls, MT 59403–5017.
Medicare Coordinator, Noridian, 4510 13th Avenue SW., Fargo, ND 58121–0001.
Medicare Coordinator, Utah B/C, P.O. Box 30270, 2455 Parleys Way, Salt Lake City, UT 84130–0270.
Medicare Coordinator, Wyoming B/C, 4000 House Avenue, Cheyenne, WY 82003.
Medicare Coordinator, Arizona B/C, P.O. Box 37700, Phoenix, AZ 85069.
Medicare Coordinator, UGS, P.O. Box 70000, Van Nuys, CA 91470–0000.
Medicare Coordinator, Regents BC, P.O. Box 8110 M/S D–4A, Portland, OR 97207–8110.
Medicare Coordinator, Premera BC, P.O. Box 2847, Seattle, WA 98111–2847.

4. Medicare Carriers

Medicare Coordinator, NHIC, 75 Sargent William Terry Drive, Hingham, MA 02044.
Medicare Coordinator, B/S Rhode Island (RI BS), 444 Westminster Street, Providence, RI 02903–2790.
Medicare Coordinator, Trailblazer Health Enterprises, Meriden Park, 538 Preston Ave., Meriden, CT 06450.
Medicare Coordinator, Upstate Medicare Division, 11 Lewis Road, Binghamton, NY 13902.
Medicare Coordinator, Empire Medicare Services, 2651 Strang Blvd., Yorktown Heights, NY, 10598.
Medicare Coordinator, Empire Medicare Services, NJ, 300 East Park Drive, Harrisburg, PA 17106.
Medicare Coordinator, Triple S, #1441 F.D., Roosevelt Ave., Guaynabo, PR 00968.
Medicare Coordinator, Group Health Inc., 4th Floor, 88 West End Avenue, New York, NY 10023.
Medicare Coordinator, Highmark, P.O. Box 89065, 1800 Center Street, Camp Hill, PA 17089–9065.
Medicare Coordinator, Trailblazers Part B, 11150 McCormick Drive, Executive Plaza 3 Suite 200, Hunt Valley, MD 21031.
Medicare Coordinator, Trailblazer Health Enterprises, Virginia, P.O. Box 26463, Richmond, VA 23261–6463.
United Medicare Coordinator, Tricenturion, 1 Tower Square, Hartford, CT 06183.
Medicare Coordinator, Alabama B/S, 450 Riverchase Parkway East, Birmingham, AL 35298.
Medicare Coordinator, Cahaba GBA, 12052 Middleground Road, Suite A, Savannah, GA 31419.
Medicare Coordinator, Florida B/S, 532 Riverside Ave, Jacksonville, FL 32202–4918.
Medicare Coordinator, Administar Federal, 9901 Linnstation Road, Louisville, KY 40223.
Medicare Coordinator, Palmetto GBA, 17 Technology Circle, Columbia, SC 29203–0001.
Medicare Coordinator, CIGNA, 2 Vantage Way, Nashville, TN 37228.
Medicare Coordinator, Railroad Retirement Board, 2743 Perimeter Parkway, Building 250, Augusta, GA 30999.
Medicare Coordinator, Cahaba GBA, Jackson, Miss, P.O. Box 22545, Jackson, MS 39225–2545.
Medicare Coordinator, Adminastar Federal (IN), 8115 Knue Road, Indianapolis, IN 46250–1936.
Medicare Coordinator, Wisconsin Physicians Service, P.O. Box 8190, Madison, WI 53708–8190.
Medicare Coordinator, Nationwide Mutual Insurance Co., P.O. Box 16788, 1 Nationwide Plaza, Columbus, OH 43216–6788.
Medicare Coordinator, Arkansas B/S, 601 Gaines Street, Little Rock, AR 72203.
Medicare Coordinator, Arkansas—New Mexico, 601 Gaines Street, Little Rock, AR 72203.
Medicare Coordinator, Palmetto GBA—DMERC, 17 Technology Circle, Columbia, SC 29203–0001.
Medicare Coordinator, Trailblazer Health Enterprises, 901 South Central Expressway, Richardson, TX 75080.
Medicare Coordinator, Nordian, 636 Grand Avenue, Des Moines, IA 50309–2551.
Medicare Coordinator, Kansas B/S, P.O. Box 239, 1133 Topeka Ave., Topeka, KS 66629–0001.
Medicare Coordinator, Kansas B/S—NE, P.O. Box 239, 1133 Topeka Ave., Topeka, KS 66629–0239.
Medicare Coordinator, Montana B/S, P.O. Box 4309, Helena, MT 59601.
Medicare Coordinator, Nordian, 4305 13th Avenue South, Fargo, ND 58103–3373.
Medicare Coordinator, Noridian Bcbsnd (C0), 730 N. Simms #100, Golden, CO 80401–4730.
Medicare Coordinator, Noridian Bcbsnd (WY), 4305 13th Avenue South, Fargo, ND 58103–3373.
Medicare Coordinator, Utah B/S, P.O. Box 30270, 2455 Parleys Way, Salt Lake City, UT 84130–0270.
Medicare Coordinator, Transamerica Occidental, P.O. Box 54905, Los Angeles, CA 90054–4905.
Medicare Coordinator, NHIC—California, 450 W. East Avenue, Chico, CA 95926.
Medicare Coordinator, Cigna, Suite 254, 3150 Lakeharbor, Boise, ID 83703.
Medicare Coordinator, Cigna, Suite 506, 2 Vantage Way, Nashville, TN 37228.

Payment Safeguard Contractors

Medicare Coordinator, Aspen Systems Corporation, 2277 Research Blvd., Rockville, MD 20850.
Medicare Coordinator, DynCorp Electronic Data Systems (EDS), 11710 Plaza America Drive, 5400 Legacy Drive, Reston, VA 20190–6017.
Medicare Coordinator, Lifecare Management Partners Mutual of Omaha Insurance Co., 6601 Little River Turnpike, Suite 300, Mutual of Omaha Plaza, Omaha, NE 68175.
Medicare Coordinator, Reliance Safeguard Solutions, Inc., P.O. Box 30207, 400 South Salina Street, 2890 East Cottonwood Pkwy., Syracuse, NY 13202.
Medicare Coordinator, Science Applications International, Inc., 6565 Arlington Blvd. P.O. Box 100282, Falls Church, VA.
Medicare Coordinator, California Medical Review, Inc., Integriguard Division Federal Sector Civil Group One, Sansome Street, San Francisco, CA 94104–4448.
Medicare Coordinator, Computer Sciences Corporation, Suite 600, 3120 Timanus Lane, Baltimore, MD 21244.
Medicare Coordinator, Electronic Data Systems (EDS), 11710 Plaza America Drive, 5400 Legacy Drive, Plano, TX 75204.
Medicare Coordinator, TriCenturion, L.L.C., P.O. Box 100282, Columbia, SC 29202.

[FR Doc. E6–19212 Filed 11–14–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0328]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Additive Petitions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 15, 2006.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Additive Petitions—21 CFR Part 571 (OMB Control Number 0910–0546)—Extension

Section 409(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(a)), provides that a food additive shall be deemed to be unsafe unless its use is permitted by a regulation which prescribes the condition(s) under which it may safely be used, or unless it is exempted by regulation for investigational use. Section 409(b) of the act (21 U.S.C. 348(b)) specifies the information that must be submitted by a petition in order to establish the safety of a food additive and to secure the issuance of a regulation permitting its use.

To implement the provision of section 409 of the act (21 U.S.C. 348), procedural regulations have been issued under part 571 (21 CFR part 571). These procedural regulations are designed to specify more thoroughly the information that must be submitted to meet the requirement set down in broader terms by the law. The regulations add no substantive requirements to those indicated in the law, but attempt to explain the requirements and provide a standard format for submission to speed the processing of the petition. Labeling requirements for food additives intended for animal consumption are also set forth in various regulations contained in 21 CFR parts 573 and 582. The labeling regulations are considered by FDA to be cross-referenced to § 571.1, which is the subject of this same OMB clearance for food additive petitions.

On September 29, 2004, OMB approved a new information collection on food additive petitions submitted by the Center for Veterinary Medicine (CVM). The terms of clearance for this information collection stated that, given the interrelatedness of this collection to the information collected under OMB control number 0910–0016 by the Center for Food Safety and Applied Nutrition (CFSAN), FDA should consider merging the two collections. In consultation with CFSAN, CVM has decided not to merge these two collections, because what was once a food additive petitions approval (OMB control number 0910–0016), is now also the approval for affirmation of generally recognized as safe (GRAS) status (formerly OMB control number 0910–0132), labeling requirements for color additives (other than hair dyes) and petitions (formerly OMB control number 0910–0185), electronic submission of food and color additive petitions (formerly OMB control number 0910–0480), and substances approved for use in the preparation of meat and poultry products (formerly OMB control number 0910–0461). Thus, adding one CVM process to a collection now containing four dissimilar CFSAN processes is not justifiable any more. Finally, the CVM food additive petition process stems from a different section of the CFR and the two processes are handled separately. CVM's food additive petition process relates to part 571; CFSAN's process relates to 21 CFR part 171. There is no efficiency in discussing these separate processes in a single collection of information.

Respondents are expected to be the veterinary feed industry.

FDA estimates the burden of this collection of information as follows:

The estimated annual burden for this information collection is 18,000 hours.

Food additive petitions submitted to CVM are estimated to fall into one of two categories of complexity that also can be used to represent estimates of the information collection burden for food additive petitions. These include only expected petitions for food additives not eligible for exemption under new section 409(h) of the act (21 U.S.C. 348(h)).

Under § 571.1(c) moderate category, for a food additive petition without complex chemistry, manufacturing, efficacy, or safety issues, the estimated time requirement per petition is approximately 3,000 hours. An average of one petition of this type is received on an annual basis, resulting in a burden of 3,000 hours.

Under § 571.1(c) complex category, for a food additive petition with complex chemistry, manufacturing, efficacy, and/or safety issues, the estimated time requirement per petition is approximately 10,000 hours. An average of one petition of this type is received on an annual basis, resulting in a burden of 10,000 hours.

Under § 571.6, for a food additive petition amendment, the estimated time requirement per petition is approximately 1,300 hours. An average of four petitions of this type are received on an annual basis, resulting in a burden of 5,200 hours.

In the **Federal Register** of September 1, 2006 (71 FR 52124), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
571.1(c) moderate category	1	1	1	3,000	3,000
571.1(c) complex category	1	1	1	10,000	10,000
571.6	2	2	4	1,300	5,200
Total					18,200

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: November 6, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–19201 Filed 11–14–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0452]

Agency Information Collection Activities; Proposed Collection; Comment Request; Agreement for Shipment of Devices for Sterilization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements relating to shipment of nonsterile devices that are to be sterilized elsewhere or are shipped to other establishments for further processing, labeling, or repacking.

DATES: Submit written or electronic comments on the collection of information by January 16, 2007.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agreement for Shipment of Devices for Sterilization—21 CFR 801.150(e) (OMB Control Number 0910–0131)—Extension

Under sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(c) and 352(a)), nonsterile devices that are labeled as sterile but are in interstate transit to a facility to be sterilized are adulterated and misbranded. FDA regulations in § 801.150(e) (21 CFR 801.150(e)) establish a control mechanism by which firms may manufacture and label medical devices as sterile at one establishment and ship the devices in interstate commerce for sterilization at another establishment, a practice that facilitates the processing of devices and is economically necessary for some firms. Under § 801.150(e), manufacturers and sterilizers may sign an agreement containing the following: (1) Instructions for maintaining accountability of the number of units in each shipment; (2) acknowledgment that the devices that are nonsterile are being shipped for further processing; and (3) specifications for sterilization processing.

This agreement allows the manufacturer to ship misbranded products to be sterilized without initiating regulatory action and provides FDA with a means to protect consumers from use of nonsterile products. During routine plant inspections, FDA normally reviews agreements that must be kept for 2 years after final shipment or delivery of devices.

The respondents to this collection of information are device manufacturers and contact sterilizers.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801.150(e)	90	20	1,800	4	7,200

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Record	Total Hours
801.150(a)(2)	90	20	1,800	0.5	900

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the reporting burden is based on actual data obtained from industry over the past several years where there are approximately 90 firms subject to this requirement. It is estimated that each of these firms on the average prepares 20 written agreements per year. The recordkeeping requirements of 21 CFR 801.150(a)(2) consist of making copies and maintaining the actual reporting requests which are required under the reporting section of this collection.

Dated: November 9, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–19283 Filed 11–14–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0327]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Medical Device User Fee and Modernization Act Small Business Qualification Certification (Form FDA 3602)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 15, 2006.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device User Fee and Modernization Act Small Business Qualification Certification (Form FDA 3602)—(OMB Control Number 0910–0508)—Extension

The Medical Device User Fee and Modernization Act (MDUFMA) small business qualification certification form (Form FDA 3602), amends the Federal Food, Drug, and Cosmetic Act to provide for user fees for certain medical device applications. FDA published a **Federal Register** notice on August 2, 2006 (71 FR 43784), announcing fees for fiscal year (FY) 2007. To avoid harming small businesses, MDUFMA provides for reduced or waived fees for applicants who qualify as a ''small business.'' This means there are two levels of fees, a standard fee, and a reduced or waived small business fee.

For FY 2006, you can qualify for a small business fee discount under MDUFMA if you reported gross receipts or sales of no more than $100 million on your Federal income tax return for the most recent tax year. If you have any affiliates, partners, or parent firms, you must add their gross receipts or sales to yours and the total must be no more than $100 million. If your gross receipts or sales are no more than $30 million (including all of your affiliates, partners, and parent firms), you will also qualify for a waiver of the fee for your first (ever) premarket application (PMA, product development protocol (PDP), biologics license application (BLA), or premarket report). An applicant must pay the full standard fee unless it provides evidence demonstrating to FDA that it meets the ''small business'' criteria. The evidence required by MDUFMA is a copy of the most recent Federal income tax return of the applicant, and any affiliate, partner, or parent firm. FDA will review these materials and decide whether an applicant is a ''small business'' within the meaning of MDUFMA.

Form FDA 3602 is available in the guidance document entitled ''Guidance for Industry and FDA: FY 2006 MDUFMA Small Business Qualification Worksheet and Certification.'' This guidance describes the criteria FDA will use to decide whether an entity qualifies as a MDUFMA small business and will help prospective applicants understand what they need to do to meet the small business criteria for FY 2006 and subsequent fiscal years.

In the **Federal Register** of August 29, 2006 (71 FR 51196), FDA published a 60-day notice soliciting comments on the information collection provisions. In response to that notice, no comments were received.

Description of Respondents: Respondents will be businesses or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
3602	2,000	1	2,000	1	2,000
Total					2,000

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden is based on the number of applications received in the last 3 years.

Dated: November 9, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–19285 Filed 11–14–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Joint Meeting of the Anti-Infective Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Anti-Infective Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 14, 2006, from 8 a.m. to 6 p.m. and on December 15, 2006, from 8 a.m. to 5 p.m.

Location: Crowne Plaza/Silver Spring, The Ballrooms, 8777 Georgia Ave., Silver Spring, MD. The hotel telephone number is 301–589–0800.

Contact Person: Sohail Mosaddegh, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *sohail.mosaddegh@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area), codes 3014512530 or 3014512535. Please call the Information Line for up-to-date information on this meeting.

Agenda: On both days, the committee will discuss the overall benefit to risk considerations for the approved product KETEK (telithromycin), new drug application (NDA) 21–144, with the current indications of: Acute bacterial exacerbations of chronic bronchitis, acute bacterial sinusitis, and community acquired pneumonia, manufactured by Sanofi-Aventis.

The background material will become available no later than the day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm* under the headings Anti-Infective Drugs Advisory Committee or Drug Safety and Risk Management Advisory Committee. (Click on the year 2006 and scroll down to the above named committee meetings.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. Written submissions may be made to the contact person on or before November 30, 2006. Oral presentations from the public will be scheduled between approximately 10 a.m. to 11 a.m. on December 15, 2006. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 30, 2006.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sohail Mosaddegh at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 8, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–19249 Filed 11–14–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0414]

Psychopharmacologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Psychopharmacologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 13, 2006, from 8 a.m. to 5 p.m.

Addresses: Electronic comments should be submitted to*http://www.fda.gov/dockets/ecomments*. Select ''2006N–0414 Suicidality data from Adult Antidepressant Trials'' and follow the prompts to submit your statement. Written comments should be submitted to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, by close of business on December 1, 2006. All comments received will be posted without change, including any personal information provided. Comments received on or before December 1, 2006, will be provided to the committee before the meeting.

Location: Hilton Washington DC/Silver Spring, The Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD. The hotel phone number is 301–589–5200.

Contact Person: Cicely Reese, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *Cicely.Reese@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512544. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the results of the FDA ongoing meta-analysis of suicidality data from adult antidepressant trials. The background material will become available no later than the day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. Under the heading ''Psychopharmacologic Drugs Advisory Committee (PDAC).'' (Click on year 2006 and scroll down to PDAC meetings).

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written

submissions may be made to the contact person on or before November 21, 2006. Oral presentations from the public will be scheduled between approximately 10 a.m. and 12 noon. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 21, 2006. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 27, 2006.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cicely Reese at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 1, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E6–19248 Filed 11–14–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; amended at 67 FR 46519, July 15, 2002; 68 FR 787–793, January 7, 2003, 68 FR 64357–64358, November 13, 2003; at 69 FR 56433–56434, September 21, 2004; 70 FR 61293–61294, October 21, 2005; and last amended at 71 FR 46237–46238, August 11, 2006).

This notice reflects changes to the organization and functions of the Office of the Administrator (RA), Office of Rural Health Policy (RH) and the Bureau of Primary Health Care (RC). Specifically, it moves the Intergovernmental Affairs function within the Office of Communication (RA6) from the Office of Administrator (OA) to the Office of Rural Health Policy (RH). Additionally, it moves the Black Lung Clinic Program and the Radiation Exposure Screening and Education Program from the Bureau of Primary Health Care (RC) to the Office of Rural Health Policy (RH).

Chapter RA—Office of the Administrator

Section RA–10, Organization

The Offices under the Immediate Office of the Administrator consist of the following components:

(1) Immediate Office of the Administrator (RA);

(2) Office of Equal Opportunity and Civil Rights (RA2);

(3) Office of Planning and Evaluation (RA5);

(4) Office of Communications (RA6);

(5) Office of Minority Health and Health Disparities (RA9);

(6) Office of Legislation (RAE);

(7) Office of Information Technology (RAG); and

(8) Office of International Health Affairs (RAH).

Section RA–20, Functions

Delete the functional statement for the Office of Communications (RA6) in its entirety and replace it with the following:

Office of Communication (RA6)

Provides leadership and general policy and program direction for, and conducts and coordinates communications and public affairs activities of the Agency. Specifically: (1) Serves as focal point for coordination of Agency communications activities with those of other health agencies within the Department of Health and Human Services and with field, State, local, voluntary and professional organizations; (2) develops and implements national communications initiatives to inform and educate the public, health care professionals, policy makers and the media; (3) coordinates, researches, writes and prepares speeches and audiovisual presentations for the HRSA Administrator and staff; (4) provides communication and public affairs expertise and staff advice and support to the Administrator in program and policy formulations and execution consistent with policy direction established by the Assistant Secretary for Public Affairs; (5) develops and implements policies and procedures related to external media relations and internal employee communications including those for the development, review, processing, quality control, and dissemination of Agency communications materials, including exhibits and those disseminated electronically; (6) serves as Communications and Public Affairs Officer for the Agency including establishment and maintenance of productive relationships with the news media; (7) coordinates the implementation of the Freedom of Information Act for the Agency; and (8) manages audio visual and multimedia activities in support of communications efforts through multiple media formats.

Chapter RH—Office of Rural Health Policy

Section RH–10, Organization

The Office of Rural Health Policy is headed by the Associate Administrator who reports directly to the Administrator, HRSA. Specifically, this notice amends the functional statement by adding responsibility for the Black Lung Clinic Program; Radiation Exposure Screening and Education Program, and Intergovernmental Affairs.

Section RH –20, Functions

Delete the functional statement for the former Rural Health Policy (RH) in its entirety and replace with the following:

The Office of Rural Health Policy (RH) serves as a focal point within the Department and as a principal source of advice to the Administrator and Secretary for coordinating efforts to strengthen and improve the delivery of health services to populations in the Nation's rural areas and border areas, providing leadership and interacting with stakeholders in the delivery of health care to underserved and at risk populations. Specifically, the Office of Rural Health Policy is organized around the following primary issue areas:

Delivery of Health Services: (1) Collects and analyzes information regarding the special problems of rural health care providers and populations; (2) works with States, State hospital associations, private associations, foundations, and other organizations to focus attention on, and promote solutions to problems related to the delivery of health services in rural communities; (3) provides staff support

to the National Advisory Committee on Rural Health and Human Services; (4) stimulates and coordinates interaction on rural health activities and programs in the Agency, Department and with other Federal agencies; (5) supports rural health center research and keeps informed of research and demonstration projects funded by States and foundations in the field of rural health care delivery; (6) establishes and maintains a resource center for the collection and dissemination of the latest information and research findings related to the delivery of health services in rural areas; (7) coordinates congressional and private sector inquiries related to rural health; (8) advises the Agency, Administrator and Department on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX of the Social Security Act on the financial viability of small rural hospitals, the ability of rural areas to attract and retain physicians and other health professionals; (9) oversees compliance by CMS with the requirement that rural hospital impact analyses are developed whenever proposed regulations might have a significant impact on a substantial number of small rural hospitals; (10) supports specialized rural programs on minority health, mental health, preventive health education, oral health and occupational health and safety; (11) plans and manages a nationwide rural health grants program; (12) plans and manages a program of State grants which support collaboration within State offices of rural health; (13) plans, directs, and coordinates the Agency's border health activities; (14) funds public and private non-profit entities for the operation of clinics that provide diagnosis, treatment and rehabilitation of active and retired coal miners and others with respiratory ailments (black lung) and other occupational related respiratory disease impairments; and (15) funds radiation exposure screening and education programs that screen eligible individuals adversely affected by the mining, transport and processing of uranium and the testing of nuclear weapons for cancer and other diseases.

Intergovernmental Affairs: (1) Provides the Administrator with a single point of contact on all activities related to important State and local government, stakeholder association, and interest group activities; (2) coordinates Agency cross-Bureau cooperative agreements and activities with organizations such as the National Governors Association, National Conference of State Legislature, Association of State and Territorial Health Officials, National Association of Counties and National Association of County and City Health Officials; (3) interacts with various commissions such as the Delta Regional Authority, Appalachian Regional Commission, Denali Commission and the United States and Mexico Border Health Commission; and (4) serves as primary liaison to Department intergovernmental staff.

Section RH–30, Delegation of Authority

All delegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further re-delegation. I hereby ratify and affirm all actions taken by any HRSA official which involves the exercise of these authorities prior to the effective date of this delegation.

This reorganization is effective upon the date of signature.

Dated: October 31, 2006.

Elizabeth M. Duke,

Administrator.

[FR Doc. E6–19265 Filed 11–14–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239–561–8200/800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories*, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.).

Kroll Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Scientific Testing Laboratories, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272, (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 550 17th Ave., Suite 300, Seattle, WA 98122, 206–923–7020/800–898–0180, (Formerly: DrugProof, Division of Dynacare/Laboratory of Pathology, LLC; Laboratory of Pathology of Seattle, Inc.; DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: NOVAMANN (Ontario), Inc).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, 123 International Way, Springfield, OR 97477, 541–341–8092.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7897x7.

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–824–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750 (Formerly: Associated Pathologists Laboratories, Inc.).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866–370–6699/818–989–2521 (Formerly: SmithKline Beecham Clinical Laboratories).

Quest Diagnostics Incorporated, 2282 South Presidents Drive, Suite C, West Valley City, UT 84120, 801–606–6301/ 800–322–3361 (Formerly: Northwest Toxicology, a LabOne Company; LabOne, Inc., dba Northwest Toxicology; NWT Drug Testing, NorthWest Toxicology, Inc.; Northwest Drug Testing, a division of NWT Inc.).

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.

Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400 (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 NW. 79th Ave., Miami, FL 33166, 305–593–2260.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Elaine Parry,

Acting Director, Office Program Services, SAMHSA.

[FR Doc. E6–19279 Filed 11–14–06; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1664–DR]

Hawaii; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Hawaii (FEMA–1664–DR), dated October 17, 2006, and related determinations.

DATES: *Effective Date:* November 7, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now October 15, 2006, and continuing.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–19286 Filed 11–14–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1664–DR]

Hawaii; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Hawaii (FEMA–1664–DR), dated October 17, 2006, and related determinations.

DATES: *Effective Date:* November 7, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Hawaii is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 17, 2006:

Maui County and the City and County of Honolulu for Public Assistance [Categories C–G] (already designated for debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–19297 Filed 11–14–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1668–DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1668–DR), dated November 2, 2006, and related determinations.

DATES: *Effective Date:* November 2, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 2, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning on October 16, 2006, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance

Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Lee Champagne, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

The parishes of Caldwell, Franklin, Grant, LaSalle, Madison, Morehouse, Natchitoches, Richland, Sabine, Vernon, and Winn for Individual Assistance.

The parishes of Beauregard, Caldwell, Catahoula, Franklin, Grant, LaSalle, Madison, Morehouse, Richland, Sabine, Vernon, and Winn for Public Assistance.

The parishes of Beauregard, Calcasieu, Caldwell, Catahoula, Franklin, Grant, Jefferson, LaSalle, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Richland, Sabine, Tensas, Vernon, and Winn within the State of Louisiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–19296 Filed 11–14–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1667–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1667–DR), dated November 2, 2006, and related determinations.

DATES: *Effective Date:* November 2, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 2, 2006, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms during the period of July 19–21, 2006, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated area, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, under Executive Order 12148, as amended, Thomas J. Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Independent City of St. Louis for Public Assistance.

All jurisdictions within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–19288 Filed 11–14–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5041–N–45]

Notice of Proposed Information Collection: Comment Request; Request for Withdrawals From Replacements Reserves/Residual Receipts Funds

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 16, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to:

Lillian Dietzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Lillian_L._Dietzer@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly R. Munson, Housing Project Manager, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1320 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Withdrawals from Replacements Reserves/Residual Receipts Funds.

OMB Control Number, if applicable: 2502–0555.

Description of the need for the information and proposed use: Project owners are required to submit this information and required supporting documentation when requesting a withdrawal for funds from the Reserves for Replacement and/or Residual Receipt Funds. HUD reviews this information to ensure that funds are withdrawn and used in accordance with regulatory and administrative policy.

Agency form numbers, if applicable: HUD–9250.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 20,625. The number of respondents is 8,250, the frequency of response is on occasion, and the burden hour per response varies from 30 minutes to two hours.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: November 8, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. E6–19191 Filed 11–14–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–XP–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting notice.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council (RAC).

The business meeting will be held on December 7, 2006, in Phoenix, Arizona, at the Phoenix District Office located at 21605 North 7th Avenue, Phoenix, Arizona 85027. It will begin at 8 a.m. and conclude at 5 p.m. The morning agenda items to be covered include: Review of the September 6, 2006, Meeting Minutes; Bureau of Land Management (BLM) State Director's Update on Statewide Issues; Presentation on Benefits-Based Recreation; RAC Questions on written reports from BLM Field Managers; Field Office Rangeland Resource Team Proposals; 2007 RAC Annual Work Plan; and Reports by the Standards and Guidelines, Recreation, Off-Highway Vehicle Use, Land Use Planning and Tenure, and Wild Horse and Burro Working Groups. A public comment period will be provided at 11:30 a.m. on December 7, 2006, for any interested publics who wish to address the Council on BLM programs and business.

Under the Federal Recreation Enhancement Act, the BLM Arizona RAC has been designated the Recreation Resource Advisory Council (RRAC), and has the authority to review all BLM and Forest Service recreation fee proposals in Arizona. The afternoon meeting agenda on December 7, will be devoted to presenting the Recreation Enhancement Act (REA) Working Group Report, discussing and voting on the RRAC Protocol and Quarterly Review Schedule for Fee Proposals; and reviewing three fee proposals in Arizona:

(1) Timber Camp Campground (Tonto National Forest)—26 miles north of Globe, this newly-revamped recreation area includes three group sites and one day use only site. The fee proposal will consider an increase from $40 to $60 for group site reservations; $6 per vehicle per night for individual family camping; and no charge for day use only site by individuals.

(2) Groom Creek School/Cabin (Prescott National Forest)—20-minute drive from Prescott, this historic school house and picnic area is available for day use rental to public groups through the Forest Service Arizona Cabin Rental program. The proposed fee for the facility is $150 per day (excluding a $9 reservation fee).

(3) Sycamore Cabin (Prescott National Forest)—Less than 20-minute drive from Phoenix, Flagstaff and Prescott, this historic Prescott National Forest Ranger house is currently available for nightly rental. The fee proposal will consider an increase from $100 to $125 per night (excluding $9 reservation fee). An additional $25 per night will be charged if an RV is brought to the site.

Following the Forest Service proposals, the RRAC will open the meeting to public comments on the fee proposals. After the comment period, the RRAC will recess into Executive Session to evaluate the proposals. After completing their RRAC business, the BLM RAC will reconvene to provide their recommendations on the fee proposals and discuss future RAC meetings and locations.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427; 602–417–9215.

Elaine Y. Zielinski,

State Director.

[FR Doc. 06–9197 Filed 11–14–06; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–933–06, 5410–KD–A506; AZA–33530]

Application for Conveyance of Federal Mineral Interests, Yavapai County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application.

SUMMARY: The surface owner of the lands described in this notice, aggregating approximately 640.00 acres, has filed an application for the purchase of the federally-owned mineral interests in the lands. Publication of this notice temporarily segregates the mineral interest from appropriation under the public land laws, including the mining law.

DATES: Interested persons may submit written comments to the Bureau of Land Management (BLM) at the address stated below. Comments must be received by no later than January 2, 2007.

Comments: Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that the BLM consider withholding your name, street address, and other contact information, *e.g.*, Internet address, FAX or phone number, from public review of disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. The BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. The BLM will make available for public inspection in their entirety all submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

ADDRESSES: Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004. Detailed information concerning this action, including appropriate environmental information, is available for review at the above address.

FOR FURTHER INFORMATION CONTACT: Vivian Titus, Land Law Examiner, at the above address or at 602–417–9598.

SUPPLEMENTARY INFORMATION: The surface owner of the following described lands has filed an application pursuant to section 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719(b), for the purchase and conveyance of the Federally-owned mineral interest in the following described lands:

Gila and Salt River Base and Meridian, Yavapai County, Arizona.

T. 10 N., R. 4 W.,
Sec. 20, All.
Total Acres 640.00 more or less.

Effective immediately, the BLM will process the pending application in accordance with the regulations stated in 43 CFR part 2720. Written comments concerning the application must be received by no later than the date specified above in this notice. The purpose for a purchase and conveyance is to allow consolidation of surface and subsurface minerals ownership where (1) there are no known mineral values or (2) in those instances where the Federal mineral interest reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

On November 15, 2006, the mineral interests owned by the United States in the above described lands will be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect shall terminate upon issuance of a patent or deed of such mineral interest; upon final rejection of the mineral conveyance application; or November 17, 2008, whichever occurs first.

(Authority: 43 CFR 2720.1–1(b))

Dated: August 31, 2006.

Elaine Y. Zielinski,

State Director.

[FR Doc. E6–19215 Filed 11–14–06; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–130–1430–EU; DB–G06–1007; IDI–31763]

Notice of Realty Action; Non-Competitive Sale of Public Land, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: A 20.69 acre parcel of public land in Owyhee County, Idaho is being considered for direct (non-competitive) sale to Robert G. Bonnell, Allen H. Bonnell, and A. Lorraine Bjork under the provisions of the Federal Land Policy Management Act of 1976, at no less than the appraised fair market value.

DATES: Comments must be received by January 2, 2007.

ADDRESSES: Address all comments concerning this notice to Kelley Moore, BLM, Owyhee Field Office, 20 1st Avenue West, Marsing, Idaho 83639.

FOR FURTHER INFORMATION CONTACT: Kelley Moore, Realty Specialist, at the above address or phone (208) 896–5917.

SUPPLEMENTARY INFORMATION: The following described public land in Owyhee County, Idaho, has been examined and found suitable for sale utilizing direct sale procedures under the authority of Section 203 and Section 209 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713 and 1719):

Boise Meridian, Idaho

T. 6 S., R. 4 W.,
Sec. 11, lot 7.

The area described contains 20.69 acres in Owyhee County.

The 1999 BLM Owyhee Resource Management Plan identified this parcel of public land as suitable for disposal. On November 15, 2006, the above described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act (FLPMA). The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or August 13, 2007, whichever comes first.

The public land will not be offered for sale until January 16, 2007 at the appraised fair market value of $5,175.00. A copy of the approved appraisal is located at the above address. The patent, if issued, will be subject to the following terms, conditions and reservations: (1) A reservation to the United States for ditches and canals; (2) a right-of-way for continued public access; and (3) a Memorandum of Agreement between BLM, the sale proponents, and the Idaho State Historic Preservation Office.

This land is being offered by direct sale to Robert G. Bonnell, Allen H. Bonnell, and A. Lorraine Bjork, pursuant to 43 CFR 2711.3–3 to resolve inadvertent unauthorized occupancy of the public lands. The buildings that occupy the public lands have been in existence since the mid 1800's and were purchased by the Bonnell family at a sheriff's auction in 1929. It has been determined they are eligible for inclusion on the National Register of Historic Places. The historic value of the buildings could potentially be lost if they were removed from their current location, as removal would in effect destroy them and their value as a part of several historic mining eras.

In the event of a sale, the unreserved mineral interests will be conveyed simultaneously with the sale of the land. These unreserved mineral interests have been determined to have no known mineral value pursuant to 43 CFR 2720.2 (a). Acceptance of the sale

offer will constitute an application for conveyance of those unreserved mineral interests. The purchaser will be required to pay a $50.00 non-refundable filing fee for conveyance of the available mineral interests. The purchaser will have 30 days from the date of receiving the sale offer to accept the offer and to submit a deposit of 20 percent of the purchase price and the $50.00 filing fee for conveyance of mineral interests. The purchaser must remit the remainder of the purchase price within 180 days from the date the sale offer is received. Payments must be by certified check, postal money order, bank draft or cashiers check payable to the U.S. Department of the Interior—BLM. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeit.

Public Comments

For a period until January 2, 2007, interested parties and the general public may submit written comments to the BLM Owyhee Field Office at the address above. Comments, including names and street addresses of respondents, will be available for public review at the BLM Owyhee Field Office during regular business hours, except holidays. Individual respondents may request confidentiality. If you wish to have your name or address withheld from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization.

Any adverse comments will be reviewed by the BLM Idaho State Director, who may sustain, vacate, or modify this realty action and issue a final determination. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1–2(a))

Dated: November 3, 2006.

David Wolf,

Acting Owyhee Field Manager.

[FR Doc. E6–19236 Filed 11–14–06; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921; WYW 161764]

Notice of Proposed Withdrawal and Transfer of Jurisdiction and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Energy has filed an application requesting the Secretary of the Interior segregate from the mining laws approximately 1,091 acres of public land associated with a proposed withdrawal and transfer of jurisdiction. The proposed withdrawal and transfer of jurisdiction will ultimately involve approximately 577 acres of public land in Fremont County, Wyoming. The remaining 514 acres will be opened to mining upon completion of a land survey to determine the boundary prior to the withdrawal and transfer of jurisdiction. The proposed withdrawal will protect public health and safety from land contaminated by previous mining and milling operations. This notice segregates the land for up to 2 years from location and entry under the United States mining laws and precludes encumbrances from activities, including location of mining claims, that would cause unnecessary cost and delay during reclamation activities prior to transfer.

DATES: Comments and requests for a public meeting must be received by February 13, 2007

ADDRESSES: Correspondence should be addressed to the State Director, BLM Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003–1828.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 307–775–6124.

SUPPLEMENTARY INFORMATION: The United States Department of Energy has filed an application with the Bureau of Land Management to segregate from the mining laws the public land described below. Jurisdiction over approximately 577 acres will ultimately be withdrawn and transferred, subject to valid existing rights, from the Department of the Interior to the Department of Energy.

Sixth Principal Meridian

T. 33 N., R. 90 W.,
- Sec. 9, lots 1 and 2, and NE¼SE¼;
- Sec. 10, lots 1 through 3, inclusive, NW¼, W½SE¼, and that unpatented portion of Mineral Survey No. 644 lying within sec. 10;
- Sec. 15, lots 1 through 8, inclusive, S½NE¼, NW¼NE¼, N½SE¼, SE¼SE¼, and those unpatented portions of Mineral Survey Nos. 587 and 644 lying within sec. 15;
- Sec. 21, E½NE¼, and NE¼SE¼;
- Sec. 22, lots 1 through 4, inclusive, NE¼NE¼, and those unpatented portions of Mineral Survey Nos. 582, 584, and 587 lying within the N½, NW¼SW¼, and N½SE¼.

The area described contains approximately 1,091 acres in Fremont County.

The purpose of the proposed withdrawal and transfer of jurisdiction is to allow the United States Department of Energy perpetual administration over the land as a hazardous material site under authority of the Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. 7902, *et seq.*

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed action may present their views in writing to the Wyoming State Director, BLM, at the above address.

Comments, including names and street addresses of respondents, and records relating to the proposed withdrawal will be available for public review at BLM Wyoming State Office during regular business hours.

Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses and from representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

Effective on the date of publication, this land is segregated from location and entry under the United States mining laws. The segregative effect of this application will terminate 2 years from the date of this publication unless final withdrawal action is taken or the application is denied or cancelled prior to that date (43 CFR 2310.2). Notice of any action will be published in the **Federal Register**.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal and transfer of

jurisdiction. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal and transfer of jurisdiction must submit a written request to the BLM Wyoming State Director within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

(Authority: 43 CFR 2310.3–1)

Michael Madrid,

Chief, Branch of Fluid Mineral Operations, Lands and Appraisal.

[FR Doc. E6–19210 Filed 11–14–06; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–563]

In the Matter of Certain Portable Power Stations and Packaging Therefor; Issuance of a Limited Exclusion Order Against Respondent Found in Default; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order against the respondent found in default in the above-captioned investigation and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential 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 at *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 this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 14, 2006, based on a complaint filed by Roadmaster (USA) Corporation (''Roadmaster'') of Eatontown, New Jersey. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable power stations and packaging therefor by reason of infringement of U.S. Design Patent No. D469,730; U.S. Trademark Registration No. 2,594,538; and U.S. Copyright Registration No. VA–1–261–495. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation names Sinochem Ningbo, Ltd. (''Sinochem''), of Ningbo, China, as the only respondent.

The administrative law judge (''ALJ'') issued an initial determination on July 12, 2006, finding Sinochem in default, because the respondent failed to reply to the complaint or notice of investigation, and also failed to reply to a show cause order issued by the ALJ on May 24, 2006. The Commission declined to review the ALJ's determination that the respondent Sinochem defaulted.

On August 23, 2006, the Commission issued a notice requesting briefing on the issues of remedy, the public interest, and bonding relating to the default finding of unlawful importation and sale of infringing products by Sinochem. 71 FR 51210 (Aug. 29, 2006). Complainant submitted a brief along with a proposed order on September 5, 2006. The Commission investigative attorney (''IA'') also submitted a brief along with a proposed order on September 6, 2006, and further submitted a reply brief on September 13, 2006. The Complainant chose not to file a reply brief.

Having examined the record of this investigation, including the submissions of the parties, the Commission has determined that each of the statutory requirements of section 337(g)(1), 19 U.S.C. 1337(g)(1), has been met with respect to defaulting respondent Sinochem. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. 1337(g)(1) and Commission Rule 210.16(c), 19 CFR 210.16(c), the Commission presumed the facts alleged in the complaint to be true. The Commission determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of portable power stations and packaging therefor covered by U.S. Design Patent No. D469,739; U.S. Trademark Registration No. 2,594,538; or U.S. Copyright Registration No. VA–1–261–495 that are manufactured abroad by or on behalf of, or imported by or on behalf of, Sinochem or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

The Commission further determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. 1337(g)(1), do not preclude issuance of the limited exclusion order. Finally, the Commission determined that the amount of bond to permit temporary importation during the Presidential review period, under 19 U.S.C. 1337(j), shall be in the amount of 100 percent of the entered value of the infringing imported portable power stations and packaging therefor. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

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 section 210.16(c) of the Commission's Rules of Practice and Procedure, 19 CFR 210.16(c)).

By order of the Commission.

Issued: November 9, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–19244 Filed 11–14–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

United States Parole Commission

Public Announcement; Sunshine Act Meeting

Pursuant To The Government In The Sunshine Act (Pub. L. 94–409) [5 U.S.C. 552b].

TIME AND DATE: 9:30 a.m., Thursday, November 16, 2006.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of Minutes of Previous Commission Meeting.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission. (301) 492–5990.

Dated: November 9, 2006.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 06–9217 Filed 11–13–06; 10:24 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

United States Parole Commission

Public Announcement; Sunshine Act Meeting Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. 552b]

DATE AND TIME: 10 a.m., Thursday, November 16, 2006.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS 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: November 9, 2006.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 06–9218 Filed 11–13–06; 10:24 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

November 8, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and 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.

Agency: Center for Faith-Based and Community Initiatives.

Type of Review: New Collection of Information.

Title: Survey of PY 2002–2006 ETA Grassroots Grant Recipients.

OMB Number: 1290–0NEW.

Type of Response: Reporting.

Affected Public: State, Local, and Tribal Government.

Number of Respondents: 128.

Number of Annual Responses: 128.

Estimated Time per Response: 30 minutes.

Total Burden Hours: 64.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: On January 29, 2001, President George W. Bush issued Executive Order 13198, creating the Office for Faith-Based and Community Initiatives in the White House and centers for faith-based and community initiatives (CFBCI) in the Departments of Labor (DOL), Health and Human Services (HHS), Housing and Urban Development (HUD), Education (ED), and Justice (DOJ). President Bush charged the departmental centers with identifying statutory, regulatory, and bureaucratic barriers that stand in the way of effective faith-based and community organizations, and to ensure, consistent with the law, that these organizations have equal opportunity to compete for Federal funding and other support.

In early 2002, the CFBCI and ETA developed and issued Solicitations for Grant Application (SGA) to engage grassroots organizations in our workforce system-building. These SGAs were designed to assist faith-based and community organizations in delivering social services and strengthening their existing partnerships with the local One-Stop Career Center system, while providing additional points of entry for customers into that system.

These 2002 grants embodied the Department's principal strategy for implementing the Executive Order: Creating new avenues through which qualified organizations could participate more fully under the Workforce Investment Act (WIA), while applying their particular strengths and assets in providing services to our customers. These solicitations also were derived from an ETA–CFBCI mutual premise that the involvement of faith-based and community organizations can both complement and supplement the efforts of local workforce investment systems in being accessible to and serving the training, job and career-support needs of many of our citizens.

Many faith-based and community organizations offer unique services and support networks that can contribute to our mutual system-building endeavors; are trusted institutions within our poorest neighborhoods; and are home to a large number of volunteers who bring not only the transformational power of personal relationships to the provision of social service, but also a sustained allegiance to the well-being and self-sufficiency of the participants they serve. Through their daily work and specific programs, these organizations strive to achieve some common purposes shared with government—reduction of welfare dependency, attainment of occupational skills, and entry and retention of all our citizens in good-paying jobs.

The President's Management Agenda direct the Department of Labor Center for Faith-Based and Community Initiatives to evaluate and examine the impact and outcomes of departmental programs that include faith-based and community non-profit organizations (FBCO). DOL CFBCI intends to use this data to examine the impact that receiving and managing Federal grants has on grassroots, faith-based and community organizations.

Faith-based and community organizations benefit from having equal access to Federal funds. DOL CFBCI intends to use this data to examine the extent to which faith-based and community organizations are able to use the Federal funds (awarded through the ETA Grants for Grassroots Organizations from 2002 to 2005) as leverage to

expand their organizations to qualify for additional Federal, State, local or private funding.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E6–19208 Filed 11–14–06; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Notice of Federal Agencies With Adequate Alternative Safeguards To Satisfy the Confidentiality Requirement of 20 CFR 603.9(d)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Federal agencies with adequate alternative safeguards.

SUMMARY: The Employment and Training Administration interprets Federal law requirements pertaining to the Federal-State unemployment compensation (UC) program. Section 303(a)(1), Social Security Act, as implemented at 20 CFR part 603 (71 FR 56830), generally requires States to maintain the confidentiality of UC information.

Section 603.9 of 20 CFR requires States and State UC agencies to assure that recipients of confidential UC information have certain safeguards in place before any confidential information may be disclosed. Section 603.9(d) provides that States are not required to apply these safeguard and security arrangements to a Federal agency which the Department of Labor (Department) has determined, by notice published in the **Federal Register**, to have in place safeguards adequate to satisfy the requirements of § 603.9.

The Department has determined that the Internal Revenue Service (IRS) has in place such safeguards for purposes of tax administration, including administration of the Federal unemployment tax and the Health Coverage Tax Credit. Specifically, Section 6103 of the Internal Revenue Code and IRS regulations on the confidentiality of tax return information (26 CFR 301.6103(a)–1 *et seq.*) are sufficient to protect the confidentiality of information consistent with the Department's regulation.

The Department has also determined that wage and claim information disclosed to the Department of Health and Human Services for purposes of the National Directory of New Hires is protected by a ''security plan'' which provides safeguards adequate to meet the requirements of the Department's regulation. Further, laws governing information in the National Directory of New Hires impose strict controls on redisclosure and disposal of information. See, *e.g.*, 42 U.S.C. 653(i), (j), (l), and (m).

This notice is published to inform the public of the Department's determination with respect to these agencies.

FOR FURTHER INFORMATION CONTACT: Gerard Hildebrand, Chief, Division of Legislation, Office of Workforce Security, Employment and Training Administration, (202) 693–3038 (this is not a toll-free number) or 1–877–889–5627 (TTY), or by e-mail at *hildebrand.gerard@dol.gov*.

Dated: October 31, 2006.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration, Labor.

[FR Doc. E6–19271 Filed 11–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2006 Under the Federal Unemployment Tax Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits against their liability for the Federal unemployment tax. By letter, the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Signed in Washington, DC, November 3, 2006.

Emily Stover DeRocco,

Assistant Secretary of Labor, Employment and Training Administration.

BILLING CODE 4510–30–P

SECRETARY OF LABOR
WASHINGTON

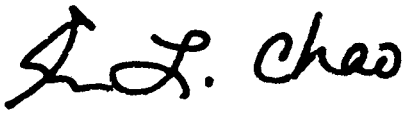
October 31, 2006

The Honorable Henry M. Paulson
Secretary of the Treasury
Washington, D.C. 20220

Dear Secretary Paulson:

Transmitted herewith are an original and one copy of the certifications of the states and their unemployment compensation laws for the 12-month period ending on October 31, 2006. One is required with respect to the normal federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to the additional tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,



Elaine L. Chao

Enclosures

United States Department of Labor; Office of the Secretary, Washington, DC

Certification of States to the Secretary of the Treasury Pursuant to Section 3304(c) of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 2006, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama	Nebraska
Alaska	Nevada
Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming
Montana	

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 2006.

Elaine L. Chao,

Secretary of Labor.

United States Department of Labor; Office of the Secretary, Washington, DC

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2006:

Alabama	Nebraska
Alaska	Nevada
Arizona	New Hampshire
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming
Montana	

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 06–9202 Filed 11–14–06; 8:45 am]

BILLING CODE 4510–30–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

No FEAR Act Notice

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: The Notification and Federal Employee Antidiscrimination Act of 2002 (No FEAR Act) requires that each Federal agency provide notice to all employees, former employees, and applicants for employment about the rights and remedies available under Antidiscrimination laws and Whistleblower protection laws applicable to them. By this document, the Federal Mine Safety and Health Review Commission (the Commission) fulfills the requirement to publish the initial notice in the **Federal Register**.

DATES: This notice is effective November 17, 2006.

FOR FURTHER INFORMATION CONTACT: Elizabeth Ebner, EEO Director, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, telephone 202–434–9935; FAX: 202–434–9944.

SUPPLEMENTARY INFORMATION: The ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002'' was passed to require that Federal agencies be accountable for violations of discrimination and whistleblower protection laws. The Act recognized that agencies cannot be run effectively if those agencies practice or tolerate discrimination. This notice serves to notify all of the Commission's employees, former employees, and applicants about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them.

No Fear Act Notice

On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' Public Law 107–174, 116 Stat. 566, 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.'' Public Law 107–174, Summary. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Public Law 107–174, Title I, General Provisions, section 101(1).

The Act also requires this agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency 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, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 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 your agency. *See, e.g.* 29 CFR part 1614. At the Commission, you must contact the EEO Director within the 45 day limit, who will arrange for an EEO counselor to notify you. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact the EEO Director 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. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (*see* contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site-*http://www.osc.gov.*

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection 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 and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal 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 office of the EEO Director within your agency. Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—*http://www.eeoc.gov* and the OSC Web site—*http://www.osc.gov.*

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, including the provision of law specified in 5 U.S.C. 2302(d).

Dated: November 9, 2006.

Thomas A. Stock,

Executive Director, Federal Mine Safety and Health Review Commission.

[FR Doc. E6–19278 Filed 11–14–06; 8:45 am]

BILLING CODE 6735–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

No FEAR Act Notice

AGENCY: Institute of Museum and Library Services (IMLS), National Foundation on the Arts and the Humanities.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services is publishing this notice under the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' which is known as the No FEAR Act, to inform current employees, former employees, and applicants for IMLS employment of the rights and protections available to them under Federal antidiscrimination, whistleblower protection and retaliation laws.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. IMLS Internet e-mail: *nweiss@imls.gov* (for e-mail messages, the subject line should include the following reference—''No FEAR Act Notice''); Telephone: 202–653–4640; fax: 202–653–4625. A copy of the No FEAR Act Notice will be posted on IMLS's Web site *http://www.IMLS.gov*). Persons who cannot access this No FEAR Act Notice through the Internet may request a paper or electronic copy by contacting Ms. Weiss at the address, e-mail address, telephone numbers, or fax number listed above.

SUPPLEMENTARY INFORMATION: 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. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Public Law 107–174, Section 101(1), 116 Stat. 566.

The Act also requires this Agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform them of the rights and protections available to them under Federal antidiscrimination, whistleblower protection, and retaliation laws.

Antidiscrimination Laws

A Federal agency 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, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the

following statutes: 5 U.S.C. 2302(b)(1), 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 beleive that you have been a 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 your agency. See, e.g., 29 CFR part 1614. 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. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) at 1730 M Street, NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site—*http://www.osc.gov*. In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with OSC at 1730 M Street, NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site *http://www.osc.gov*.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection 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 and Whistleblower Protection Laws or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, please refer to 5 CFR part 724, as well as the appropriate offices and officers within the Institute of Museum and Library Services (*e.g.*, EEO/civil rights officer, human resources office or legal office). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—*http://www.eeoc.gov* and the OSC Web site—*http://www.osc.gov*.

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, including the provisions of law specified in 5 U.S.C. 2302(d).

Approved: November 7, 2006.

Anne-Imelda M. Radice,

Director, Institute of Museum and Library Services.

[FR Doc. 06–9195 Filed 11–14–06; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on December 6, 2006, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, December 6, 2006, 10 a.m.–11:30 a.m.*

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: November 8, 2006.

Antonio F. Dias,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. E6–19233 Filed 11–14–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards: Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on December 7–9, 2006, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Tuesday, November 22, 2005 (70 FR 70638).

Thursday, December 7, 2006, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Draft Final Regulatory Guide, DG–1145, ''Combined License Applications for Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding Draft Final Regulatory Guide, DG–1145, ''Combined License Applications for Nuclear Power Plants,'' and resolution of significant public comments.

10:45 a.m.–12:15 p.m.: Draft Final Regulatory Guide, DG–1144, ''Guidelines for Evaluating Fatigue Analyses Incorporating the Life Reduction of Metal Components Due to the Effects of the Light-Water Reactor Environment for New Reactors'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding Draft Final Regulatory Guide DG–1144 and the resolution of public comments.

1:15 p.m.–3:15 p.m.: Proposed Revisions to Standard Review Plan Section 13.3, ''Emergency Planning'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed revisions to Standard Review Plan Section 13.3, ''Emergency Planning,'' and related matters.

3:30 p.m.–5:30 p.m.: State-of-the-Art Reactor Consequence Analysis Project (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding status of the staff's efforts associated with the state-of-the-art reactor consequence analysis project.

5:45 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, December 8, 2006, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Proposed Revisions to Regulatory Guides and Standard Review Plan Sections in Support of New Reactor Licensing (Open)—The Committee will discuss proposed revisions to Regulatory Guides and Standard Review Plan Sections that are being made in support of new reactor licensing.

9:30 a.m.–10:30 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

10:45 a.m.–11 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

11 a.m.–11:30 a.m.: Election of ACRS Officers for CY 2007 (Open)—The Committee will elect Chairman and Vice-Chairman for the ACRS and Member-at-Large for the Planning and Procedures Subcommittee.

1 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, December 9, 2006, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–12 Noon: Preparation of ACRS Reports (Open)—The Committee will continue discussion of proposed ACRS reports.

12 Noon–12:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 2006 (71 FR 58015). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4 p.m., (ET).

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of

videoteleconferencing services is not guaranteed.

The ACRS meeting dates for Calendar Year 2007 are provided below.

ACRS meeting No.	Meeting dates
—	January 2007.
539	February 1–3, 2007.
540	March 8–10, 2007.
541	April 5–7, 2007.
542	May 3–5, 2007.
543	June 6–8, 2007.
544	July 11–13, 2007.
—	August [1]
545	September 6–8, 2007.
546	October 4–6, 2007.
547	November 1–3, 2007.
548	December 6–8, 2007.

[1] No ACRS Meeting.

Dated: November 8, 2006.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E6–19239 Filed 11–14–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS)

Subcommittee Meeting on Materials, Metallurgy, and Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Materials, Metallurgy, and Reactor Fuels will hold a meeting on December 6, 2006, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, December 6, 2006—1:30 p.m. until the conclusion of business.

The Subcommittee will review Draft Regulatory Guide DG–1144, ''Guidelines for Evaluating Fatigue Analyses Incorporating the Life Reduction of Metal Components Due to the Effects of the Light-Water Reactor Environment for New Reactors.'' The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Charles G. Hammer (telephone 301/415–7363) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: November 8, 2006.

Antonio F. Dias,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. E6–19241 Filed 11–14–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on December 5, 2006, 11545 Rockville Pike, Rockville, Maryland in Room T–2B3.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, December 5, 2006—8:30 a.m. until the conclusion of business.*

The Subcommittee will hear presentations from the NRC staff, their contractors, and other interested persons concerning the progress they have been making in the development of the TRACE T/H system analysis code. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Ralph Caruso (Telephone: 301–415–8065) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: November 8, 2006.

Antonio F. Dias,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. E6–19280 Filed 11–14–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Sunshine Act Meetings

AGENCY: Nuclear Regulatory Commission.

DATE: Weeks of November 13, 20, 27, December 4, 11, 18, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of November 13, 2006

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

Thursday, November 30

12:55 p.m. Affirmation Session (Public Meeting) (Tentative). a. Hydro Resources, Inc. (Crownpoint, NM) Intervenors' Petition for Review of LBP–06–19 (Final Partial Initial Decision—NEPA Issues) (Tentative).

Week of December 4, 2006—Tentative

Thursday, December 7, 2006

9:30 a.m. Discussion of Security Issues (Closed—Ex. 2 & 3).

Week of December 11, 2006—Tentative

Monday, December 11, 2006

1:30 p.m. Briefing on Status of Decommissioning Activities (Public Meeting) (Contact: Keith McConnell, 301–415–7295).

This meeting will be Webcast live at the Web address— *http://www.nrc.gov.*

Tuesday, December 12, 2006

9:30 a.m. Briefing on Threat Environment Assessment (Closed—Ex. 1).

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1 & 3).

Wednesday, December 13, 2006

9:30 a.m. Briefing on Status of Equal Employment Opportunity (EEO) Programs (Public Meeting) (Contact: Barbara Williams, 301–415–7388).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Thursday, December 14, 2006

9:30 a.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

Week of December 18, 2006

There are no meetings scheduled for the Week of December 18, 2006.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accomodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: November 9, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–9216 Filed 11–13–06; 10:24 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance With Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment and reply comment.

SUMMARY: Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ('section 1377'), the Office of the United States Trade Representative (''USTR'') is reviewing and requests comments on: The operation, effectiveness, and implementation of and compliance with the following agreements regarding telecommunications products and services of the United States: the World Trade Organization (''WTO'') Agreement; the North American Free Trade Agreement (''NAFTA''); U.S. free trade agreements (''FTAs'') with Australia, Bahrain, Chile, Morocco, and Singapore; the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR''); and any other FTA or telecommunications trade agreement coming into force on or before January 1, 2007. The USTR will conclude the review by March 31, 2007.

DATES: Comments are due by noon on December 15, 2006 and Reply Comments by noon on January 16, 2007.

ADDRESSES: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Attn: Section 1377 Comments, Office of the United States Trade Representative, 1724 F Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Catherine Hinckley, Office of Industry, Market Access, and Telecommunications (202) 395–9539; or Amy Karpel, Office of the General Counsel (202) 395–3150.

SUPPLEMENTARY INFORMATION: Section 1377 requires the USTR to review annually the operations and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into an FTA or other telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its obligations under WTO agreements affecting market opportunities for telecommunications products or services, *e.g.*, the WTO General Agreement on Trade in Services (''GATS''), including the Annex on Telecommunications and any scheduled commitments including the Reference Paper on Pro-Competitive Regulatory Principles;

(2) Whether Canada or Mexico has failed to comply with its telecommunications obligations under the NAFTA;

(3) Whether El Salvador, Guatemala, Honduras or Nicaragua have failed to comply with their telecommunications obligations under the CAFTA–DR;

(4) Whether Australia, Bahrain, Chile, Morocco, Singapore, or any other country for which an FTA with the United States has entered into force on or before January 1, 2007, has failed to comply with its telecommunications obligations under the respective FTA between the United States and that country (see *http://www.ustr.gov/Trade_Agreements/Section_Index.html* for U.S. FTAs);

(5) Whether any country has failed to comply with its obligations under telecommunications trade agreements with the United States other than FTAs, *e.g.*, Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment (see *http://www.tcc.mac.doc.gov* for a collection of trade agreements, including ones related to telecommunications);

(6) Whether any act, policy, or practice of a country cited in a previous section 1377 review remains unresolved (see *http://www.ustr.gov/Trade_Sectors/Telecom-E-commerce/Section_1377/Section_Index.html* for the 2005 review); and

(7) Whether any measures or practices impede access to telecommunications markets or otherwise deny telecommunications products and services of the United States market opportunities with respect to any country that is a WTO member or for which an FTA or telecommunications trade agreement has entered into force between such country and the United States. Measures or practices of interest include, for example, prohibitions on voice over the Internet (VOIP) services; blocking of web sites or web-based services accessed through public telecommunications services that affect services for which a WTO member or FTA partner has commitments; and requirements for access or use of networks that limit the products or services U.S. suppliers can offer in specific markets.

Public Comment and Reply Comment: Requirements for Submission

All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, and be submitted by noon on December 15, 2006. Reply comments must also be in English and be submitted by noon on

January 16, 2007. Reply comments should only address issues raised by the comments.

In order to ensure the most timely and expeditious receipt and consideration of comments and reply comments, USTR has arranged to accept submissions in electronic format (e-mail). Comments should be submitted electronically to *FR0502@ustr.eop.gov.* An automatic reply confirming receipt of an e-mail submission will be sent. E-mail submissions in Microsoft Word or Corel WordPerfect are preferred. If a word processing application other than those two is used, please identify in your submission the specific application used. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the character ''P'', followed by the name of the person or entity submitting the comments or reply comments. Electronic submissions should not contain separate cover letters; rather, information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to a submission should be included in the same file as the submission itself and not as separate files. All non-confidential comments and reply comments will be placed on the USTR Web site, *http://www.USTR.gov*, and in the USTR Reading Room for inspection shortly after the filing deadline, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6.

We strongly urge submitters to avail themselves of the electronic filing, if at all possible. If an e-mail submission is impossible, the submitter must deliver 15 copies of both the business confidential and the public versions via private commercial courier along with a diskette containing a copy of the business confidential and public version of the submission. Arrangements must be made with Ms. Blue prior to delivery for the receipt of such submissions. Ms. Blue should be contacted at (202) 395–3475.

An appointment to review any comments and reply comments filed may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3 of 1724 F Street, NW.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. E6–19295 Filed 11–14–06; 8:45 am]

BILLING CODE 3190–W7–P

PENSION BENEFIT GUARANTY CORPORATION

No FEAR Act Notice

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: The Pension Benefit Guaranty Corporation is publishing this notice under the Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002 (the ''No FEAR Act''), to inform current employees, former employees, and applicants for PBGC employment of the rights and remedies available under federal antidiscrimination and whistleblower protection laws.

FOR FURTHER INFORMATION CONTACT: Steven A. Weiss, Senior Counsel, Legislative and Regulatory Department, 202–326–4223 x3727, or Lori Bledsoe, EEO Manager, Office of the Director, 202–326–4180 x3345, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326-4024.)

SUPPLEMENTARY INFORMATION: On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' 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 PBGC to provide this notice to Federal employees, former federal employees and applicants for Federal employment to inform them of the rights and protections available under Federal antidiscrimination and whistleblower protection laws. In addition, the Act requires agencies to train all of its employees about the rights and remedies available to them under applicable antidiscrimination and whistleblower laws.

Antidiscrimination Laws

A Federal agency 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, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 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 or the EEO Office 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 PBGC. See, e.g., 29 CFR part 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must contact either an EEO counselor or the EEO Office 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. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, to the extent that such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a

substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site—*http://www.osc.gov*.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection 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 and whistleblower protection laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal 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 offices within your agency (e.g., EEO/civil rights office, human resources office or legal office). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—*http://www.eeoc.gov* and the OSC Web site—*http://www.osc.gov*.

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, including the provisions of law specified in 5 U.S.C. 2302(d).

Issued in Washington, DC, this 8th day of November, 2006.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–19247 Filed 11–14–06; 8:45 am]

BILLING CODE 7709–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium for Single-Employer Plans; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in November 2006. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in December 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Protection Act of 2006, for premium payment years beginning in 2006 or 2007, the required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). Thus, the required interest rate to be used in determining variable-rate premiums for premium payment years beginning in November 2006 is 5.05 percent (*i.e.*, 85 percent of the 5.94 percent composite corporate bond rate for October 2006 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between December 2005 and November 2006.

For premium payment years beginning in:	The required interest rate is:
December 2005	4.91
January 2006	4.86
February 2006	4.80
March 2006	4.87
April 2006	5.01
May 2006	5.25
June 2006	5.35
July 2006	5.36
August 2006	5.36
September 2006	5.19
October 2006	5.06
November 2006	5.05

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in December 2006 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 8th day of November 2006.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–19259 Filed 11–14–06; 8:45 am]

BILLING CODE 7709–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 20–63, RI 20–116, RI 20–117

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a revised information collection. RI 20–63, Survivor Annuity Election for a Spouse, is used by annuitants to elect a reduced annuity with a survivor annuity for their spouse. RI 20–116 is a cover letter for RI 20–63 giving information about the cost to elect less than the maximum survivor annuity. This letter may be used to decline to elect. RI 20–117 is a cover letter for RI 20–63 giving information about the cost to elect the maximum survivor annuity. This letter may be used to ask for more information or to decline to elect.

RI 20–117 is accompanied by RI 20–63A, Information on Electing a Survivor Annuity for Your Spouse, or RI 20–63B, Information on Electing a Survivor Annuity for Your Spouse When You Are Providing a Former Spouse Annuity. Both booklets explain the election. RI 20–63A is for annuitants who do not have a former spouse who is entitled to survivor annuity benefit; RI 20–63B is for those who do have a former spouse who is entitled to a benefit. These booklets do not require OMB clearance. They have been included because they provide the annuitant additional information.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility, whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 2,400 RI 20–63 forms are returned each year electing survivor annuities and 200 annuitants return the cover letter to ask for information about the cost to elect less than the maximum survivor annuity or to refuse to provide any survivor benefit. It is estimated to take approximately 45 minutes to complete the form with a burden of 1,800 hours and 10 minutes to complete the letter, which gives a burden of 34 hours. The total burden for RI 20–63 is 1,834 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *MaryBeth.Smith-Toomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Pamela S. Israel, Chief, Operations Support Group, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415–3540.

For Information Regarding Administrative Coordination—Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group; (202) 606–0623.

U.S. Office of Personnel Management.

Dan G. Blair,

Deputy Director.

[FR Doc. 06–9196 Filed 11–14–06; 8:45 am]

BILLING CODE 6325–38–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27550; 812–13145]

Old Mutual Advisor Funds II, *et al.*; Notice of Application

November 8, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend sub-advisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: Old Mutual Advisor Funds II (''OMAF II'') on behalf of Old Mutual Cash Reserves Fund, Old Mutual Columbus Circle Technology and Communications Fund, Old Mutual Growth Fund, Old Mutual Large Cap Growth Concentrated Fund, Old Mutual Large Cap Growth Fund, Old Mutual Select Growth Fund, Old Mutual Small Cap Fund and Old Mutual Strategic Small Company Fund (together, the ''OMAF II Funds''), Old Mutual Insurance Series Fund (''OMISF'', and each of OMAF II and OMISF, a ''Trust'') on behalf of Old Mutual Columbus Circle Technology and Communications Portfolio, Old Mutual Growth II Portfolio, Old Mutual Large Cap Growth Concentrated Portfolio, Old Mutual Large Cap Growth Portfolio and Old Mutual Small Cap Portfolio (together, the ''OMISF Funds'', and together with the OMAF II Funds, the ''Funds''), and Old Mutual Capital, Inc. (''Old Mutual Capital'').

Filing Dates: The application was filed on January 3, 2005, and amended on June 27, 2005, August 18, 2005, June 21, 2006, and November 3, 2006.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 4, 2006, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, Andra C. Ozols, Old Mutual Capital, 4643 South Ulster Street, Suite 600, Denver, Colorado 80237.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873, or Nadya B. Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the

application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. Each Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. Each Fund has its own investment objective, policies, and restrictions. Old Mutual Capital is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to the Funds.[1] Each Trust, on behalf of its Funds, has entered into separate investment management agreements with Old Mutual Capital (each a ''Management Agreement'' and collectively, the ''Management Agreements''). The Management Agreements have been approved by the respective Trust's board of trustees (each, a ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the respective Trust or of Old Mutual Capital (''Independent Trustees''), as well as by each applicable Fund's shareholders.[2]

2. Under the terms of the Management Agreements, Old Mutual Capital has primary responsibility for management of the Funds, subject to Board oversight. The Management Agreements also provide that Old Mutual Capital may select and contract with one or more investment advisers (''Sub-Advisers'') to exercise day-to-day investment discretion over all or a portion of the assets of the Funds (each such agreement, a ''Sub-Advisory Agreement'' and collectively, the ''Sub-Advisory Agreements''). Old Mutual Capital monitors and evaluates the Sub-Advisers and recommends to the Board their hiring, termination, and replacement. All Sub-Advisory Agreements have been approved by the respective Trust's Board, including a majority of the Independent Trustees. Each Sub-Adviser is, and any future Sub-Adviser will be, an investment adviser that is registered under the Advisers Act. Old Mutual Capital compensates or will compensate each Sub-Adviser out of the management fees it receives from each Fund under the respective Management Agreement.

3. Applicants request relief to permit Old Mutual Capital, subject to Board approval, to enter into and materially amend Sub-Advisory Agreements without shareholder approval. The requested relief will not extend to any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or of Old Mutual Capital, other than by reason of serving as a Sub-Adviser to one or more Funds (''Affiliated Sub-Adviser'').[3]

4. Applicants also request an exemption from the various disclosure provisions described below that may require the Funds to disclose fees paid by Old Mutual Capital to the Sub-Advisers. An exemption is requested to permit a Fund to disclose (as both a dollar amount and as a percentage of its net assets): (a) The aggregate fees paid to Old Mutual Capital and any Affiliated Sub-Advisers, and (b) the aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (collectively, ''Aggregate Fee Disclosure''). If a Fund employs an Affiliated Sub-Adviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 14(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the sub-advisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

7. Applicants assert that by investing in a Fund, shareholders, in effect, will hire Old Mutual Capital to manage the Fund's assets by using its investment adviser selection and monitoring process. Applicants assert that investors will purchase Fund shares to gain access to Old Mutual Capital's expertise in these areas. Applicants believe that permitting Old Mutual Capital to hire Sub-Advisers without incurring the unnecessary delay and expense of obtaining shareholder approval of each Sub-Advisory Agreement is appropriate in the interests of the Funds' shareholders and will allow each Fund to potentially operate more efficiently. Applicants note that the Management Agreements will remain subject to the

[1] Applicants also request relief with respect to future series of the Trusts and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by Old Mutual Capital or any entity controlling, controlled by, or under common control with Old Mutual Capital; (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions of the application (included in the term ''Funds''). The Trusts are the only existing registered open-end management investment companies that currently intend to rely on the requested order. If the name of any Fund contains the name of a Sub-Adviser (as defined below), the name of Old Mutual Capital or the name of the entity controlling, controlled by, or under common control with Old Mutual Capital that serves as the primary investment adviser to the Fund will precede the name of the Sub-Adviser.

[2] The term ''shareholders'' includes variable life insurance policy and variable annuity contract owners that are unitholders of any separate account for which an OMISF Fund serves as a funding medium.

[3] Currently, two OMAF II Funds and one OMISF Fund each employ an Affiliated Sub-Adviser.

shareholder approval requirements of section 15(a) and rule 18f–2.

8. Applicants assert that many Sub-Advisers charge their customers for advisory services according to a ''posted'' rate schedule. Applicants state that while Sub-Advisers are willing to negotiate fees that are lower than those posted on the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will encourage potential Sub-Advisers to negotiate lower subadvisory fees with Old Mutual Capital, the benefits of which may be passed on to the Funds' shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering shares of that Fund to the public.

2. The prospectus for each Fund will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the manager of managers structure described in the application. The prospectus will prominently disclose that Old Mutual Capital has ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisers and recommend their hire, termination and replacement.

3. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees, will be at the discretion of the then-existing Independent Trustees.

4. Old Mutual Capital will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser, without such agreement, including compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. When a Sub-Adviser change is proposed for a Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which Old Mutual Capital or the Affiliated Sub-Adviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Sub-Adviser, Old Mutual Capital will furnish the shareholders of the affected Fund all information about the new Sub-Adviser that would be contained in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of the new Sub-Adviser. To meet this condition, Old Mutual Capital will provide shareholders of the affected Fund with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Aggregate Fee Disclosure.

7. Old Mutual Capital will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets, and, subject to review and approval by the Board, will: (a) Set the Fund's overall investment strategies; (b) evaluate, select, and recommend Sub-Advisers to manage all or a part of the Fund's assets; (c) when appropriate, allocate and reallocate the Fund's assets among multiple Sub-Advisers; (d) monitor and evaluate the performance of the Sub-Advisers; and (e) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the Fund's investment objective, policies and restrictions.

8. No trustee or officer of a Fund or director or officer of Old Mutual Capital will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Sub-Adviser, except for: (a) Ownership of interests in Old Mutual Capital or any entity that controls, is controlled by, or is under common control with Old Mutual Capital; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

9. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

10. Old Mutual Capital will provide the Board, no less frequently than quarterly, with information about the profitability of Old Mutual Capital on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

11. Whenever a Sub-Adviser is hired or terminated, Old Mutual Capital will provide the Board with information showing the expected impact on Old Mutual Capital's profitability.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–19238 Filed 11–14–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27548; 812–12869]

Putnam Diversified Income Trust, et al.; Notice of Application

November 7, 2006.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

Summary of Application: The order would permit certain registered open- and closed-end management investment companies to acquire shares of other registered open-end management investment companies that are within the same group of investment companies and to invest in other securities and financial instruments.

Applicants: Putnam Diversified Income Trust (''DIT''), Putnam High Income Securities Fund (''HIS''), Putnam High Yield Advantage Fund (''HYA''), Putnam High Yield Trust (''HYT''), Putnam Income Fund (''PIF''), Putnam Managed High Yield Trust (''MHYT''), Putnam Master Intermediate Income Trust (''MIIT''), Putnam Premier Income Trust (''PIT''), Putnam Funds Trust (''PFT''), and Putnam Variable Trust (''PVT'' and together with the above named entities, the ''Putnam Funds''), Putman Investment

Management, LLC (''Adviser''), and Putnam Retail Management Limited Partnership (''Putnam Retail Management'').

Filing Dates: The application was filed on August 16, 2002 and amended on October 29, 2003, March 4, 2005 and November 3, 2006.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 1, 2006 and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington DC 20549–1090; Applicants, c/o Beth S. Mazor, Vice President, The Putnam Funds, One Post Office Square, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873 or Stacy L. Fuller, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. Each Putnam Fund is organized as a Massachusetts business trust. DIT, HYA, HYT, PIF, PFT and PVT are registered under the Act as open-end management investment companies (''open-end Putnam Funds''). PFT and PVT currently consist of multiple series. A series of PFT, Putnam Floating Rate Income Fund (''Floating Rate Fund'') seeks high current income and preservation of capital by investing, under normal circumstances, at least 80% of its net assets in income-producing floating rate loans and other floating rate debt securities (''Senior Loans''). Each series of PVT is available for purchase by separate accounts of insurance companies, including separate accounts registered under the Act (''Registered Separate Accounts'').[1] HIS, MHYT, MIIT, and PIT are registered under the Act as closed-end management investment companies (''closed-end Putnam Funds''). Shares of the closed-end Putnam Funds are listed and traded on a national securities exchange, as defined in section 2(a)(26) of the Act. DIT, HYA, HYT, PIF, PVT, HIS, MHYT, MIIT, and PIT, or certain of their series, generally seek high current income by investing in, among other things, high yield securities such as Senior Loans.

2. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940, and serves as the investment adviser to each Putnam Fund. Putnam Retail Management, a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act''), acts as principal underwriter for the open-end Putnam Funds. The Adviser and Putnam Retail Management are wholly owned subsidiaries of Putnam, LLC, which is a wholly owned subsidiary of Putnam Investments Trust, a holding company that is a majority-owned subsidiary of Marsh & McLennan Companies, Inc.

3. Applicants request relief to permit: (a) The closed-end Putnam Funds and certain of the open-end Putnam Funds or their series (and together with any existing or future registered open-or closed-end management investment company or series thereof advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser, ''Funds of Funds'') to purchase shares of one or more of the open-end Putnam Funds or their series (together with any existing or future registered open-end management investment company, or series thereof, advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser, and part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds of Funds, ''Underlying Funds'') and the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds in excess of the limits set forth in sections 12(d)(1)(A) and (B) of the Act; and (b) the Funds of Funds also to invest in a variety of debt and/or equity securities or other financial instruments (''Other Securities'') in accordance with their respective investment objectives and policies.[2] Applicants also seek relief to permit the Underlying Funds that are or become affiliated persons of a Fund of Funds to sell shares to, and redeem shares from, the Fund of Funds. The Funds of Funds and the Underlying Funds are referred to together as the ''Funds''.[3]

4. Applicants believe that it may be more efficient for Funds of Funds to gain exposure to particular investment styles and/or asset classes by investing in one or more Underlying Funds. Applicants state that an investment by a Fund of Funds in an Underlying Fund may enable the Fund of Funds to obtain exposure to the investment style or asset class on a significantly more diversified basis than would be possible through a direct investment in such securities. For example, applicants note that Senior Loans often have significant investment minimums and, therefore, Funds of Funds that invest in Senior Loans through the Floating Rate Fund may diversify their investments in Senior Loans to a greater extent than would be possible if each Fund of Funds invested directly in such Senior Loans. Applicants expect that smaller Funds of Funds, in particular, will benefit from the requested relief because of the greater administrative ease, reduced transaction costs, and more efficient portfolio construction and risk management associated with investments in Underlying Funds, including the Floating Rate Fund.

Applicants' Legal Analysis

A. Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company, its principal underwriter or any broker or dealer may sell the company's securities to another investment company if the

[1] All of the insurance companies that sponsor the Registered Separate Accounts are and will be unaffiliated with the Adviser.

[2] Other Securities do not and will not include shares of any registered investment companies that are not part of the same group of investment companies as the Funds of Funds.

[3] The Adviser currently intends that the open-end and closed-end Putman Funds, including two series of PVT but excluding PFT, will operate as Funds of Funds, and that the Floating Rate Fund will operate as an Underlying Fund under the requested order. Each Fund that currently intends to rely on the requested order is named as an applicant. Any Fund that relies on the order in the future will do so only in accordance with the terms and conditions contained in the application, as amended.

sale will cause the acquiring company to own more than 3% of the acquired company's voting stock or cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides, in relevant part, that section 12(d)(1) will not apply to the securities of a registered open-end investment company purchased by another registered open-end investment company, if: (a) The acquiring company and the acquired company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act. Section 12(d)(1)(G)(ii) defines a ''group of investment companies'' as ''any 2 or more registered investment companies that hold themselves out to investors as related for purposes of investment and investor services.'' Applicants state that they may not rely on section 12(d)(1)(G) because certain of the Funds of Funds are closed-end management investment companies (''closed-end Funds of Funds'') and because all of the Funds of Funds may invest in Other Securities as well as in the Underlying Funds.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of section 12(d)(1), if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) to permit (a) The Funds of Funds to acquire shares of Underlying Funds, and Underlying Funds to sell their shares to Funds of Funds, beyond the limits in sections 12(d)(1)(A) and (B) and (b) the Funds of Funds to invest in Other Securities.

4. Applicants state that the proposed arrangement will not raise the policy concerns underlying sections 12(d)(1)(A) and (B), including undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

5. Applicants contend that the proposed arrangement will not result in undue influence by a Fund of Funds over an Underlying Fund because the Fund of Funds and the Underlying Fund will be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser, and will be part of the same group of investment companies. Applicants state that the Commission, and Congress in the enactment of section 12(d)(1)(G), have recognized that fund of funds arrangements that involve funds in the same group of investment companies may not present the same concerns regarding control of one fund by another.[4]

6. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. With respect to investment advisory fees, applicants state that, before approving any investment advisory contract under section 15 of the Act, the board of trustees of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) of the Fund of Funds, will find that advisory fees, if any, charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract.

7. With respect to Registered Separate Accounts that invest in a Fund of Funds, applicants represent that no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and services fees, as defined in rule 2830 of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'') will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds set forth in NASD Conduct Rule 2830. Applicants state that, although investors may incur brokerage commissions in connection with market purchases of the closed-end Funds of Funds' shares, these commissions will not differ from commissions otherwise incurred in connection with the purchase or sale of comparable securities.

8. Applicants contend that the proposed arrangement will not create an overly complex fund structure. Applicants state that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits of section 12(d)(1)(A), except to the extent that such Underlying Fund acquires, or is deemed to have acquired, the securities pursuant to exemptive relief from the Commission permitting such Underlying Fund to (a) Acquire securities of one or more affiliated investment companies or companies relying on section 3(c)(1) or 3(c)(7) for short-term cash management purposes, or (b) engage in interfund borrowing and lending transactions.

B. Section 17(a) of the Act

1. Section 17(a) of the Act generally prohibits purchases and sales of securities, on a principal basis, between a registered investment company and any affiliated person of the company, and affiliated persons of such persons. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include, among other things, any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the other's outstanding voting securities; any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and any investment adviser to an investment company. Applicants state that an Underlying Fund might be deemed to be an affiliated person of a Fund of Funds if the Fund of Funds acquires 5% or more of the Underlying Fund's outstanding voting securities. Applicants also state that, because the Funds of Funds and Underlying Funds will be advised by the Adviser, or a control affiliate of the Adviser, and may have the same officers and/or board of trustees, they may be deemed to be under common control and, therefore, affiliated persons of each other. Accordingly, section 17(a) could prevent an Underlying Fund from selling shares to, and redeeming shares from, a Fund of Funds.

[4] Applicants state, among other things, that the closed-end Funds of Funds and the Floating Rate Fund have the same board of trustees, transfer agent, and custodian; that each Fund has Putnam in its name; and that the Floating Rate Fund includes information on the closed-end Funds of Funds in its Form N–1A disclosure concerning its family of investment companies.

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) The terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, (b) the proposed transaction is consistent with the policies of each registered investment company involved, and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transaction, or any class or classes of persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants seek an exemption under sections 6(c) and 17(b) to allow the proposed transactions. Applicants state that the transactions satisfy the standards for relief under sections 6(c) and 17(b). Specifically, applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that sales and redemptions of shares of the Underlying Funds will be at the net asset values of such Underlying Funds. In addition, applicants represent that the proposed transactions will be consistent with the policies of each Fund involved, and the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in NASD Conduct Rule 2830, if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds set forth in NASD Conduct Rule 2830.

2. Before approving any advisory contract under section 15 of the Act, the board of trustees of a Fund of Funds, including a majority of the trustees who are not interested persons, as defined in section 2(a)(19) of the Act, of the Fund of Funds, will find that advisory fees, if any, charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract. Such finding, and the basis upon which it was made, will be recorded fully in the minute books of the Fund of Funds.

3. Each Fund of Funds and each Underlying Fund will be part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act.

4. No Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund acquires, or is deemed to have acquired, the securities pursuant to exemptive relief from the Commission permitting such Underlying Fund to (a) Acquire securities of one or more affiliated investment companies or companies relying on section 3(c)(1) or 3(c)(7) of the Act for short-term cash management purposes, or (b) engage in interfund borrowing and lending transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–19207 Filed 11–14–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54706; File No. SR–NASDAQ–2006–036]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Exempt Certain Cross Transactions From NASDAQ Rule 3350(a)

November 3, 2006.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2006, The NASDAQ Stock Market LLC (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On October 31, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] Nasdaq has designated the proposed rule change, as amended, as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[4] which renders the proposal, as amended, effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to exempt all transactions executed in the Nasdaq Crossing Network pursuant to NASDAQ Rule 4770 from the price test set forth in NASDAQ Rule 3350(a). Nasdaq plans to implement the proposed rule change, as amended, on November 6, 2006.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.[5]

* * * * *

3350 Short Sale Rule

(a)–(b) No Change.

(c)(1)–(10) No Change.

(11) Short sales of securities in the Nasdaq Crossing Network pursuant to NASDAQ Rule 4770 provided that:

(a) Such short sales involve securities that comprise the S&P 500 Index;

(b) Such short sales involve securities that qualify as ''actively-traded securities'' under Regulation M; or

(c) Such short sales are part of a basket transaction of 20 or more securities in which the subject security does not comprise more than five percent of the value of the basket traded.

(d)–(l) No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 was a partial amendment in which Nasdaq made certain technical changes following discussions with Commission staff.

[4] 17 CFR 240.19b–4(f)(6).

[5] Changes are marked to the rule text that appears in the electronic NASDAQ Manual found at *http://www.nasdaqtrader.com.*

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to amend Rule 3350(c) to create an exemption from the short sale rule for transactions executed in the Nasdaq Crossing Network pursuant to NASDAQ Rule 4770. Nasdaq states that Rule 3350, voluntarily adopted by the NASD in 1994, is modeled closely on SEC Rule 10a–1.[6] Nasdaq notes that in its January 13, 2006 order approving Nasdaq's registration as a national securities exchange, the Commission granted Nasdaq an exemption from Rule 10a–1 to permit the continued application of Rule 3350 to the trading of Nasdaq-listed securities on Nasdaq.[7] Nasdaq notes, however, that Rule 10a–1 continues to apply to Nasdaq's trading of securities listed on other national securities exchanges.

Background. Nasdaq states that the Nasdaq Crossing Network will consist of a series of trading day and after hours Reference Price Crosses. Nasdaq states that Reference Price Crosses involve the execution of trades at an externally derived price and in accordance with a predetermined algorithm. Nasdaq asserts that the purpose of the Nasdaq Crossing Network is to provide market participants and investors with an accurate single trading price at specific times during and after the trading day, resulting in an enhanced ability to execute block trades quickly and anonymously, while minimizing market impact and associated price movements. Nasdaq states that it expects to launch the Nasdaq Crossing Network on November 6, 2006.

Nasdaq explains that during the regular trading hours session (*i.e.* 9:30 a.m. to 4 p.m.), a series of Nasdaq Reference Price Crosses would allow market participants to place orders that will be executed at the midpoint of the national best bid and offer (''NBBO'') during a designated trading window. An additional cross would be scheduled to take place after the close of the trading day and eligible orders would be executed at either the Nasdaq official closing price (''NOCP'') for Nasdaq-listed securities or the official closing price of the primary market (''Primary Market Close'') for non-Nasdaq securities. Nasdaq states that eligible orders can be either market or limit orders and must be designated for one or more Nasdaq Reference Price Crosses with time-in-force indicators.[8] Nasdaq notes that eligible orders will not be displayed.

Nasdaq states that it will execute the cross through an automated and random matching mechanism at a randomly designated time during a predetermined one minute trading window. Nasdaq notes that initially, the Nasdaq Reference Price Crosses will commence during the trading day at 10:45 a.m., 12:45 p.m. and 2:45 p.m. ET. In addition, an after hours cross would take place at 4:30 p.m. ET.[9]

Nasdaq states that orders would be required to be entered in round lots with a minimum of one round lot and may designate a minimum acceptable quantity for execution. In addition, Nasdaq notes that orders may not be canceled or replaced during the time of the cross, but may at any other time, including periods when trading in the applicable security is halted. Nasdaq states that Reference Price Cross orders would be required to be available for automatic execution. All market participants would be able to enter automatically executable orders into the Nasdaq Market Center to participate in the Reference Price Cross. Orders that are not automatically executable would not be accommodated by the Reference Price Cross. Further, Nasdaq states that Reference Price Crosses would have no order delivery capability and no special orders would be accommodated.

Nasdaq states that upon initiation of a cross, available shares would be treated as if they were the same price and would be allocated on a pro-rata basis to eligible orders. Such shares would be allocated based on the original size of the order, not on the size of the remaining unexecuted portion of the order. If additional shares remain after the initial pro-rata allocation, those shares would continue to be allocated pro-rata to eligible orders until a number of round lots remain that is less than the number of eligible orders. Any remaining shares would be allocated to the oldest eligible order.

Nasdaq states that the executions would be reported to the market participants via Nasdaq Market Center execution reports as a single trade reflecting the aggregate shares executed. In addition, Nasdaq notes that in order to reduce information leakage that could lead to adverse price movements, executions would be reported as anonymous trades, without identifying a contra party. Nasdaq also states that each execution would be reported to the Nasdaq Market Center trade reporting service for trade reporting, clearance and settlement.

Rationale for Proposed Exemption. Nasdaq believes that exempting the Reference Price Cross transactions from Rule 3350 is consistent with the goals of short sale regulation. Nasdaq states that Congressional and Commission objectives included allowing relatively unrestricted short selling in an advancing market, preventing short selling at successively lower prices; and preventing short sellers from accelerating a declining market by exhausting all remaining bids at one price level. Nasdaq asserts that given the algorithmic nature of the Nasdaq crosses, the proposed exemption poses little risk to investors.

Nasdaq states that in proposing Regulation SHO, the Commission noted that, due to the passive nature of pricing and the lack of price discovery, passive pricing systems ''generally do not appear to involve the types of abuses that Exchange Act Rule 10a–1 was designed to prevent.'' [10] Nasdaq states that the Commission also noted that one of the reasons for its proposed bid test was to ''better accommodate the recent growth of matching systems that execute trades at an independently derived price above the consolidated best bid.'' [11] In addition, Nasdaq states that in connection with the representations made by other parties requesting relief for similar matching systems, the Commission took the view that these trades would not appear to involve the types of abuses that Rule 10a–1 was designed to address.[12]

[6] Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994).

[7] Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006). Nasdaq Rule 3350 will continue to apply to Nasdaq Global Market securities and not to Nasdaq Capital Market securities.

[8] Orders may be submitted as existing market or limit order types and would be designated by the firm upon entry with a time-in-force indicator as follows: (i) participate in the next scheduled regular hours cross with unexecuted shares being immediately canceled back to the user after that cross (NXT), (ii) participate in all of the regular hours crosses (i.e., 10:45 a.m., 12:45 p.m. or 2:45 p.m. ET) with unexecuted shares being immediately canceled back to the user following the last regular hours cross (REG) or (iii) participate in all crosses for the current day (i.e., 10:45 a.m., 12:45 p.m., 2:45 p.m. and 4:30 p.m. ET) with unexecuted shares immediately canceled back to the user following the after hours cross (AHX).

[9] In the event that Nasdaq wishes to institute further Reference Price Crosses or alter the timing of the crosses, it will submit a rule change to the Commission.

[10] *See* Securities Exchange Act Release No. 48709 (October 28, 2003), 68 Fed. Reg. 62972, 62982 (November 6, 2003).

[11] *Id.* Although the Commission decided to defer consideration on adopting a uniform bid test until the conclusion of the Pilot Program established under Rule 202T of Regulation SHO, this decision does not appear to be related to the Commission's views on passive pricing systems.

[12] *See e.g.*, Letter from James A. Brigagliano, Assistant Director, SEC, to Anitra T. Cassas,

Nasdaq believes that, consistent with the Commission's articulated belief regarding passive pricing systems and its view with respect to similar matching systems, trades executed in the Nasdaq Crossing Network are not the types of abuses that Rule 3350 was designed to address. Nasdaq states that the purpose of the Reference Price Cross is to provide an accurate single trading price at specific times of the day, resulting in an enhanced ability to execute block trades quickly and anonymously, thereby minimizing market impact and associated price movements.

Nasdaq notes that the Reference Price Crosses are designed to occur at an externally derived price and in accordance with a predetermined algorithm. There would be no price discovery, as orders would not be displayed and prices of orders are not specified, providing minimal information to persons interested in engaging in abusive short sale practices. Nasdaq also states that because a customer cannot predict in advance the final execution price of the cross, which during the trading day will be the mid-point of the NBBO and, for post-close cross executions, the NOCP for Nasdaq-listed securities or the Primary Market Close for non-Nasdaq-listed securities, the cross transactions will not exert downward pressure on a subject stock's price. In addition, Nasdaq notes that all short sale orders will be marked in accordance with Rule 200(g) of Regulation SHO.

Furthermore, Nasdaq states that each Reference Price Cross will occur through an automated and random matching mechanism at a randomly selected time during a predetermined one minute trading window so no participant will know precisely when a match will occur, and no participant will be assured of receiving a match. During each one-minute trading window of cross, there will not be solicitation of orders from customers, nor will there be any communication to customers that the match has not yet occurred.

Nasdaq notes that the exemption for the Crossing Network would apply to short sale transactions involving securities that comprise the S&P 500 Index or that qualify as ''actively-traded securities'' under Regulation M.[13] If the Reported Security is not an S&P 500 Index security or an ''actively-traded security,'' the exemption would apply only if the transaction is part of a basket transaction of 20 or more securities in which the subject security does not comprise more than five percent of the value of the basket traded.

Nasdaq states that it is working with NASD to develop procedures to monitor for signs of manipulation and suspicious activity, which systems will be in place by the launch date of the Crossing Network.[14] Nasdaq states that in connection with these procedures, Nasdaq will advise persons relying on this exemption to participate in the Crossing Network that they may not be represented in the primary market offer or otherwise influence the NBBO at the time of the transaction. Furthermore, Nasdaq states that it will advise such persons that transactions effected on the Crossing Network shall not be made for the purpose of creating actual, or apparent, active trading in or depressing, or otherwise manipulating, the price of any security.

Nasdaq states that the proposed exemption will also remove the disparity in short sale regulation that Nasdaq believes currently exists between markets. Nasdaq asserts that as opposed to Nasdaq, which has voluntarily adopted a short sale rule for Nasdaq securities, several exchanges that trade Nasdaq securities do so with no short sale regulation, encouraging market participants to route short sale orders to their markets to avoid any regulatory restriction. As a result, Nasdaq believes that the level of regulatory protection an investor receives depends almost entirely on the market to which the investor's order is routed. Nasdaq states that this disparity harms customers on all markets by forcing traders to choose between bypassing limit orders posted on Nasdaq, delaying executing those orders, or declining to execute. Nasdaq states that the proposed exemption is designed to help to alleviate these issues.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 6 of the Act,[15] in general, and with Section 6(b)(5) of the Act,[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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, as amended, 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

(a) This proposed rule change, as amended, is filed pursuant to paragraph (A) of section 19(b)(3) of the Act.

(b) Because the foregoing rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the 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, as amended, is consistent with

Wilmer, Cutler & Pickering, LLP (April 22, 2005) (granting ITG an extension of modified exemptive relief from Rule 10a–1 for certain transactions executed through ITG's Portfolio System for Institutional Trading; *see also* Letter from James A. Brigagliano, Acting Associate Director, SEC, to Alan G. Reed, Instinet Group, LLC (June 15, 2006) (granting Instinet an extension of exemptive relief from Rule 10a–1 for transactions executed through Instinet's Intraday Crossing System).

[13] 17 CFR 242.101(c)(1). Under Rule 101(c)(1) of Regulation M, actively-traded securities have an average daily trading volume (ADTV) value of at least $1 million and are issued by an issuer with a public float value of at least $150 million. For purposes of this letter, the ADTV would be calculated in reference to the date on which the proposed Nasdaq Reference Price Cross is to take place.

[14] The surveillance systems specifically designed for the Reference Price Crosses will be in place for the launch of the Reference Price Crosses, currently scheduled for November 6, 2006.

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

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–2006–036 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–2006–036. 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 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–NASDAQ–2006–036 and should be submitted on or before December 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Nancy M. Morris,

Secretary.

[FR Doc. E6–19206 Filed 11–14–06; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10678 and #10679]

Hawaii Disaster Number HI–00005

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Hawaii (FEMA—1664—DR), dated 10/23/2006.

Incident: Kiholo Bay Earthquake.

Incident Period: 10/15/2006 and continuing.

DATES: *Effective Date:* 11/7/2006.

Physical Loan Application Deadline Date: 12/22/2006.

EIDL Loan Application Deadline Date: 7/23/2007.

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 HAWAII, dated 10/23/2006, is hereby amended to re-establish the incident period for this disaster as beginning 10/15/2006 and continuing.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–19277 Filed 11–14–06; 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 2.

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 9/22/2006.

Incident: Severe Storms and Flooding, Inc. Severe Storms and Flooding due to TS Ernesto.

Incident Period: 8/29/2006 through 9/7/2006.

DATES: *Effective Date:* 10/18/2006.

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 Commonwealth of Virginia, dated 9/22/2006, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Greensville, King and Queen, Lunenburg.

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. E6–19276 Filed 11–14–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Senior Executive Service: Performance Review Board Members

AGENCY: Small Business Administration.

ACTION: Notice of members for the FY 06 Performance Review Board.

SUMMARY: Section 4314(c)(4) of Title 5, U.S.C.; requires each agency to publish notification of the appointment of individuals who may serve as members of that Agency's Performance Review Board (PRB). The following individuals have been designated to serve on the FY 06 Performance Review Board for the U.S. Small Business Administration:

1. Michael W. Hager, Associate Deputy Administrator for Capital Access;
2. Darryl Hairston, Deputy Associate Deputy Administrator for Management and Administration;
3. Karen Hontz, Counselor to the Administrator;
4. Luz Hopewell, Associate Administrator for Business Development;
5. Herbert Mitchell, Associate Administrator for Disaster Assistance;
6. Cheryl A. Mills, Chair, Associate Deputy Administrator for Entrepreneurial Development; and

7. C. Edward Rowe, III, Associate Administrator for Congressional and Legislative Affairs.

Dated: November 3, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–19209 Filed 11–14–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5613]

Culturally Significant Objects Imported for Exhibition Determinations: ''Armando Reverón''

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 ''Armando Reverón,'' 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 Museum of Modern Art, New York, New York, from on or about February 6, 2007, until on or about April 16, 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 Wolodymyr Sulzynsky, 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: November 6, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–19251 Filed 11–14–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5591]

Industry Advisory Panel: Notice of Open Meeting

The Industry Advisory Panel of the Overseas Buildings Operations will meet on Thursday, December 7, 2006 from 9:30 a.m. until 3:30 p.m. Eastern Standard Time. The meeting will be held at the Department of State, 2201 C Street, NW. (entrance on 23rd Street), Room 1107—Washington, DC. The majority of the meeting will be devoted to an exchange of ideas between the Department's Bureau of Overseas Buildings Operations' senior management and panel members, on design, operations and building maintenance. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by December 1, 2006, their name, professional affiliation, valid government-issued ID number (i.e. U.S. government ID, U.S. military ID, passport), or drivers license, date of birth, and citizenship to by e-mailing: *iapr@state.gov* (only one person per company may register).

If you have any questions, please contact Andrea Specht on (703) 516–1544. Please arrive no later than 9 a.m. (The Security check-in desk opens at 8:30 a.m.)

Dated: November 7, 2006.

Charles E. Williams,

Director & Chief Operating Officer, Overseas Buildings Operations, Department of State.

[FR Doc. E6–19250 Filed 11–14–06; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement (EIS)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and initiation of public and agency scoping for the Haleakala National Park Air Tour Management Plan.

SUMMARY: The Federal Aviation Administration (FAA), in cooperation with the National Park Service (NPS), began development of an Air Tour Management Plan (ATMP) and associated Environmental Assessment (EA) for Haleakala National Park in February 2003. The ATMP is being established pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations contained in Title 14, Code of Federal Regulations, Part 136, National Parks Air Tour Management. The objective of the ATMP is to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural resources, cultural resources, and visitor experiences of Haleakala National Park.

The FAA and NPS have now decided to proceed with development of an Environmental Impact Statement (EIS) for this project. This decision is based on information received through the EA scoping process, the environmental analysis completed by the Agencies to date, the consideration of preliminary ATMP alternatives, and through consultations conducted pursuant to Section 106 of the National Historic Preservation Act.

By this notice, the FAA and NPS are initiating a 60-day scoping period for this EIS. This timeframe is provided due to the major holidays occurring during this public review period.

The FAA and NPS are now inviting the public, agencies, and other interested parties to provide written comments, suggestions, and input regarding the scope of issues and the identification of significant issues to be addressed in the EIS. Comments previously submitted in response to the EA scoping will not need to be re-submitted, as they will be considered as part of the EIS process and record. No additional scoping meetings are scheduled.

DATES: The 60-day scoping comment period will commence upon publication of this Notice. Please submit any written response you may have within 60 days from the date of this Notice or no later than January 16, 2007.

ADDRESSES: Please address your written comments to: Docket Management System, Doc. No. FAA–2006–26113, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001.

You must identify the docket number FAA–2006–26113 at the beginning of your comments. If you wish to receive confirmation that your comments were received, include a self-addressed, stamped postcard. You may review the public docket containing comments in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

You may also submit comments and review the public docket on the Internet

at *http://dms.dot.gov* by using the above docket number. Comments that were previously received in response to the EA scoping may also be reviewed at this Web site under Docket No. FAA–2004–17174.

FOR FURTHER INFORMATION CONTACT: Peter F. Ciesla, Air Tour Management Plan Program Manager, Executive Resource Staff, AWP–4, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Los Angeles, California 90009–2007. Telephone: (310) 725–3818. Street address: 15000 Aviation Boulevard, Lawndale, California 90261. E-mail: *Pete.Ciesla@faa.gov.* Park specific information can be obtained from Marilyn Parris, Superintendent, Haleakala National Park, Mile Marker 11, Crater Road, Kula, HI 96790. Telephone: (808) 572–4401. E-mail: *Marilyn_H_Parris@nps.gov*.

SUPPLEMENTARY INFORMATION: In developing an ATMP and any associated rulemaking actions, the FAA is required to comply with the National Environmental Policy Act of 1969 (NEPA), which calls on Federal agencies to consider environmental issues as part of their decisionmaking process. For the purposes of compliance with NEPA on this project, the FAA is the Lead Agency and the NPS is a Cooperating Agency. The FAA ATMP Program Office and the NPS Natural Sounds Program Office are responsible for the overall implementation of the ATMP Program. Pete Ciesla is the FAA's principal program manager responsible for all parts of the EIS and performance of required consultation regarding cultural resources and endangered and threatened species. For the park, Superintendent Marilyn Parris is responsible for park operations and management and for recommending the draft and final EIS and Record of Decision to the NPS Pacific West Regional Director.

The EIS is being prepared in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, NPS Director's Order #12: Conservation Planning, Environmental Impact Analysis, and Decisionmaking, and NPS Management Policies. The FAA is now inviting the public, agencies, and other interested parties to provide written comments, suggestions, and input regarding: (1) The scope, issues, and concerns related to the development of the ATMP for Haleakala National Park; (2) the scope of issues and the identification of significant issues regarding commercial air tours and their potential impacts to be addressed in the NEPA process; (3) the potential effects of commercial air tours on natural resources, congressionally designated wilderness, cultural resources, and the visitor experience; (4) preliminary ATMP alternatives; and, (5) past, present, and reasonably foreseeable future actions which, when considered with ATMP alternatives, may result in significant cumulative impacts. The FAA requests that comments be as specific as possible in response to actions that are being proposed under this notice.

Scoping documents that describe the Haleakala National Park ATMP project in greater detail and the preliminary ATMP alternatives under consideration are available at the following locations:

- FAA Air Tour Management Plan Program Web site, *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/*.
- Haleakala National Park, Mile Marker 11, Crater Road, Kula, HI 96790.
- National Park Service, Pacific West Region—Honolulu Office, 300 Ala Moana Boulevard, Box 50165, Honolulu, HI 96850.
- Hawai'i State Library, Hawai'i Documents Center, 478 South King Street, Honolulu, HI 96813.
- Hana Public and School Library, 4111 Hana Highway, Hana, HI 96713.
- Makawao Public Library, 1159 Makawao Avenue, Makawao, HI 96768.
- Kahului Public Library, 90 School Street, Kahului, HI 96732.
- Maui Community College Library, 310 Ka'ahumanu Avenue, Kahului, HI 96732.
- Kihei Public Library, 35 Waimahaihai Street, Kihei, HI 96753.
- Lahaina Public Library, 680 Wharf Street, Lahaina, HI 96761.
- Wailuku Public Library, 251 High Street, Wailuku, HI 96793

Issued in Los Angeles, CA, on November 6, 2006.

Peter F. Ciesla,

FAA, Air Tour Management Plan Program Manager, AWP–4.

[FR Doc. E6–19202 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Highway Administration

[Docket Number: FTA–2006–24905]

Notice of Availability of Guidance on Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU)

AGENCY: Federal Transit Administration (FTA), Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of final guidance on the application of section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144) to projects funded by the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), or both. Section 6002 of SAFETEA–LU, which went into effect on August 10, 2005, adds requirements and refinements to the environmental review process for highway and public transportation capital projects. The section 6002 guidance describes how the FTA and FHWA will implement the new requirements within the environmental review process required by the National Environmental Policy Act (NEPA) and other Federal laws. The final guidance is available at the following URL: *http://www.fta.dot.gov/environment/guidance/* for FTA and at *http://www.fhwa.dot.gov/hep/section6002/* for FHWA.

DATES: *Effective Date:* November 15, 2006.

FOR FURTHER INFORMATION CONTACT: For FTA: Joseph Ossi, Office of Planning and Environment (TPE), (202) 366–1613, or Christopher Van Wyk, Office of Chief Counsel (TCC), (202) 366–1733, Federal Transit Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. For FHWA: Ruth Rentch, Office of Project Development (HEPE), (202) 366–2034, or Janet Myers, Office of Chief Counsel (HCC), (202) 366–2019, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Availability of the Final Guidance and Comments

Copies of the proposed and final guidance on the application of section

6002 of SAFETEA–LU to projects funded by the FTA, the FHWA, or both, the comments received from the public on the proposed guidance, and the agencies' response to comments received are part of docket FTA–2006–24905 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, 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 may retrieve the guidance and comments online through the Document Management System (DMS) at: *http://dms.dot.gov.* Enter docket number 24905 in the search field. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. You may download an electronic copy of this document by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512'1661. Internet users may reach the Office of the Federal Register's Web page at: *http://www.nara.gov/fedreg* and the Government Printing Office's Web page at: *http://www.gpoaccess.gov/fr/index.html.*

Background

On August 10, 2005, President Bush signed SAFETEA–LU. Section 6002 of SAFETEA–LU, which has been codified as 23 U.S.C. 139, prescribes a number of changes to existing FTA and FHWA procedures for implementing the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4351, as amended, and for the implementing regulations of the Council on Environmental Quality (CEQ), 40 CFR parts 1500 through 1508. Among the topics addressed in section 6002 are the roles of the project sponsor and the lead, participating, and cooperating agencies; requirements for coordinating and scheduling agency reviews; the authority for States to use Federal-aid funds to ensure timely environmental reviews; a 180-day statute of limitations on claims, and a process for resolving interagency disagreements.

On June 29, 2006, the FTA and FHWA published a Notice of Availability and Request for Comments on the proposed guidance on the implementation of SAFETEA–LU section 6002 in the **Federal Register** (71 FR 37156). The agencies requested and received comments on the proposed guidance referenced in the June notice. The purpose of this notice is to announce the availability of the final guidance. The final guidance reflects the agencies' consideration of these comments and further reviews by the FTA and FHWA. The final guidance is available on the docket (number 24905), which can be accessed by going to *http://dms.dot.gov.* The final guidance is available online line at *http://www.fta.dot.gov/environment/guidance/* for FTA and at *http://www.fhwa.dot.gov/hep/section6002/* for FHWA.

The purpose of the section 6002 guidance is to provide explanations of new and changed aspects of the environmental review process for FTA and FHWA NEPA practitioners. The guidance will inform readers about which aspects of the environmental review process need to be done differently as a result of SAFETEA–LU, and how the new procedures should be handled. Although the guidance outlines a new environmental review process for highway and public transportation capital projects, it does not supersede any previous guidance or regulations promulgated under NEPA. In particular, the previously mentioned CEQ regulations (40 CFR parts 1500–1508) and FHWA–FTA NEPA regulation (23 CFR part 771) are supplemented by the section 6002 guidance and remain in effect. This guidance is consistent with and implements the requirements of U.S. DOT Order 5610.1C, ''Procedures for Considering Environmental Impacts.''

The intent of the guidance is to provide project sponsors with as much flexibility as possible in administering the environmental review process, while providing a framework to facilitate efficient project management and decisionmaking in accordance with the law. The guidance also is intended to assist agencies and related entities involved in the development of environmental impact statements (EISs) to satisfy the requirements of applicable Federal laws, regulations and policies. Additionally, this guidance is intended to be non-binding and should not be construed as a rule of general applicability. Because the size and scope of EISs can vary, adjustments to the recommended approaches included in the guidance may be appropriate, but the minimum statutory requirement always is noted.

Response to Comments

In the notice of availability of the proposed guidance, the FTA and FHWA requested comments on specific provisions in the proposed guidance and comments on particular questions posed by the agencies in the **Federal Register** notice. The agencies received comments from 29 parties. Commenters included four individuals, six transit agencies, 13 State highway agencies, one State environmental agency, one Federal environmental agency, and four national transportation organizations. Commenting entities included the New York Metropolitan Transit Authority, San Francisco Bay Area Rapid Transit District, Central Puget Sound Regional Transit Authority, Washington Metropolitan Area Transit Authority, Lane Transit District, San Diego Association of Governments, Virginia Department of Transportation, Maryland State Highway Administration, Idaho Transportation Department, Montana Transportation Department, North Dakota Transportation Department, South Dakota Transportation Department, Wyoming Transportation Department, Ohio Department of Transportation, Minnesota Department of Transportation, Louisiana Department of Transportation and Development, Florida Department of Transportation, California Department of Transportation, West Virginia Department of Transportation Division of Highways, State of Washington Department of Ecology, U.S. Environmental Protection Agency, American Highway Users Alliance, American Association of State Highway and Transportation Officials, American Road and Transportation Builders Association, and American Public Transportation Association.

This section highlights the key issues identified in the comments on the proposed guidance, including comments in response to the agencies' specific questions. This section also describes the FTA and FHWA response to the comments on section 6002 implementation. The key issues are summarized and addressed below under general headings relating to the topics addressed. The first seven headings relate to the seven specific questions on which the FTA and FHWA requested comments. The remaining headings pertain to topics addressed within the three sections of the proposed guidance (Section 1: The Environmental Review Process; Section 2: Process Management; and Section 3: Statute of Limitations). Accordingly, the FTA and FHWA response is organized under the following headings: Adequacy of Guidance, Flexibility of the Process, Lead Agency Responsibilities, Methodologies for Project Analysis, Coordination with Participating Agencies, Schedules for FTA Projects, New Starts Alternatives Analysis, General Information About the Environmental Review Process,

Applicability Requirements, Project Initiation, Lead Agencies, Participating Agencies, Cooperating Agencies, Purpose and Need, Alternatives Analysis, Preferred Alternative, Coordination and Schedule, Requirements Placed on Non-U.S. DOT Federal Agencies, Concurrent Reviews, Issues Identification and Resolution, Funding of Additional Agency Resources, Statute of Limitations, and Other Comments.

A number of commenters raised questions that relate to issues other than implementation of section 6002, such as inquiries about the FTA or FHWA practices under NEPA that are not affected by the implementation of section 6002. Because the section 6002 guidance is intended to focus on topics relating directly to the new law, FTA and FHWA decided such questions were beyond the scope of the guidance.

1. Adequacy of Guidance

In the notice of availability of the proposed guidance, the FHWA requested comments on whether the guidance provided enough information and instruction on how best to implement the new requirements under section 6002. The FHWA received several comments on this question. In general, commenters appear satisfied with the level of information provided. Where commenters felt a particular part of the guidance warranted additional information or a different interpretation, they submitted their comments in the context of those specific questions. The key comments in terms of the overall adequacy of the guidance, and the agencies' response, appear below.

Several commenters stated that the FTA and FHWA should more strongly emphasize their intention to apply section 6002 in a manner that promotes faster processing of projects. We agree that the guidance could benefit from more emphasis on the streamlining goals of section 6002. The FTA and FHWA have revised the answer to Question 6 of the guidance to stress the opportunities for flexibility in designing an environmental review process that meets the statutory requirements of section 6002. This includes continuing to use existing procedures where appropriate. Revisions have been inserted in appropriate places throughout the guidance to identify opportunities to reduce paperwork by documenting the steps taken under section 6002 within types of documents already in use to comply with NEPA or other project-related procedures.

One commenter stated there is a need for more information about how to interpret the guidance in the case of States assuming Federal responsibilities for NEPA or other aspects of the environmental review process, on a pilot basis, under section 6005 of SAFETEA–LU. On April 5, 2006, FHWA published a notice of proposed rulemaking in the **Federal Register** (71 FR 107040, April 5, 2006) for the implementation of section 6005. Following issuance of the final rule and receipt of applications from the pilot States, the FHWA will work with pilot States to identify and address any issues created by the pilot States' assumption of Federal environmental review responsibilities. We do not feel it is necessary to address this issue in the section 6002 guidance.

2. Flexibility of the Process

In the notice of availability of the proposed guidance, the FHWA requested comments on whether there are specific areas where the guidance could and should provide more flexibility while still meeting section 6002 requirements. The request also asked that commenters consider how customization in particular areas might permit better responses to issues of regional concern. Six commenters submitted comments identified as responses to the FHWA questions on flexibility. The FTA and FHWA have considered various comments and concluded that the proposed guidance may not have identified the available flexibilities clearly enough. The agencies have revised the final guidance to highlight the flexibility inherent in implementation of many of the provisions of section 6002. The guidance continues to encourage agencies to tailor procedures to meet their needs, within the statutory parameters of section 6002 and other applicable laws, regulations, and funding agency requirements.

Several commenters also stated that, where possible, the guidance should support the use of existing processes or procedures to meet section 6002 administrative requirements. The FTA and FHWA agree with this comment and the final guidance clarifies that existing processes can be used as is, or modified as required, so long as the resulting procedures meet the statutory requirements of section 6002 [23 U.S.C. 139] and other applicable Federal laws, regulations, and policies.

3. Lead Agency Responsibilities

The FHWA asked for comments concerning the adequacy of the descriptions in the proposed guidance of the responsibilities, authorities, and limitations of lead agencies. The FHWA also requested comment on whether the division of labor, responsibility and authority was appropriate. Several commenters addressed this topic through their comments on specific questions in the proposed guidance. The FHWA and FTA response to those comments appears with the relevant questions.

4. Methodologies for Project Analysis

The FHWA asked for comments on whether the proposed guidance adequately addressed the process for involving participating agencies in the selection of methodologies for project analysis. In particular, the FHWA wanted to know whether the process in the proposed guidance would serve to minimize the occurrence of debates about methodologies late in the project development process. Two commenters indicated a concern that the methodologies process could evolve into a document-intensive and contentious process. The FTA and FHWA appreciate that the determination of methodologies can be a challenging aspect of the environmental review process and have considered the comments and made several clarifications in the text of Question 38 of the final guidance. The clarifications are intended to improve the guidance's explanation of the timing of coordination and decisionmaking on methodologies, and to facilitate the use of programmatic agreements on methodologies to the extent appropriate.

5. Coordination With Participating Agencies

Comments were requested on whether the proposed guidance provided sufficient detail about the coordination process with participating agencies. In particular, comments were sought on whether changes in schedule should require coordination with participating agencies. Two commenters replied to these questions and stated that the guidance, by requiring a project schedule for Federal-aid highway projects, is more restrictive than section 6002 [23 U.S.C. 139(g)(1)(B)]. The statute makes schedules an optional part of the required coordination plan. The FHWA believes that a schedule is critical to successfully managing large or complex projects, including managing the environmental review process for such projects. The FHWA revised the final guidance to clarify that the FHWA, in its Federal lead agency capacity, assumes that a schedule will be used on all EA and EIS projects processed under section 6002. If the non-Federal lead agency believes that a schedule is not needed, then the non-Federal lead agency will be expected to

consult with the FHWA about how the project will proceed. For further detail on the use and modification of schedules, see the comments and responses to Questions 47–57.

The FTA and FHWA have considered comments on coordination needed for changes to the schedule, along with the comments and have concluded that the concurrence requirement for schedule modification should apply only to cooperating agencies. This is consistent with the statute. However, the FTA and FHWA note that a successful environmental review process for a project often depends upon close and pragmatic coordination of the original and any modified schedule with all agencies that play a role in the review of a project.

6. Schedules for FTA Projects

The FTA requested comment whether it should require the development of a schedule for all FTA projects requiring an EIS. The notice of availability noted that section 6002 makes the inclusion of a project schedule in the ''coordination plan'' for the project optional, but that the FHWA was proposing the use of a project schedule for all EIS and EA projects. The FTA sought comments on whether to require, in the interest of good project management, the development of a project schedule and its inclusion in the coordination plan for any transit project requiring an EIS.

A number of commenters addressed this question. All but one advocated keeping the schedule optional for FTA projects. These commenters generally argued that complex transit projects will frequently require schedule revisions, and the consultations required to revise a schedule when one is included in the coordination plan would defeat the objective of expediting by managing to a schedule. The one commenter who disagreed with this point of view argued for a mandatory schedule as a necessary project management tool. Having considered all of these comments, FTA has decided to keep the schedule optional.

7. New Starts Alternatives Analysis

The FTA requested comment whether it should continue to allow a New Starts Alternatives Analysis, as defined in 49 U.S.C. 5309(a)(1), to be developed as a non-Federal planning document not subject to NEPA regulatory requirements, or require that the New Starts Alternatives Analysis be merged into the NEPA document (normally an EIS for New Starts projects), be subject to NEPA regulatory requirements, and be signed by the FTA Regional Administrator.

The agencies received a number of comments on this question, and the commenters unanimously agreed that the flexibility of the status quo should be maintained. Accordingly, the FTA has decided to maintain the flexibility of performing a Small Starts or New Starts Alternatives Analysis as a planning study or as a NEPA document.

One commenter requested clarification on whether, in this guidance, the term ''New Starts projects'' also encompassed ''Small Starts projects'' or not. The FTA has now decided to distinguish between transit fixed guideway projects that meet the Small Starts criteria [49 U.S.C. 5309(e)] and those that do not [49 U.S.C. 5309(d)], by referring to them as ''Small Starts'' and ''New Starts'' respectively. The requested clarifications, namely that this guidance applies to any FTA project requiring an EIS, including but not limited to any Small Starts project requiring an EIS, and that Question 13 on the New Starts Alternatives Analysis also applies to Small Starts, have been made in the final guidance.

8. General Information About the Environmental Review Process (Proposed Guidance Questions 1–7)

Several parties offered comments on this segment of the proposed guidance. A number of the comments related to editing the proposed guidance for consistency in terminology and usage. The FTA and FHWA have considered those concerns in preparing the final guidance. The major comments on the content of this segment are described below.

One commenter on Question 3 thought that the FHWA should adopt the FTA policy of not applying section 6002 to projects that are processed as environmental assessment (EA) and categorical exclusions (CE) projects under NEPA. One commenter advised the FTA not to rule out the use of section 6002 on EA projects. The FTA and FHWA have considered the comments, and both agencies have considered the role that EAs play in their programs. The FHWA and FTA have revised the final guidance to indicate that neither agency at this time intends to apply section 6002 to CE projects. In the case of EA projects, the ''default case'' adopted by both agencies in the final guidance is that section 6002 will not apply. However, the FHWA and FTA recognize that in some cases section 6002 may be appropriate for an EA project and, in such cases, section 6002 procedures may be used. The text in the final guidance relating to Question 8 has been revised accordingly. The decision of the lead agencies to use section 6002 for an EA project will be documented in, and communicated through, the coordination plan.

Another commenter suggested that the guidance should clarify that some environmental laws are administered by the U.S. DOT agencies and some are under the authority of other Federal agencies. The commenter also asked that the guidance clarify that in some cases, such as the New Jersey and Michigan Clean Water Act Section 404 programs, a Federal program is partly or wholly operated under the authority of a State. The agencies have revised Question 3 of the final guidance to acknowledge these points.

A number of commenters supported giving lead agencies the option to use interagency merger agreements, which currently provide for integrated project review processes under NEPA, the Clean Water Act, and other Federal laws, to meet the requirements of section 6002. Some commenters on Question 6 thought that the guidance should provide more information on the use of merger concurrence points and the effect of section 6002 on signatory agencies' authority under the merger agreements. Commenters held differing views on whether concurrence points should apply in the future, and whether there is a need to renegotiate merger agreements in light of the provisions of section 6002.

The FTA and FHWA agree that the use of merger agreements, where they are in effect and working well, should continue. The agencies have revised Questions 6, 9, and 48 in the final guidance to clarify this point. The revisions include an explanation that the merger agreement may be used by those entities that are signatories to it, but that the environmental review process must provide to others the opportunities for involvement specified in section 6002. The final guidance also states that, where a pre-existing merger agreement includes concurrence requirements, the lead agencies may continue to use those parts of the merger agreement if they wish. However, if the lead agencies conclude that concurrence on an issue is not achievable, then the lead agencies must exercise their decisionmaking obligations under Section 6002. For these reasons, lead agencies may find that, when preparing coordination plans, they need to supplement the provisions of a merger agreement to ensure that the requirements of section 6002 are satisfied.

Several commenters indicated that the FTA and FHWA should permit merger processes to be ''grandfathered'' under

section 6002, treating such agreements as an ''existing environmental review process * * * approved by the Secretary under section 1309 of the Transportation Equity Act for the 21st Century * * *'' (TEA–21) (Pub. L. 105–178; 112 Stat. 107), thereby allowing the substitution of the merger agreement for section 6002 procedures. The FTA and FHWA do not believe that a merger agreement is considered an ''existing environmental review process'' within that provision unless it adequately addresses the entire environmental review process, including the Section 6002 procedures for providing opportunities for involvement to all parties that are entitled to such opportunities and the procedures for collaboration with participating agencies on methodologies (see Question 9 in final guidance).

A commenter requested clarification in Question 7 as to whether the Tier 2 EIS process had to start over with the section 6002 procedures such as notice of initiation and invitations to participating agencies. The FTA and FHWA have revised Question 7 to state that when initiating a Tier 2 EIS, most section 6002 procedures will apply as though Tier 2 is a new project. However, the lead agencies have the discretion to determine the degree to which Tier 2 environmental review procedures should be modified in order to recognize the Tier 1 decisions that are final and carried into the Tier 2 proceedings.

9. Applicability Requirements (Proposed Guidance Questions 8–10)

Several of the comments on this segment of the proposed guidance related to how the FTA and FHWA would apply section 6002 to EA and CE projects. The agencies addressed this topic in their response to comments on Question 3 and Question 8 of the proposed guidance.

Commenters also suggested that the decision to use section 6002 for an EA should require the agreement of the project sponsor. The FTA and FHWA have considered this issue and have concluded that they will not adopt a requirement that the project sponsor agree to the use of section 6002 for an EA project. The agencies note, however, that if the project sponsor is a joint lead agency, it would have to agree to the use of Section 6002 process for an EA project as part of the joint decisionmaking described in Section 11 (Lead Agencies) below. Private sponsors will be free to make their views known, but the government agencies responsible for NEPA must make the decision.

One commenter thought that the guidance should clarify in Question 9 whether an exemption from section 6002 procedures based on an existing environmental review process approved under section 1309 of TEA–21 may be applied on a project-by-project basis. The FTA and FHWA have revised Question 9 to clarify that an environmental review process that is approved as a substitute for section 6002 procedures must be used for a program or for a pre-approved class of projects, but cannot be substituted for section 6002 procedures on a project-by-project basis.

A commenter described Question 10 of the proposed guidance as too restrictive and in conflict with regulations at 23 CFR 771.130(d) and 40 CFR 1502.9(c)(4) that eliminate scoping from the process for a supplemental EIS (SEIS). The commenter believed that section 6002 should not apply to SEISs that do not involve the reassessment of the entire action. Question 10 has been revised to state that a SEIS under 23 CFR 771.130 for a project with a notice of intent that was issued prior to the enactment of SAFETEA–LU will not need to follow the SAFETEA–LU environmental review process if the SEIS does not involve the reassessment of the entire action.

10. Project Initiation (Proposed Guidance Questions 11–13)

Several comments focused on the need for minor editing of the proposed guidance. The FTA and FHWA have reviewed those comments and the guidance, and made revisions as appropriate. Key comments on the content of the guidance, and the agencies' responses, appear below.

Several commenters questioned the effectiveness of trying to meet project initiation requirements when only limited information might be available about permit and approval requirements or other project details. They viewed the information required for the notice of initiation as a violation of NEPA because a determination about needed approvals requires knowledge of the alternatives to be considered and such knowledge is not available until later in the environmental review process.

After considering the comments, the FTA and FHWA agree with the concern that in some cases not all project approval needs will be known at the time of project initiation. Question 11 in the final guidance has been revised to acknowledge that lead agencies will be expected to act on the best available knowledge at the time of initiation. Because the information in the notice of initiation will be used to plan the project proceedings, it is in the interest of all parties to have as much information as possible early in the process, and to pass along to the Federal lead agency any new information as soon as it becomes available.

Several commenters expressed concern about the added paperwork that would be caused by the notice of initiation and asked whether the notice of intent for an EIS or the use of existing project initiation procedures could be combined with the notice of initiation under section 6002. Also, a commenter asked whether programmatic notices of initiation could be used rather than project-by-project notices. The FTA and FHWA agree with the commenters that it is desirable to avoid duplication and unnecessary paperwork. The agencies also recognize that the purposes of the notice of initiation include advising the Federal lead agency that it is time to start project review proceedings, and helping the lead agencies determine the scope of the required environmental review process. The agencies have revised Question 11 in the final guidance to more clearly support the adaptation of existing procedures to cover the notice of initiation requirement under section 6002. The procedure used must provide the information required under the project initiation provisions of the statute, to the extent the information is available. The use of one document to cover multiple project needs is fully endorsed by the FTA and FHWA. Whatever form or format is used also should indicate the timeframe within which the environmental review process should commence. In light of the staffing implications for all agencies involved, including the Federal lead agency, the initiation notice must be from an individual appropriately authorized by the project sponsor.

11. Lead Agencies (Proposed Guidance Questions 14–20)

Many commenters focused their comments on the operation of section 6002 with respect to lead agencies and lead agency decisionmaking. The major comments and the Federal response are described below.

Commenters were concerned about the FHWA requirement in the proposed guidance that the State DOT serve as the non-Federal lead agency under section 6002 [23 U.S.C 139(c)(3)] for projects currently handled by local government agencies (hereinafter referred to as local government agencies) that receive ''pass-through'' project funding. Commenters suggested that the FHWA should allow local government agencies, as subrecipients of Federal funds, to

serve as the mandatory non-Federal lead agency under section 6002. Commenters felt that the local government agencies would be best positioned to fulfill the section 6002 non-Federal lead agency role in the case of locally initiated projects. Commenters also cited the added burden that would be placed on the State DOTs if they were required to serve as the non-Federal lead agency for local projects. One commenter was concerned that the requirement that the recipient of funding serve as the non-Federal lead agency would disturb the procedures presently followed by the FTA and local transit agencies. Some commenters expressed the view that State agencies should have the option, at the State agency's discretion, to serve as a non-Federal joint lead agency along with the local governmental agency. A few commenters encouraged allowing the State DOT to continue allowing local government agencies to prepare NEPA documents while the State DOT serves in a ''NEPA reviewer'' and quality assurance role, rather than requiring the State to hold the larger scope of responsibility described in the proposed guidance.

The FHWA and FTA have considered the many comments on this topic and have concluded that the proposed guidance correctly interpreted the language of section 6002 on mandatory joint lead agencies. The final guidance continues to reserve mandatory lead agency status to the U.S. DOT agency and the direct recipient of Federal funds. The FTA and FHWA believe that this interpretation follows the language of section 6002 and recognizes the legal relationships embedded in other Federal laws and regulations relating to recipient and subrecipient responsibilities. However, the FTA and FHWA agree that revisions to Questions 14–16 are appropriate to clarify and provide more detail on the lead agencies exercise of their discretion to extend invitations to agencies to serve as joint lead agencies under CEQ regulations.

Question 15 of the final guidance notes that State or regional toll authorities are among the agencies that lead agencies may invite to serve as a joint lead agency. That part of the guidance also specifies that agencies invited to serve as joint lead agencies under CEQ regulations assume the full spectrum of decisionmaking roles and responsibilities assigned to lead agencies under section 6002. Because of the scope of the decisionmaking roles held by joint lead agencies, the lead agencies will want to assess carefully which status (joint lead, cooperating, or participating) is most appropriate for various agencies with an interest in the project.

Question 16 revisions make it clear that the lead agencies typically will invite a local governmental agency to serve as a joint lead agency if it will be taking on design and construction responsibilities for the project. Once the local governmental agency accepts the invitation, the three agencies are ''lead agencies'' for purposes of section 6002. The three agencies then will determine how to allocate roles and responsibilities among themselves based on resources, expertise, project needs, and other relevant factors. However, the FHWA will continue to require the State, as the direct recipient of the Federal-aid highway funds, to serve as a joint lead agency on all projects regardless of the participation of a local governmental agency as a joint lead agency. The State remains legally responsible and liable for the proper performance of any NEPA or section 6002 work assigned to the local governmental agency, and the State must provide active oversight and supervision to the local governmental agency's work. This means that the State must be an active and knowledgeable participant in decisionmaking and must ensure that the local governmental agency, in carrying out any responsibilities assigned to it, fully complies with NEPA and section 6002. The FHWA's legal relationship, including oversight for the environmental review process, will continue to be with the State as the direct recipient of Federal-aid highway funds. Thus, the lines of oversight and legal responsibility of the FHWA, the State, and the local governmental agency remain the same as they were prior to the enactment of section 6002.

Several commenters raised questions on this and other parts of the proposed guidance about the FTA and FHWA interpretation of decisionmaking roles for the section 6002 Federal lead agency and non-Federal lead agencies. The main concern was that the U.S. DOT agencies were reserving to themselves the final decisionmaking authority, when section 6002 calls for joint decisionmaking between the two entities. A second concern was that the guidance did not describe how the lead agencies would resolve disagreements among themselves. The FTA and FHWA have considered the comments on the topic of lead agency decisionmaking and concluded that revisions should be made to the guidance to reflect a stronger joint decisionmaking process under section 6002. The agencies have revised Questions 19, 21, 32, 36, 38 and 39 to include language that addresses these issues and to eliminate references to the Federal lead agency making the final decision in specified situations. The Federal lead agency and all joint lead agencies collectively constitute the ''lead agency'' under section 6002 and they will engage in joint decisionmaking on matters involving the environmental review process. Disagreement on an issue must be resolved among those lead agencies before further action can be taken on the project that relates to the disputed issue. The effect of this decisionmaking process is that each party effectively holds a veto over the decision and the entities must cooperate in order to move the project forward on the issue in question. This is consistent with the discussion of joint lead agency decisionmaking in Conference Report 109–203 at pages 1046–1052.

12. Participating Agencies (Proposed Guidance Questions 21–29)

One commenter expressed concern that the information provided in the proposed guidance was insufficient to advise lead agencies of how to operate under the participating agencies provision of section 6002. The FTA and FHWA have considered the comments and revised the final guidance to provide additional detail and to emphasize areas of flexibility.

A few commenters raised questions about the process for identifying and inviting participating agencies. While commenters generally endorsed the process described in the proposed guidance, some commenters thought that the proposed guidance implied too broad an interpretation of an ''interest'' that would support inviting an entity to be a participating agency under section 6002. Those commenters requested inclusion of a definition of ''interest'' in the guidance. They suggested that the term be limited to mean those agencies that have more than a remote or speculative interest in the project. The FTA and FHWA have considered the comments and agree with the need to clarify the intended interpretation of what level of interest is sufficient to warrant participating agency status. The agencies have revised Question 21 to provide that there must be more than a tangential, speculative, or remote interest in the project to support participating agency status. Indicators of an ''interest'' include agencies that have an expertise in a topic relevant to the project, have jurisdiction over some aspect of the project, or are responsible for governmental function(s) that may be affected by the project or its impacts. However, the final guidance also recognizes the flexibility lead agencies have in this area, and the guidance

acknowledges that practices may vary from State to State.

A few commenters raised a question about the effect of agency resources on the responsibility of participating agencies to participate in the environmental review process under section 6002. The FTA and FHWA revised Question 22 to address this concern. The FTA and FHWA acknowledge that many agencies face resource constraints on their operations, and that such constraints may affect the ability of an agency to participate in every project. At the same time, section 6002 clearly establishes Congress's intent to make the environmental review process work more efficiently in terms of the time required to deliver projects. In order to meet the environmental review process requirements under section 6002, some agencies may have to determine which projects are priorities and to allocate resources accordingly. The lead agencies also will be affected by this challenge, and they will need to consider the potential effects of not having full participation by an agency on a project. For example, non-participation may have unfavorable impacts later when a participating or cooperating agency has to make its own decisions on the project.

The FTA and FHWA also note that, in their experience, an agency often finds it difficult to make meaningful contributions to the environmental review process if it becomes fully involved for the first time only after major decisions have been made. For these reasons, participating agency resource constraints are an important factor that the lead agencies should consider in developing the project coordination plan, including the timing of decision points in the process. The FTA and FHWA wish to emphasize that States still have the authority under 23 U.S.C. 139(j) to use Federal funds received under Title 23 and Title 49 to provide financial assistance to agencies for the purpose of expediting the environmental review process. In the final analysis, however, section 6002 does not provide any exemption from participation for agencies that face staffing, financial, or other resource constraints and the FTA and FHWA have not revised the final guidance to create one.

Some commenters asked about the timing of the participating agency invitations and asked whether participating agency invitations could be handled prior to the beginning of scoping, or whether the scoping process could be used to identify participating agencies. The FTA and FHWA have revised Question 23 to clarify that the timing of invitations to serve as participating agencies may vary. To the extent that the lead agencies know prior to scoping that certain entities should be invited to serve, the lead agencies may send invitations at or after the time of the project notice of initiation. If, as the project progresses, the lead agencies identify additional entities that should be invited to serve as participating agencies, then they should invite those entities promptly.

Some commenters expressed concern about the difference in treatment of Federal and non-Federal agencies with respect to response, or the lack of response, to an invitation to be a participating agency. The provisions of section 6002 relating to invitations to participating agencies [23 U.S.C. 139(d)(2)–(3)] create a mandatory protocol for handling Federal agency invitations and the subsequent responses or lack of responses. The proposed and final guidance reflect that statutory procedure in Question 25. Because participating agency status carries with it certain responsibilities that accompany the benefits of the opportunity for early and substantive participation in the project decisionmaking process, the FTA and FHWA concluded that conferring ''involuntary'' participating agency status on non-Federal agencies is neither feasible nor appropriate. The final guidance retains the original procedure for non-Federal agencies.

A number of commenters proposed changes to the language in Questions 26–27. Question 26 relates to how to handle situations in which an agency becomes a participating agency after the environmental review process is underway, either because new information indicates that there is a need for the agency's participation, or because the agency originally declined to participate but has changed its mind. Question 27 addresses what happens if an agency declines to be a participating agency but makes comments on the project anyway. Commenters had varying concerns. The most prevalent issue raised was how to ensure that decisions, once made, are not revisited unnecessarily, yet how to make certain that a new participating agency's interest and concerns were adequately addressed. The agencies determined that the procedures described in Question 26 of the proposed guidance establish the appropriate standards for the scenarios described in both Question 26 and Question 27. The agencies have revised Question 27 to clarify that the procedures in Question 26 apply in the case of an agency that initially declines to be a participating agency but later decides to submit comments on the project.

Question 27 of the proposed guidance stated that comments received from agencies that declined to be participating agencies ''are not entitled to any greater or lesser deference than those of the general public.'' A number of commenters inferred from this proposed language that participating agency comments would receive more weight than comments from the general public. Commenters asked for a clarification on this point. The FTA and FHWA have reviewed the text and have revised the text for Question 27 by deleting the phrase in question and inserting a reference to the process for handling comments that is outlined in the text for Question 26 of the final guidance. The lead agencies will consider all comments on a project, and evaluate the comments by considering relevant factors that may affect the credibility and weight that the agencies should afford the comments.

Some commenters suggested that the guidance should recognize that participating agencies may have different roles and levels of participation in the environmental review process and indicated that lead agencies should have the authority to identify a core group of participating agencies for regular meetings and provide more limited opportunities for participation to the remaining participating agencies. The FTA and FHWA have revised Question 28 to clarify that expectations and commitments about agency participation should be addressed in the coordination plan. It is appropriate to tailor an agency's participation to its area of interest or jurisdiction, but the lead agencies should make their choices after considering the potential effects if the agency is not provided an opportunity for involvement in some aspects of the environmental review process. Lead agencies also are free to honor requests from participating agencies to limit the participating agency's involvement, but in such cases the participating agency remains bound by the section 6002 process and the participating agency's self-imposed non-participation or selective participation may deprive it of the ability to influence the outcome of specific decision points in the process.

One commenter asked that the guidance be revised to reflect the ability of participating agencies to submit comments later in the process if additional information from technical studies or development of the draft EIS becomes available. The FTA and FHWA

agree that there are occasions when significant and relevant new information that is materially different than the information available at the time of the original comment period would merit an additional round of comments or require reconsideration of previous decisions on a project. The lead agencies will have to determine on a case-by-case basis whether such a situation exists. The FTA and FHWA have revised Question 28 to reflect this aspect of the process.

13. Cooperating Agencies (Proposed Guidance Questions 30–31)

One commenter asked for clarification in Question 31. The FTA and FHWA have revised Question 31 to indicate that invitations to agencies to participate in the environmental review process should be explicit about each role that the invited agency is being asked to serve. The agencies also clarified that, in the interest of efficiency, the lead agencies should use a single invitation whenever possible to address both cooperating agency and participating agency status.

14. Purpose and Need (Proposed Guidance Questions 32–35)

A commenter noted that the guidance should better recognize that, because other agencies may have to make decisions on the project, it would be useful for the agencies to jointly develop the statement of purpose and need. The FTA and FHWA agree with the suggestion and have revised Question 31 accordingly.

Commenters questioned the use of the term ''collaboration'' in the proposed guidance when discussing the decisionmaking process for purpose and need (Question 32) and range of alternatives (Question 36). Questions 32 and 36 have been revised to state that the lead agencies are responsible for the development of the purpose and need statement and the range of alternatives, after considering input from the participating agencies and the public.

Section 6002 calls for giving participating agencies and the public an opportunity for involvement on purpose and need and range of alternatives. Commenters on this topic generally considered ''opportunity for involvement'' to authorize something different than, and potentially less interactive than, ''collaboration.'' Several commenters noted that the use of the phrase ''in a timely and meaningful way'' in the answer to Question 34 did not provide enough guidance on when or how lead agencies should provide an ''opportunity for involvement'' on purpose and need. The FTA and FHWA have revised Question 34 to clarify that the opportunity for involvement is not a static concept, but flexible and depends on the project and issues involved. ''Opportunity for involvement'' is intended to gather information and perspectives, and to make sure that decisionmakers understand the concerns of interested parties. The FTA and FHWA believe it is important to provide maximum flexibility to the lead agencies on the timing and nature of involvement opportunities. The agencies have concluded that it would be difficult to provide a more precise description in the guidance without becoming prescriptive.

A number of commenters expressed concerns about how the guidance references the transportation planning process and its products in Questions 33 and 35. Questions 33 and 35 have been revised to describe the considerations that apply to using the results of the planning process when developing the statement of purpose and need.

15. Alternatives Analysis (Proposed Guidance Questions 36–38)

Commenters made nearly identical comments on the purpose and need and alternatives analysis segments of the proposed guidance with respect to the use of the term ''collaboration'' and the desirability of coordinating decisions on these issues with agencies that make decisions on the project under other laws. The agencies responded to those questions in the purpose and need segment of this notice, and made the same revisions to both the purpose and need segment and this alternatives analysis segment of the final guidance.

Commenters objected to the use of the term ''timely and meaningful'' in Question 37 as overly broad, and to the statement in the proposed guidance that opportunities for involvement on purpose and need and range of alternatives ''may be concurrent or sequential'' as failing to recognize that the range of alternatives for analysis can be determined only after the purpose and need of the project is decided. The agencies agree that the phrase ''timely and meaningful'' is overly broad and have revised Question 37 by removing the phrase. Additionally, the question has been revised to further explain that the opportunity for involvement must be provided prior to the lead agencies' decision regarding the range of alternatives. The agencies also clarified that lead agencies must consider whether additional opportunity for involvement on the range of alternatives is required if changes to the purpose and need arise out of involvement by the participating agencies and the public.

Some commenters stated that the guidance should clarify the parameters of the collaboration process for choosing methodologies, including the timeframes for comment. Another concern was that reaching closure on methodologies during scoping may not be feasible, and that the process for selecting methodologies discussed in Question 38 could become time-consuming and contentious.

The FTA and FHWA have considered all of the comments on the process for selection of methodologies and have concluded that revisions to Question 38 are warranted. The agencies agree that collaboration on methodologies need occur only with agencies that have some expertise, experience, statutory mission, or jurisdiction relevant to the object of the pending analysis. The FTA and FHWA note that this standard should be interpreted reasonably, so that participating agencies are not inappropriately excluded from collaborating on methodologies. If the lead agencies elect to establish a comment period under section 6002 [23 U.S.C. 139(g)(2)(B)] to help bring closure to the selection process, then they will need to follow procedures for giving notice of the comment period (see Question 54). Issues on methodologies should be raised and resolved as soon in the environmental review process as the lead agencies believe there is sufficient information on the particular issue to reasonably support selection of the methodology for analysis. The FTA and FHWA have concluded that the language on documenting the selection of methodology, and any objections thereto by participating agencies, is appropriate and consistent with NEPA requirements. Such documentation also is a good administrative practice, particularly in the event of later litigation. That language is retained in the final guidance.

A commenter raised a concern that the language in Question 38 on ''comments late in the process'' appears to conflict with 40 CFR part 1503 requirements for the consideration of comments received during the draft EIS comment period. The NEPA regulation at 40 CFR 1503.4(a) does require an agency preparing a final EIS to ''assess and consider'' comments made on a draft EIS. However, under 40 CFR 1503.4(a)(5), the agency preparing the final EIS may ''explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would

trigger agency reappraisal or further response.'' The FTA and FHWA have concluded that the lead agencies are not required to revisit an issue on which participating agencies had an opportunity to comment earlier in the environmental review process. The exception would be if the draft EIS is the first opportunity a participating agency has to comment on significant and material new information affecting the selection. The FTA and FHWA have determined that the language in the proposed guidance represents an appropriate interpretation that is in harmony with both the NEPA regulatory provisions and section 6002 requirements.

The FTA and FHWA also have revised Question 38 to clarify the procedure for developing and applying a methodology for a program, region, or class of projects.

16. Preferred Alternative (Proposed Guidance Questions 39–46)

Several commenters asked for clarification of Question 39, concerning who decides whether the preferred alternative can be developed to a higher level of detail. Some objected to the use of the term ''locally preferred alternative'' because it is not a term used in the statute. The agencies have revised Question 39 to eliminate the term ''locally preferred alternative.'' The agencies also have adopted in Question 39, as throughout the final guidance, language that reflects joint decisionmaking among the lead agencies. If the joint decisionmaking process does not result in mutual agreement on whether there is a preferred alternative or whether the section 6002 criteria for doing a higher level of design for a preferred alternative [23 U.S.C. 139(f)(4)(D)] are satisfied, then no action can be taken that relies on such decision(s) until there is agreement among all of the lead agencies.

Commenters asked for clarification of what ''accepted'' means in Questions 39 and 41 with respect to the preferred alternative. The FTA and FHWA have revised Question 41 to clarify this point. Some commenters asked whether acceptance of the identification of a preferred alternative affects the New Starts or Small Starts rating process. The FTA has revised Question 41 to state that neither acceptance of a preferred alternative, nor a decision to do a higher level of design on a preferred alternative, affects the New Starts or Small Starts rating process.

Several commenters asked the FTA and FHWA to consider ways to reduce the analysis and documentation requirements for the determination whether to do a higher level of design on the preferred alternative (see Questions 42–44), and to clarify when the lead agency can identify a preferred alternative. The FTA and FHWA have considered all of the comments on this issue and appreciate the commenters' desire to streamline the process for making the decision on doing a higher level of detail. The agencies note that the criteria for the decision, and the limitations on the purposes for which the work can be done and the scope of work that can be performed, appear in section 6002 [23 U.S.C. 139(f)(4)(D)]. Those provisions echo language in NEPA regulations and relevant case law. The agencies have concluded that the requested revisions would not be consistent with those laws, particularly with respect to the required finding of impartiality in future decisionmaking on the selection of alternatives. Lead agencies are encouraged to identify workable methods for expediting this decision, but the requirement for project-by-project review is retained in the final guidance.

The FTA and FHWA have clarified in Question 43 when the lead agencies may decide on a preferred alternative and the performance of a higher level of design work for the preferred alternative. In keeping with NEPA and agency practices prior to SAFETEA–LU, a decision on a preferred alternative cannot occur until after the lead agencies have conducted sufficient scoping and analysis of alternatives to support the identification. Further, there cannot have been sufficient scoping until after an opportunity for the involvement of participating agencies and the public on the purpose and need and the range of alternatives has occurred.

A number of commenters asked the FTA and FHWA to consider amending Question 40 to authorize, during the completion of the NEPA process, design work that goes beyond the level of work described in section 6002. The types of work that the commenters indicated should be permitted, and would not bias decisionmaking, included geotechnical assessments, hydraulic and hydrologic analysis, traffic studies, hazardous materials assessments, utility engineering, cost estimates, and development of preliminary design drawings. The FTA and FHWA have considered the various comments on the issues of the level of additional design work and purposes for which additional design work could be done for a preferred alternative during NEPA review and have decided not to make the requested revisions. The agencies note that the types of work listed by the commenters often are a part of the higher level of design work allowed in order to meet NEPA or permitting agency requirements for information about engineering and operational feasibility, impacts, or other issues. The type of work is not determinative. The key questions are whether the purpose of the additional work is one that is authorized by law, and whether the scope of work to be done is limited to what is needed to satisfy such authorized purpose(s). The FTA and FHWA will continue to require good faith and reasonable determinations that the permitted level of design is what is needed to meet a purpose authorized by applicable laws and regulations, including section 6002.

17. Coordination and Schedule (Proposed Guidance Questions 47–57)

This segment of the proposed guidance drew many comments, particularly with respect to the need for a schedule and the process of modifying a schedule. The concerns of many commenters focused on when parties other than the lead agencies have a role in scheduling decisions. With respect to transit projects, commenters questioned the applicability of section 6002 to New Starts and Small Starts projects, and one commenter suggested that FTA exempt Small Starts projects from the project coordination plan requirements under section 6002 because Small Starts projects are intended to have streamlined processes and should be allowed to develop individualized plans for project planning, development, and implementation.

The FTA and FHWA agree with the commenter's sentiments about the importance of streamlining the process and having plans that are tailored to the needs of the project. The FTA and FHWA believe the coordination plan requirements will promote these objectives, not hinder them. The agencies have made no change to the final guidance in terms of the projects that are subject to the coordination plan requirements.

Some commenters suggested the addition of language advising lead agencies to give cooperating and participating agencies a role in the development of project coordination plans. Question 47 has been revised to state that because key elements of the coordination plan may be setting expectations that require resource commitments by the participating agencies, consultation with the participating agencies is strongly encouraged.

A number of commenters submitted questions about the scope, content, and use of schedules in project coordination plans under section 6002. Some commenters objected to the FHWA requirement for a schedule (Question 52), citing the optional nature of schedules under section 6002 [23 U.S.C. 139(g)(1)(B)]. Others were concerned by the use of the word ''negotiated'' in the Question 52 discussion of the process for creating a schedule, especially the potential interpretation of that word as requiring the agreement of participating agencies to a proposed schedule. The FTA and FHWA have considered the various comments on this topic. The agencies also have considered that section 6002 is intended to expedite the environmental review process, and to avoid duplication and waste. The use of a project schedule is one important tool to use to achieve those goals. Both the FTA and the FHWA support tailoring the form and substance of project schedules to meet the needs of the particular projects and the factors specified in section 6002 [23 U.S.C. 139(g)(1)(B)(ii)].

The final guidance recognizes that schedules are optional, not mandatory, under section 6002. The FTA decision to treat schedules as optional remains unchanged in the final guidance. The FHWA believes that management and stewardship of public funds within the Federal-aid highway program dictates the need for a schedule for EA and EIS projects. The final guidance states that FHWA assumes that a schedule will be used on all EA and EIS projects processed under section 6002. If the non-Federal lead agency believes that a schedule is not needed, then the non-Federal lead agency will be expected to consult with the FHWA about how the project will proceed. The development of a schedule will involve consulting with the participating agencies, but does not require consensus or concurrence.

A few commenters suggested that the factors for establishing a project schedule, listed in Question 53 of the proposed guidance, were incomplete because they failed to include a factor that recognized the need to speed up the environmental review process. The FTA and FHWA agree with the commenters that it is important to always keep in mind that the section 6002 provisions are intended to expedite effective project environmental reviews, which includes realistic schedules that focus on timely decisionmaking. The agencies note that the factors listed in Question 53 are derived from the statute. The FTA and FHWA have revised Question 53 to recognize explicitly the importance of using a schedule to help expedite project reviews, and the ability of the lead agencies to consider whatever array of factors they believe may have a substantial effect on moving the environmental review process forward in an efficient and effective manner.

Some commenters raised concerns about how to handle needed changes in project schedules. They expressed particular interest in how to accommodate changes in the level of knowledge about issues affecting the project. Commenters also asked for clarification about the type of interaction with other agencies that is required before changing a schedule. Section 6002 [23 U.S.C. 139(g)(1)(D)] permits the lead agencies to lengthen a schedule for good cause. Concurrence of other agencies is required only if a schedule is shortened, and even then agreement is needed only from cooperating agencies that would be affected by the shorter schedule. The agencies have revised Question 56 to clarify this point. If the component of the schedule that the lead agencies propose to shorten does not apply to a particular cooperating agency, then that agency's concurrence is not required for the change. The FTA and FHWA do encourage lead agencies to consider the benefits that can be obtained by coordinating proposed schedule changes with both cooperating and participating agencies so that all affected agencies can plan appropriately.

One commenter suggested that the guidance should emphasize that there is flexibility in setting the deadlines for comments if there is good cause for exceeding the section 6002 statutory time periods [23 U.S.C. 139(g)(2)], which may include where there is new information or a substantial change to the project. The FTA and FHWA agree with the commenter that there may be circumstances when good cause will exist for the lead agencies to extend a comment period or, in extreme cases, to reopen comments on an issue by creating a second comment period. It is a lead agency decision whether such circumstances exist on a particular project. The FTA and FHWA have revised Question 54 of the final guidance to point out the lead agencies' ability to extend comment periods for good cause. The lead agencies may provide notice to participating agencies and the public about when a particular comment period starts and concludes through distribution of the schedule or by other means.

The agencies have revised Question 57 to clarify that where the lead agencies decide to adjust a schedule, section 6002 [23 U.S.C. 139(g)(1)(E)] does require the lead agencies to provide a copy of the revised schedule to the participating agencies, the State DOT, and the project sponsor (if not the State). The revised schedule also must be made available to the public.

18. Requirements Placed on Non-U.S. DOT Federal Agencies (Proposed Guidance Questions 58–59)

Several commenters objected to the Question 58 language that describes the 180-day deadline for decisions under Federal laws as applying only to decisions made by Federal agencies. The commenters stated that the deadline for decisionmaking also should apply to decisions by State agencies that are made under Federal law, such as a Section 401 water quality certification under the Clean Water Act, 33 U.S.C. 1341. The language of the statute itself references ''the failure of the Federal agency to make the decision'' [23 U.S.C. 139(g)(3)(A)]. The Conference Substitute Report for SAFETEA-LU [Conference Report on the Committee of the Conference on H.R. 3, House of Representatives Report 109–23, page 1051] refers to the section as ''provid[ing] notice * * * of the failure of a Federal agency to make decisions in the environmental review process (section 139(g)(3)).'' The FTA and FHWA have concluded that the language in the proposed guidance is correct.

19. Concurrent Reviews (Proposed Guidance Question 60)

In connection with Question 60, one commenter asked for additional information on how the FHWA will ensure that the participating agencies fulfill their responsibilities under section 6002 [23 U.S.C. 139(h)(3)] to identify issues of concern as early as practicable. The FTA and FHWA believe that all lead and participating agencies have legal and general governmental obligations to work cooperatively to improve the environmental review process. In particular, the agencies point to the roles and responsibilities specified in section 6002 for lead agencies [23 U.S.C. 139(c)(6) and (h)(2)] and participating agencies [23 U.S.C. 139(d)(7) and (h)(3)]. The U.S. DOT is working with other Federal agencies to help them understand their obligations under section 6002 and to encourage actions to meet those obligations. The FTA and FHWA have revised the final guidance to better capture these points.

20. Issues Identification and Resolution (Proposed Guidance Questions 61–63)

A number of comments were submitted relating to dispute resolution procedures and the effect of the new issue resolution provisions in section 6002 [23 U.S.C. 139(h)]. Commenters wanted clarification on which procedures apply, when they apply, and who can initiate the procedures. Some commenters asked for clarification of the differences between the SAFETEA–LU section 6002 procedure and other agency dispute resolution processes (including ''informal'' procedures). The agencies believe that the starting point for this topic is a better definition of what the section 6002 procedure [23 U.S.C. 139(h)] does, and does not, encompass. The FTA and FHWA agree with the commenters who observed that the section 6002 process may be initiated only by the project sponsor (as defined in section 6002) or the Governor of the State in which the project is located. The agencies have revised Question 61 in the final guidance to clarify this point.

The FTA and FHWA also note that the section 6002 dispute resolution process applies ''at any time * * * to resolve issues that could delay the completion of the environmental review process or could result in denial of any approvals required for the project under applicable law.'' Disputes that are likely to affect the progress of a project often are disputes over decisions that lie outside the decisionmaking authority of the lead agencies, so the lead agencies are not able to impose a final decision if the dispute is not otherwise resolved. The FTA and FHWA do believe the likelihood of success will be enhanced if the individuals attending a dispute resolution meeting have the rank and authority to make ''on-the-spot'' commitments that will bind their respective agencies or organizations. The guidance has been revised to highlight this principle and to recognize that the organizational level of the persons invited should be guided by the kinds of issues in dispute.

Some commenters stated that the dispute resolution guidance and order issued under section 1309 of TEA–21 [1] should be withdrawn because section 1309 was repealed by section 6002 of SAFETEA–LU. Those commenters suggested that the section 6002 provision was intended to replace other agency dispute resolution procedures, and that States should have the flexibility to establish their own dispute resolution procedures so long as they are consistent with the provisions of section 6002.

The FTA and FHWA recognize that there is nothing in the section 6002 dispute resolution process that assures resolution of the disagreement. The endpoint of the section 6002 process, as indicated in Question 61 of the proposed guidance, is notice to specified congressional committees that the dispute remains unresolved [23 U.S.C. section 139(h)(4)(B)]. For these reasons, the FTA and FHWA encourage separate dispute resolution procedures at the State and Federal levels to address disagreements over important issues of concern. Lead agencies may include dispute resolution procedures in project coordination plans. This may be done on a project-by-project basis or as part of program-wide coordination plan provisions.

Individual Federal agencies have recognized the value of dispute resolution procedures and many have such procedures either as a matter of administrative policy or as a result of statutory provisions. The FTA and FHWA do not believe that the repeal of section 1309 of TEA–21 in any way affects Federal agency authority to maintain and apply dispute resolution procedures. The FHWA and FTA have concluded that most of the dispute resolution guidance developed after the adoption of TEA–21 simply describes dispute resolution principles and practices that continue to be useful. The U.S. DOT Order 5611.1A, entitled ''U.S. Department of Transportation National Procedures for Elevating Highway and Transit Environmental Disputes'' (October 10, 2003),[2] which was created under section 1309 of TEA–21, does not apply to section 6002 projects. The FHWA will develop updated procedures to guide FHWA-initiated dispute resolution efforts on projects subject to Section 6002.

Another commenter stated that the FTA and FHWA should not require the completion of agency dispute resolution procedures before initiation of the section 6002 issue resolution procedure. The FTA and FHWA have considered this comment and agree that the final guidance should clarify this point. The agencies emphasize that State and Federal dispute resolution procedures, both formal and informal, should operate to complement the section 6002 issue resolution procedure. State or Federal agency dispute resolution procedures are not considered as legally required prior to the initiation of the section 6002 issue resolution process. State or Federal agency dispute resolution procedures may be used prior to, or concurrent with, the section 6002 procedure. However, the FTA and FHWA strongly believe that the State and Federal agency dispute resolution procedures provide an effective method for solving major disagreements. The agencies know, based on experience, that resolution of issues at the lowest possible level through problem solving among the immediate parties to the dispute typically is the most effective way to keep a project on track.

A few commenters indicated that more guidance is needed in Question 62 on the scope of the term ''issues of concern'' so that practitioners can understand which types of disagreements are subject to the issue resolution provisions of section 6002. Commenters generally were concerned that too many issues would be referred for dispute resolution procedures, thereby delaying the decisionmaking process. One commenter observed that carefully defining the kinds of issues that are important enough to trigger the dispute resolution procedures contributes to the successful use of a dispute resolution procedure.

The FTA and FHWA have considered the comments on this point, and have concluded that lead agencies and participating agencies should be guided by the statutory language in section 6002 [23 U.S.C. 139(h)(3)–(4)]. The agencies have revised Question 62 to track the statutory language. The provision on participating agency responsibilities states that participating agencies ''shall identify, as early as practicable, any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project.'' In practice, this means that both lead agencies and participating agencies have responsibilities for identifying the importance of a disagreement. The lead agencies need to manage the project and its schedule well enough, and consult with participating agencies effectively enough, to know when there is an issue that is unresolved and likely to cause delay or prevent issuance of a permit needed for the project. A participating agency has the obligation to come forward as soon as it is aware that there may be an issue that will cause a substantial delay or permit denial if not satisfactorily resolved. When a participating agency informs the lead agencies of an issue of concern within the meaning of section 6002, the lead

[1] U.S. Department of Transportation Collaborative Problem Solving: Better and Streamlined Outcomes for All (2002), available online at the following URL: *http://www.environment.fhwa.dot.gov/strmlng/adrguide/index.asp.*

[2] The order is available online at *http://www.environment.fhwa.dot.gov/strmlng/dot5611_order.asp.*

agencies should evaluate whether further dispute resolution efforts using formal or informal processes other than section 6002 can be productive. This step by the lead agencies does not foreclose the initiation of the section 6002 issue resolution procedure by the project sponsor or the State Governor, but the FTA and FHWA discourage use of the section 6002 issue resolution procedure as the ''first step'' after a participating agency disclosure of an issue of concern. The FTA and FHWA believe that it is clear from the limiting language in the statute itself that few disputes should be deemed of sufficient importance to trigger the section 6002 issue resolution process. Disputes of lesser importance should be resolved by the parties through the section 6002 authorities for lead agency decisions, if applicable, or through other dispute resolution procedures.

21. Funding of Additional Agency Resources (Proposed Guidance Questions 67–69)

One commenter asked that the guidance make it clear that no additional funds are given to States for the purpose of providing the financial assistance authorized by section 6002. The agencies have revised Question 67 to make this point.

22. Statute of Limitations (Proposed Guidance Section 3)

The final guidance retains the election by the FTA and FHWA to approach administration of the statute of limitations (SOL) provision in section 6002 [23 U.S.C. 139(*l*)] in different ways. Comments received on the SOL segment (Section 3) of the proposed guidance indicated that the final guidance should provide greater emphasis on this fact, and the FTA and FHWA have made appropriate revisions to Section 3 of the final guidance.

Agencies receiving funding from the FTA should consult the part of Section 3 of the final guidance that is specific to FTA. Similarly, agencies receiving funding through the FHWA should refer to the FHWA portion of Section 3 of the final guidance. Procedures described in Appendix E apply only to FHWA and the recipients of Federal-aid highway funding. Despite the differences in the implementation procedures between FTA and FHWA, the agencies stress that they interpret the scope and intent of the SAFETEA–LU SOL provision in the same way and that their implementation decisions are based solely on administrative differences between the FTA and FHWA programs.

For the FHWA, the final guidance replaces its earlier ''Interim Guidance on the Use of 23 U.S.C. 139(*l*) Limitations on Claims Notices,'' dated December 1, 2005, that informed actions to implement the SAFETEA–LU SOL provision between the effective date of SAFETEA–LU and the effective date of the final guidance on section 6002. The final guidance contains not only SOL revisions responding to comments received in the docket, but also changes initiated by the FHWA as a result of the agency's experience with the SOL provisions since the effective date of SAFETEA–LU.

Only a small number of major comments were submitted with respect to the FHWA SOL guidance in Appendix E. Some commenters asked for clarification in Appendix E about which Federal agencies may publish the SOL notice, and how to handle publication where a substantial period of time has elapsed between the FHWA Record of Decision (ROD) and the last permit decision by other agencies. The FTA and FHWA have considered the comment and have added clarifying language to Section 3 of the final guidance. The FHWA has revised Question E–16 in Appendix E of the final guidance to clarify that the FHWA, as Federal lead agency, expects to publish all notices regardless of the lapse of time between the ROD and the last Federal agency project decision.

One commenter asked for guidance on whether the publication of a SOL notice for a SEIS will reopen issues covered in the original EIS for which a SOL notice previously was published. The FHWA amended Question E–21 in the final guidance to include this issue. The effect of a SEIS SOL notice on decisions covered by a SOL notice published for an earlier ROD will depend on the circumstances. The FHWA believes that litigation of earlier decisions that are unrelated to topics addressed by the SEIS will be foreclosed by the expiration of the 180-day period after the publication of the SOL notice covering those earlier decisions. Any issues addressed in the SEIS proceedings, and the Federal agency decisions that rely on the information developed during the SEIS proceedings, would be subject to the SOL notice(s) published in the **Federal Register** after the SEIS and related ROD.

Another commenter noted that the SOL notice is a Federal requirement and expressed the view that the cost of the notice should be borne by the FHWA. The SOL notices are an optional measure that will be used on individual projects. As such, the cost of publishing the notices is logically a project-related expense that may be necessary or appropriate to the ultimate construction of an approved project. Until a system is in place to handle State reimbursement of FHWA for SOL notice costs, the FHWA will continue to pay for the publication of the notices in the **Federal Register**.

23. Other Comments

A number of commenters asked whether electronic communications could be used in place of hard copy letters for various actions that require documentation, such as invitations to participating agencies. The commenters cited the prevalence of electronic communications and the potential timesavings that can be accomplished by using electronic communications. The FTA and FHWA agree with the commenters that electronic means of communication can be used, subject to certain common sense recordkeeping and authentication requirements so that lead agencies maintain the required project records and have assurance that they are dealing with properly authorized agency representatives. The FTA and FHWA revised the final guidance to reflect this view.

One commenter asked for guidance on how lead agencies should handle situations where actions were taken after August 10, 2005, on a project that is subject to section 6002, but the actions may not conform to all requirements of the final guidance because the guidance did not exist. The FTA and FHWA have considered the comment and have revised Question 8 of the final guidance to clarify how to handle such cases. If the difference relates to a substantial requirement under the final guidance, then the Federal lead agency will assess whether additional action is needed and can be taken to cure the discrepancy.

The FTA and FHWA recognize and appreciate the efforts of all parties who provided comments for consideration in the development and finalization of the section 6002 guidance.

(Authority: 23 U.S.C. 315; Pub. L. 109–59, 119 Stat. 1144; 49 U.S.C. 5334; 23 U.S.C. 139; 49 CFR 1.48; 49 CFR 1.54)

Issued on: November 7, 2006.

James S. Simpson,

Federal Transit Administrator.

J. Richard Capka,

Federal Highway Administrator.

[FR Doc. 06–9201 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The Canadian National Railway Company

[Waiver Docket Number FRA–2001–9486]

The Canadian National Railway Company (CN) is the owner of a 100-ton, seven unit articulated ramp car and has petitioned FRA for modification of an extension to the waiver granted on January 11, 2002, in FRA Docket Number 2000–9486. Specifically, CN has requested that the existing waiver be modified on condition no. 4 to extend the use of the ramp car by any of the CN affiliated railroads on any portion of the CN system in the United States.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2001–9486) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room Pl–401, 400 7th Street SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m–5 p.m.) at DOT Central Docket Management Facility, Room Pl–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19377–78). The statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on November 9, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–19243 Filed 11–14–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance from certain requirements of Federal railroad safety regulations. The individual petition is described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Alaska Railroad Corporation

[Docket Number FRA–2006–26029]

As part of the informational filing submitted September 27, 2006 (Docket No. FRA–2006–26029) the Alaska Railroad Corporation (ARRC) has filed a petition for regulatory relief from the following regulations: 49 CFR 216.13 (Special Notice of Repairs—Locomotive), 49 CFR 217.9 (Program of Operational Tests and Inspections—Recordkeeping), 49 CFR 217.11 (Program of Instruction on Operating Rules—Recordkeeping, Electronic Recordkeeping), 49 CFR 218(d) (Prohibition Against Tampering with Safety Devices), 49 CFR 229.7 (Prohibited Acts), 49 CFR 229.135 (Event Recorders), 49 CFR 233.9 (Reports), 49 CFR 235.5 (Changes Requiring Filing of Application), 49 CFR 240.127 (Criteria for Examining Skill Performance), and 49 CFR 240.129 (Criteria for Monitoring Operational Performance of Certified Engineers), for testing related to the Collision Avoidance System (CAS) on a railroad corridor from south of the Anchorage Terminal to Portage, within the State of Alaska, on the Alaska Division and the Whittier Division. The ARRC proposes to identify the specific parts of these territories on which testing will occur 30 days before the start of testing.

The regulatory relief requested is only for CAS-related equipment and testing, commencing fourth quarter 2006 through the conclusion of CAS testing and submission, and approval of the Product Safety Plan (PSP). The request for regulatory relief will not apply to non-CAS equipment and operations. Details of the specific relief requested and the associated rationale are specified in the ARRC letter of September 27, 2006 (Docket No. FRA–2006–26029).

FRA will accept comments under the provisions of 49 CFR part 211 for regulatory relief of these requirements.

As part of the same informational filing, ARRC also requests exemption under the provisions of 49 CFR 236.913(j)(1)(iv) for relief from various parts of 49 CFR part 236, subparts A–G. FRA will independently impose appropriate conditions necessary for the safety of train operations regarding exemptions from part 236, subparts A–G under the provisions of 49 CFR 236.913(j)(2).

Interested parties are invited to review the informational filing and provide written information or comments pertinent to FRA's consideration of the above request for waiver of compliance. All communications concerning this petition should identify the appropriate docket number (FRA–2006–26029) and may be submitted by one of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic site;
- *Fax:* 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; or
- *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.

Communication received within 30 days of the date of this notice will be considered by FRA prior to final action being taken. Comments received after that date will be considered to the extent practicable. All written communications concerning these proceedings are available for

examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment 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 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on November 9, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–19242 Filed 11–14–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Proposed Information Collection; Comment Request

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the information collection listed below in this notice.

DATES: We must receive your written comments on or before January 16, 2007.

ADDRESSES: You may send comments to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044–4412;
- 202–927–8525 (facsimile); or
- *formcomments@ttb.gov* (e-mail).

Please reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment. If you submit your comment via facsimile, send no more than five 8.5 × 11 inch pages in order to ensure electronic access to our equipment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412; or telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the information collection listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please not do include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collection Open for Comment

Currently, we are seeking comments on the following information collections:

Title: Distilled Spirits Bond.

OMB Number: 1513–XXXX (To be assigned).

TTB Form Number: 5110.56.

Abstract: This form is used by Distilled Spirits Plants (DSPs) and Alcohol Fuel Plants to file bond coverage with TTB. Using this form, these plants may file coverage and/or withdrawal coverage for one plant or multiple plants. DSPs may file this bond and include operations coverage for adjacent wine cellars. The bond may be secured through a surety company or it may be secured with collateral (cash, Treasury Bonds or Treasury Notes). The bond protects the revenue assigned to distilled spirits on which excise tax has not been paid. Should the industry member fail to pay its tax liability, including any penalties and interest, TTB may obligate the funds used to secure the bond to satisfy the debt.

Current Actions: There are changes to this information collection and it is being submitted for approval.

Type of Review: Existing collection without an OMB control number.

Affected Public: Business or other for-profit, Farms.

Estimated Number of Respondents: 116.

Estimated Total Annual Burden Hours: 232.

Dated: November 8, 2006.

Francis W. Foote,

Director, Regulations and Rulings Division.

[FR Doc. E6–19237 Filed 11–14–06; 8:45 am]

BILLING CODE 4810–31–P

Federal Register

Wednesday,
November 15, 2006

Part II

Federal Communications Commission

47 CFR Part 73

Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service; Seventh Further Notice of Proposed Rulemaking; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 87–268; FCC 06–150]

Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service; Seventh Further Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes a new DTV Table of Allotments (''DTV Table''), providing all eligible stations with channels for DTV operations after the DTV transition. The proposed DTV Table is based upon the tentative channel designations (''TCDs'') announced for eligible broadcast licensees and permittees (collectively, ''licensees'') through the channel election process, along with our efforts to promote overall spectrum efficiency and ensure that broadcasters provide the best possible service to the public, including service to local communities. Once effective, the proposed DTV Table will guide stations in determining their build-out obligations. The proposed DTV Table will ultimately replace the existing DTV Table at the end of the DTV transition, when analog transmissions by full-power television broadcast licensees must cease.

DATES: Comments for this proceeding are due on or before January 11, 2007; reply comments are due on or before February 12, 2007.

ADDRESSES: You may submit comments, identified by MB Docket No. 87–268, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the *Commission's Seventh Further Notice of Proposed Rulemaking (''Seventh FNPRM'')*, FCC 06–150, in docket MB Docket No. 87–268, adopted on October 10, 2006, and released on October 20, 2006. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington DC, 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

The *Seventh FNPRM* does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. By this action, the Commission undertakes the final step in the channel election process established in its *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television* (69 FR 59500, October 4, 2004) (''Second DTV Periodic Report and Order'') and begins the final stage of the transition of the nation's broadcast television system from analog to digital television (''DTV''). Specifically, in the *Seventh Further Notice of Proposed Rule Making (''Seventh FNPRM'')*, the Commission proposes a new DTV Table of Allotments (''DTV Table''), providing all eligible stations with channels for DTV operations after the DTV transition.

2. In developing the proposed new allotments, the Commission has attempted to accommodate broadcasters' channel preferences as well as their replication and maximization service area certifications (made via FCC Form 381). Our proposed DTV Table is based upon the tentative channel designations (''TCDs'') announced for eligible broadcast licensees and permittees (collectively, ''licensees'') through the channel election process, along with our efforts to promote overall spectrum efficiency and ensure that broadcasters provide the best possible service to the public, including service to local communities. Once effective, the proposed DTV Table will guide stations in determining their build-out obligations. The proposed DTV Table will ultimately replace the existing DTV Table at the end of the DTV transition, when analog transmissions by full-power television broadcast licensees must cease. The current DTV Table of Allotments is contained in 47 CFR 73.622(b). We note that, at the end of the transition, the current NTSC Table, contained in 47 CFR 73.606(b) will become obsolete. We will address any rule amendments necessitated by the end of analog service in a later proceeding. The current DTV Table will govern stations' DTV operations until the end of the DTV transition.

II. Background and Summary

A. The DTV Transition

3. The Commission established the existing DTV Table in the 1997 *Sixth Report and Order* (62 FR 26684, May 14, 1997) as part of its DTV transition plan. In creating the existing DTV Table, the Commission sought to accommodate all eligible, full-service broadcasters with a second channel to provide DTV service in addition to their existing, analog service. Eligibility to receive a second channel for DTV operations was limited to existing broadcasters. In addition, the Commission initiated a process by which the amount of spectrum devoted to the television broadcast service would eventually be reduced. As a result, television broadcast operations will be limited to the ''core spectrum'' (*i.e.*, channels 2–51) after the end of the transition, enabling the recovery of a total of 108 MHz of spectrum (*i.e.*, channels 52–69). The ''core spectrum'' is comprised of low-VHF channels 2 to 4 (54–72 MHz) and 5 to 6 (76–88 MHZ), VHF channels 7 to 13 (174–216 MHz) and UHF channels 14–51 (470–698

MHz), but does not include TV channel 37 (608–614 MHz), which is used for radio astronomy research. In order to protect sensitive radio astronomy operations, TV Channel 37 is not used for NTSC or DTV service. Channels 60–69 (746–806 MHz) were reallocated for public safety and wireless communications services in 1998. Channels 52–59 were reallocated for new wireless services in 2001. Broadcast licensees must cease operations outside the core spectrum after February 17, 2009, thereby making that spectrum available for public safety and commercial wireless uses; *see* 47 U.S.C. 337(e)(1) (''Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after February 17, 2009.'').

4. As required by statute, the second channel allotted in the existing DTV Table is for use during the DTV transition, after which each licensee must return to broadcasting on a single, six MHz channel. In practice, some licensees' ultimate DTV channels will be entirely different channels—not their NTSC channels or the channels allotted to them for DTV transmission during the transition. In specifying the second channels that broadcasters received for transitional use, the Commission attempted to enable stations to ''replicate'' the service area of their existing NTSC operations, *i.e.*, to provide DTV service to an area that is comparable to their existing NTSC service area. The existing DTV Table also was designed to minimize interference to both existing analog TV and new DTV service. The existing DTV Table, codified in 47 CFR 73.622(b), was developed using the policies adopted in the *Sixth Report and Order* and a computer allotment methodology. The details of each station's channel assignment under the existing DTV Table, including technical facilities and predicted service and interference information, were set forth in the initial Appendix B of the *Sixth Report and Order* (''initial Appendix B'').

B. The Channel Election Process

5. Broadcast licensees selected their ultimate (*i.e.* post-transition) DTV channel inside the core spectrum through the channel election process established by the Commission in the *Second DTV Periodic Report and Order.* Under this process, licensees elected their preferred post-transition channel during one of three rounds. Channel elections that could be approved, as well as ''best available'' channels selected by Commission staff, were locked in as TCDs and protected against new interference from subsequent channel elections with a strong presumption that a station's TCD would be its channel assignment proposed in the new DTV Table. Because the final channel allotments can be established only through a rulemaking proceeding, we propose the new DTV Table as an amendment to 47 CFR 73.622 in the *Seventh FNPRM* in the DTV docket.

6. The channel election process was designed to be carried out in seven steps, culminating in this rulemaking, the seventh and final step. In order to facilitate the selection of channels and the development of a final DTV Table, prior to the commencement of the first step of the channel election process, the Media Bureau announced a freeze on the filing of certain NTSC and DTV requests for allotment or service area changes.

7. The first step of the channel election process addressed preliminary matters and required all licensees to file a certification (via FCC Form 381) in order to define their post-transition facility. Licensees were required to file their certifications (via FCC Form 381) by November 5, 2004. Stations that did not submit certification forms by the deadline were evaluated based on replication facilities. In these certifications, licensees had to decide whether they would (1) Replicate their allotted facilities, (2) maximize to their currently authorized facilities, or (3) reduce to a currently authorized smaller facility. Many stations have applied for and been granted authorization to operate at facilities that are different from the facilities that were specified for their operation in the initial DTV Table and Appendix B, as amended in 1998. In most cases, the facilities allowed under these new authorizations allow stations to ''maximize'' their service coverage to reach a larger population than the facilities specified in the initial DTV Table.

8. The second step of the channel election process was the first round of channel elections, in which only in-core licensees—those with at least one in-core channel—could participate. In-core licensees that participated in round one filed their channel elections (via FCC Form 382) by February 10, 2005. First-round electors were not permitted to elect a channel that was not assigned to them unless rights to that channel were obtained through a negotiated channel agreement (''NCA'') with another licensee. At the close of the first round elections, the Commission announced 1,554 TCDs, which included channels elected through 25 NCAs. By Order released on June 8, 2005, the Media Bureau approved 25 NCAs for the first round and rejected 12 NCAs, sending those licensees to their contingent round one election or, if necessary, to round two.

9. In the third step, the Commission analyzed the interference conflicts arising out of the first round and offered licensees an opportunity to resolve them (via FCC Form 383). After reviewing the first round conflicts, the Commission announced an additional 159 TCDs, bringing the total number of TCDs to 1,713.

10. The fourth step of the channel election process was the second round of elections, in which the remaining licensees made their elections. Licensees that participated in this round filed their channel elections (via FCC Form 384) by October 31, 2005.

11. In the fifth step, the Commission analyzed the interference conflicts arising out of the second-round elections and announced 75 TCDs, which included channels elected through two NCAs. The Commission subsequently announced the consolidated total of first- and second-round TCDs to be 1,789.

12. The sixth step of the channel election process was the third and final round of elections, in which licensees without a TCD after rounds one and two, as well as certain other eligible licensees, filed a final channel election preference. Licensees with a TCD were eligible to seek an alternative designation in the third round if they received a TCD for a low-VHF channel (channels 2–6) or if their TCD was subject to international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments. In the third round, we received seven channel elections from stations that did not have a TCD, 14 from stations that had a low-VHF TCD, and one from a station that had an international coordination issue. Licensees that participated in the third round filed their channel elections (via FCC Form 386) by May 26, 2006. At the close of the third round, the Commission announced 20 TCDs for eligible licensees, leaving only four eligible stations without a TCD. The four eligible stations without TCDs after the third round were: WABC–TV (New York, New York), WEDH–TV (Hartford, Connecticut), KTFK(TV) (Stockton, California), and KVIE(TV) (Sacramento, California). In the *Third Round TCD PN*, the Media Bureau said that the Commission would resolve these situations in a subsequent proceeding. We do so here in Section III.B., *infra*, and include these final TCDs in our proposed new DTV Table.

III. Proposed DTV Table of Allotments

13. In the *Seventh FNPRM*, we now undertake the seventh and final step of the channel election process by proposing a new DTV Table. The proposed DTV Table includes a channel for each eligible broadcast television station and is set forth in the proposed rules. The specific technical facilities—effective radiated power (''ERP''), antenna height above average terrain (''antenna HAAT''), antenna radiation pattern, and geographic coordinates at which stations would be allowed to operate under this Table—are set forth in the Appendix. The Appendix also includes information on service area and population coverage.

14. We believe that our proposed new DTV Table achieves the goals set forth for the channel election process. First, the proposed new DTV Table provides all eligible stations with channels for DTV operations after the DTV transition. Second, we believe that our proposed new DTV Table is the result of informed decisions by licensees when making their channel elections and that licensees benefited from the clarity and transparency of the channel election process. Third, we believe our proposed new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, to the extent feasible. Finally, we believe the proposed new DTV Table reflects our efforts to promote overall spectrum efficiency and ensure the best possible DTV service to the public.

15. The channel assignments in the proposed DTV Table are primarily based on the TCDs previously announced through the channel election process; however, in order to promote overall spectrum efficiency and ensure the best possible DTV service to the public, in some cases Commission staff found it necessary to assign a different channel for post-transition operation in order to minimize interference and maximize the efficiency of broadcast allotments in the public interest. We estimate that more than 98 percent of licensees participating in the channel election process received a TCD for the channel they elected. Approximately 10 licensees requested that the Commission identify a ''best available'' channel for them. In addition, approximately 30 licensees did not file a channel election form when required. Each of these licensees was given a TCD either (1) On its in-core DTV channel, if it had one, or (2) on its in-core NTSC channel if it did not have an in-core DTV channel, and the NTSC channel did not cause impermissible interference to another station. The remaining stations generally were provided channels that would allow them to serve the full population the station would reach with its certified facilities. In several cases, however, it was necessary to provide stations with channels and facilities that would enable service to a population less than that which could be reached with their certified facilities. In those cases, stations were provided with facilities that would at least enable replication of their service coverage as set forth in the initial DTV Table. Such stations (upon demonstration that they cannot construct their full, authorized DTV facilities because doing so would cause impermissible interference) may file requests for alternative channel assignments, as discussed below in Section III.B., *supra* paragraph 22.

16. We invite comment on our proposed new DTV Table. We seek comment on whether the channel assignments in the proposed DTV Table will serve the Commission's goals of promoting overall spectrum efficiency and ensuring the best possible DTV service to the public. We ask that licensees review the accuracy of their information contained in the proposed DTV Table and the Appendix, including whether it properly reflects any conflict-resolving amendments to their certifications, and comment on any inaccuracies or discrepancies. The proposed DTV Table will ultimately replace the existing DTV and NTSC Tables after the transition. We request comment on how best to time the adoption and effective date of the proposed DTV Table so that it is available for stations' reference and reliance in applying for construction permits or modifications needed to implement their post-transition facilities. We do not seek comment here on issues related to the DTV transition other than the channel assignments in the proposed DTV Table, as such issues will be addressed in a later proceeding.

A. Allotment Methodology and Evaluation of Interference Conflicts

17. In the *Second DTV Periodic Report and Order,* the Commission stated that the staff would evaluate channel elections after each channel election round in order to identify potential interference conflicts. Interference conflicts were found to exist only where licensees elected channels other than their current DTV channel, most often for stations that elected their NTSC channels. It was not necessary to determine the amount of interference caused by stations that elected their current DTV channel because operation on those channels would not result in new interference.

18. In developing the proposed DTV Table and the Appendix (which sets forth the channel assignment, operating facilities, and service information for individual stations), the staff used objective computer analysis to perform the engineering evaluations for determining station service coverage and interference. In performing these evaluations, the staff relied on the technical standards and methods set forth in 47 CFR 73.622(e) and 73.623(c), which (1) define the geographic service area of DTV stations, and (2) provide minimum interference technical criteria for modification of DTV allotments included in the initial DTV Table. Specifically, 47 CFR 73.622(e) defines a DTV station's service area as the geographic area within the station's noise-limited F(50,90) contour where its signal is predicted to exceed the noise-limited service level. The F(50,90) designator indicates that a specified field strength necessary for the provision of DTV service is expected to be available at 50 percent of the locations 90 percent of the time. A station's noise-limited contour is computed using its actual transmitter location, ERP, antenna HAAT, and antenna radiation pattern. 47 CFR 73.623(c) sets forth the thresholds of desired-to-undesired (D/U) ratio at which interference is considered to occur.

19. Consistent with 47 CFR 73.622(e) and 73.623(c), the staff used the procedure set forth in Office of Engineering and Technology's *OET Bulletin No. 69* to make predictions of service coverage and interference. This procedure uses the terrain-dependent Longley-Rice point-to-point propagation model for predicting the geographic areas and populations served by stations. Under the procedure in *OET Bulletin No. 69,* the predicted geographic area and population served by a TV station are reduced by any interference it receives from other stations. In these evaluations, the staff examined interference resulting from co-channel and first adjacent channel relationships in accordance with the interference criteria for DTV allotments specified in 47 CFR 73.623(c). The computer software used in this work is similar to that used in performing the service coverage and interference evaluations for the initial DTV Table and that the Media Bureau has used to evaluate requests for modification of DTV facilities and changes in channel allotments in the initial DTV Table. This software provides analysis of service

coverage and interference on both a cumulative and individual-station basis.

20. As indicated above, the staff used a database composed of TV station authorizations to which licensees certified as of November 5, 2004 (the ''certification database''), including both analog and digital stations, in processing channel elections. The certification database was made available in tables attached to the Public Notice, ''DTV Channel Election Information and First Round Election Filing Deadline.'' This database was used to determine and evaluate existing DTV service populations, the benchmark amounts of existing interference, and the new interference that would result from specific channel elections. In deciding to rely on this database in the *Second DTV Periodic Report and Order,* the Commission indicated that basing stations' service evaluations on currently authorized facilities would more accurately reflect current service to viewers than the parameters specified for the initial DTV Table adopted in 1997, and amended in 1998, and would at the same time preserve the service areas of those stations that constructed and are operating in accordance with the DTV build-out schedules.

21. The Commission performed interference-conflict analyses in only two circumstances: (1) Where a station elected a channel that was different from its current DTV channel, and (2) to identify a ''best available'' channel. In doing so, the staff calculated values for the ERP and the directional antenna radiation pattern that would allow a station to match its coverage area based on its certified facilities or replication facilities, as appropriate. Calculations of new ERP and antenna patterns for stations' elected channels were performed in the same manner as those performed by the Commission to match DTV facilities to analog facilities. New interference to post-transition DTV operations was defined as interference beyond that caused by existing analog and DTV operations, as set forth in the certification database information. Evaluations of service coverage and interference conflicts were based only on the populations determined to be receiving service and new interference. The staff used population data from the year 2000 census. In performing conflict analyses, the staff applied the standard that an interference conflict exists when it was predicted that more than 0.1 percent new interference would be caused to another station. That is, the standard was that new interference was considered to constitute a conflict when that new interference affected more than 0.1 percent of the population predicted to be served by the station in the absence of that new interference.

22. In the *Second DTV Periodic Report and Order,* the Commission recognized that a special accommodation was necessary if a station with an out-of-core DTV channel elected to operate its post-transition DTV station on its in-core analog channel. The Commission's goal was to facilitate a station's election of its in-core analog channel if the station did not have an in-core DTV channel. To this end, the Commission recognized that the interference relationships between DTV-to-DTV and NTSC-to-DTV operations are such that a DTV station serving the same geographic area as its associated analog station would have a 1 dB greater interference impact on a co-channel DTV station than it would have had as an analog station and an 8 dB greater impact on an adjacent channel DTV station than it would have had as an analog station, assuming the same coverage and locations for all stations. Thus, DTV operation on a station's analog channel could result in new interference. Unlike a station that has its DTV channel inside the core, and therefore could avoid this new interference by electing its in-core DTV channel, a station with an out-of-core DTV channel by definition could not elect its DTV channel for post-transition use. A station that did not have an in-core analog channel could not make use of this special accommodation. The Commission stated that the 0.1 percent additional interference limit could be exceeded on a limited basis in order to afford these stations an improved opportunity to select their own NTSC channel. The Commission indicated that such allowance is justified because these licensees have only one in-core option available (*i.e.*, their NTSC channel) and may need this additional accommodation to be able to operate on their in-core channel after the end of the transition. In developing the proposed DTV Table, the staff allowed stations that were eligible to participate in the channel election process and that had either an out-of-core DTV channel or no DTV channel (*i.e.*, a singleton with only an in-core analog channel) to select their in-core NTSC channel for post-transition DTV operation if it would cause no more than 2.0 percent new interference to a protected DTV station. Any such stations that certified to their maximized facilities, however, would be permitted to use the 2.0 percent standard only to the extent that the predicted new interference also would not exceed the amount of interference that would have been caused by replication facilities. Where post-transition use of its NTSC channel by such a station was predicted to cause interference to a protected station in excess of 2.0 percent of the protected station's population coverage, the electing station was then made subject to the normal conflict-resolution procedures.

23. Where a station in round one or round two elected and received a TCD for a DTV channel that was not its current NTSC or DTV channel, the interference potential of that new channel was included in the service coverage and interference evaluations of subsequent elections. That is, new channels elected and tentatively designated in round one under approved NCAs were included in the service coverage and interference evaluations of channels elected in rounds two and three. Similarly, channels elected and tentatively designated in round two were included in the service coverage and interference evaluations in round three.

24. In cases where the licensee requested, or was given, a Commission-determined ''best available'' channel for its station, the staff used an ordered approach that balanced treatment of the station for which a channel was to be provided and other stations, as follows. The staff first analyzed the station's possible post-transition operation on each in-core channel. On each channel, the staff examined the interference impact and service coverage based on the station's certified facilities. If there was a channel or channels where the station could operate without causing new interference to another station and provide adequate service, the staff gave it a TCD on that channel. If there was more than one such channel, the staff generally chose the lowest channel that was outside of the low-VHF band. In cases where there was no channel that would allow the station to satisfy these criteria when operating at its certified maximized facilities, the staff re-examined the station's possible post-transition operation on each in-core channel at its replication facilities. The staff then selected a channel for the station that would result in the minimum amount of new interference to protected stations. In these cases, the objective was to achieve a balance that would minimize the amount of interference that the subject station would cause to and receive from other stations. In every ''best available'' channel determination, the interference that other stations would receive from the TCD was less than 2.0 percent.

B. Requests for Alternative Channel Assignments

25. At this stage in the DTV channel election process, we will consider requests for alternative channel assignments only from (1) licensees unable to construct full, authorized DTV facilities (The term ''full, authorized DTV facilities'' here refers to the original facilities certified by the licensee in its FCC Form 381. We will not preclude requests for alternative channel assignments from licensees that modified their certified facilities after receiving a conflict letter in the first and second channel election rounds.) on the TCDs that they requested and received because, in order to avoid causing impermissible interference to other TCDs and still obtain their preferred channel, they had to agree to construct facilities on their TCD that are smaller than those to which they had certified on FCC Form 381, (We will consider only engineering demonstrations here. Requests based on financial or other reasons will not be considered.) (2) licensees with international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments, (3) licensees with TCDs for low-VHF channels (channels 2–6); and (4) new licensees and permittees that attained such status after the start of the channel election process and to which we assigned a TCD for post-transition DTV operations because their assigned NTSC or DTV channel was determined to cause impermissible interference to existing licensees. Licensees that want to change their DTV allotment, but which are not in any of these categories (*e.g.*, are technically able to construct their full, authorized DTV facilities on their existing TCD) may request a change in allotment only after the proposed DTV Table is finalized and must do so through the existing allotment procedures, as set forth in 47 CFR 1.420. Parties seeking alternative channel assignments consistent with this paragraph should file their requests in accordance with the filing procedures set forth in Section IV.D., *infra.*

26. In assessing proposed alternative channel assignments, we will also consider requests that include the consensual substitution of the TCD of another station that is not otherwise eligible to request an alternative channel assignment. We will consider such requests if it is demonstrated that the additional channel substitution is technically necessary to implement the eligible licensee's requested alternative channel assignment. We will review requests involving a channel substitution to assure compliance with the public interest and will reject any such request if it would require acceptance of a significant level of interference by, or result in a loss of service to, one or both of the requesting stations. Licensees unable to construct their full, authorized DTV facilities may also submit a technical showing that a modification of the licensee's pre-freeze authorized DTV facility—such as a change in transmitter site or an increase in power—would permit construction of their full, authorized DTV facilities with their present TCD or a substitute channel. Licensees requesting alternative channel assignments will be required to continue to protect the full, authorized DTV facilities of other licensees. We will continue to limit additional interference to DTV stations to 0.1 percent during this seventh and final stage of the DTV channel election process. Any request for an alternative channel assignment that causes excess interference must be accompanied by a request for a waiver of the 0.1 percent limit or the signed written consent of the affected licensee. We propose to grant waivers of the 0.1 percent limit where doing so would promote our overall spectrum efficiency objectives and ensure the best possible service to the public, including service to local communities.

27. At this time, we are continuing the freeze on requests for changing DTV channels within the DTV Table and on new DTV channels, as well as on the filing of modification applications by full-service television and Class A television stations. From our past experience when we adopted the initial DTV Table, we expect that we will receive alternative channel requests from a number of licensees, and that parties will file petitions for reconsideration of the Report and Order adopted in this proceeding. Thus, the importance of a stable database remains crucial until such time as the DTV Table is adopted and becomes final. However, we may grant waivers on a case-by-case basis in response to requests for alternative channel assignments. We will determine when it is appropriate to lift the freeze in a future proceeding.

C. Requests To Change Certified Facilities

28. By November 5, 2004, all DTV licensees were required to certify whether they would construct replication or maximization facilities. Forty-one stations did not timely file the appropriate form (FCC Form 381) and, therefore, were assigned replication facilities (or authorized NTSC facilities if they were a single-channel NTSC-only station). Of these stations, nine requested that we waive the freeze and filing deadlines to accept their untimely maximization certifications. Requests were filed on behalf of stations KFNB(TV), Caspar, Wyoming; KLWY(TV), Cheyenne, Wyoming; WCJB–TV, Gainesville, Florida; KOAA(TV), Pueblo, Colorado; KSCE(TV), El Paso, Texas; KOCE–TV, Huntington Beach, California; WLMB(TV), Toledo, Ohio; WGGN–TV, Sandusky, Ohio; and WLLA(TV), Kalamazoo, Michigan. We will permit these licensees to file comments proposing a change to their certification to specify maximized facilities for which they would have been allowed to certify. We are also aware that there are cases where a station already has constructed or received authorization to construct facilities on its TCD that provide service to areas that extend beyond that to which the station certified using FCC Form 381. Because the interference protection that we provide is limited to the area to which a station has certified, there is a possibility that stations serving or authorized to serve areas beyond their certified area could become subject to interference. If a licensee can demonstrate that the area served by its authorized or constructed facilities extends beyond the area to which it certified, it may file comments proposing to modify its certified facilities to match its authorized or constructed facilities.

29. Licensees requesting a modification of their certifications must either (1) submit an engineering analysis demonstrating that their proposed certified facilities would not result in interference in excess of 0.1 percent to any licensee's existing TCD or (2) submit the signed, written consent of every affected licensee. They will also be required to accept interference from any channel election already approved.

D. Resolution of TCDs Pending After Round Three

30. Our proposed DTV Table includes four proposed allotments that were unresolved when we announced TCDs for the third round. These channel designations represent challenging and difficult cases in crowded markets that necessitate waiver of the freeze or the interference standard in order to find appropriate channels for post-transition operation that will ensure the best possible service to the public and promote overall spectrum efficiency. We invite comment on these proposed channel allotments.

31. *New York, New York.* In the first round of the channel election process, American Broadcasting Companies, Inc. (''ABC''), the licensee of WABC–TV, channel 7, and permittee of WABC–DT, channel 45, New York, New York (WABC is the flagship station of the ABC Television Network and is the sole ABC network station serving the New York market. ABC was an early adopter of DTV technology, commencing operation with its full, authorized DTV facility at the World Trade Center in 2001), elected to use its analog channel 7 for digital operation at the end of the DTV transition. The Media Bureau sent ABC a first-round conflict letter because the elected NTSC channel was predicted to cause 2.8 percent new interference to the elected DTV channel of NCE station WNJB–DT, channel *8, New Brunswick, New Jersey. ABC was unable to resolve its conflict with The New Jersey Public Broadcasting Authority (''NJPBA''), the permittee of WNJB–DT, within the allotted timeframe. On August 15, 2005, ABC filed a request for a waiver of the 0.1 percent interference standard used to calculate first round interference conflicts in order to permit WABC to operate digitally on its current analog allotment at the end of the DTV transition.

32. In its emergency petition for waiver, ABC contends that the 2.8 percent new interference it is predicted to cause to WNJB is based on WNJB's maximized authorized facilities, which it has yet to build. ABC also argues that the viewers who would potentially be affected by this predicted new interference are either (1) outside the state of New Jersey, or (2) within the state but served by WNJB's sister station, WNJN, Montclair, New Jersey, which currently provides the same programming as WNJB (WNJB is a satellite station of WNJT, Trenton). In addition, ABC asserts that enforcement of the 0.1 percent new interference standard in this instance would impose an undue hardship on WABC by preventing it from replicating its current analog service area, thus resulting in a loss of over-the-air service to current WABC viewers. Further, ABC claims that post-transition operation on its digital channel 45 would result in losses of service due to interference from WOLF, Hazleton, Pennsylvania, and WEDH, Hartford, Connecticut.

33. WPIX, Inc., another VHF broadcaster in the New York market, joined in the waiver request in support of ABC. Educational Broadcasting Corporation, licensee of NCE station WNET, licensed to Newark, New Jersey, also filed in support of ABC's waiver request. NJPBA opposed ABC's request and contends that WABC's service on its digital channel 45 would not result in any loss of service area. ABC offered to pay for WNJB to install a directional antenna to eliminate most of the interference. NJPBA rejected ABC's engineering offer and proposed instead that WNJB relocate its digital transmission facility to the Empire State Building in New York City at no expense. The Media Bureau deferred action on ABC's first round channel election until the conclusion of the channel election process.

34. Subsequently, NJPBA indicated that it would be willing to co-locate its transmitting facilities at Four Times Square in New York City as a possible resolution to this issue. In response, ABC agreed not to object to WNJB–DT's move to Four Times Square provided there was favorable action on its election of channel 7 and related waiver request. Both parties recognized, however, that the current Commission freeze on major modification applications would prevent this resolution. Ultimately, NJPBA stated that if the freeze is waived so that WNJB–DT can apply to modify its facilities to co-locate at Four Times Square, then it would no longer object to WABC operating on channel 7. NJPBA also has asserted that the proposed co-location of WNJB–DT and WABC–DT in New York would have the additional benefit of reducing the amount of interference received by WABC–DT on channel 7 from WNJB–DT's currently authorized operations in New Jersey. This potential agreement remains pending between the parties.

35. According to ABC, WABC–DT will provide a DTV service area with a population of 19,324,895 operating on channel 7, approximately 300,000 more people than would receive such service on channel 45. ABC also contends that channel 7 is more capable of replicating WABC's pre-September 11, 2001 service area than channel 45. In addition, ABC states that WABC's operation on digital channel 45 would be subject to co-channel interference from operations on channel 45 in Pennsylvania and Connecticut, which would affect nearly half a million people. ABC predicts that its operation on channel 45 would result in a loss of service to nearly 500,000 people. ABC notes that television receivers are less tolerant of the co-channel interference among stations on channel 45 than of the adjacent channel interference potentially arising between WABC on channel 7 and WNJB on channel 8.

36. We conclude that the loss of service for WABC would affect current viewers of WABC, while the predicted loss of service for WNJB would affect areas outside of its current service area and primarily outside of the State of New Jersey. ABC also points out that WABC's move to UHF channel 45 would leave WPIX and WNET as the only New York City stations on VHF channels (channel 11 and 13, respectively), which could undermine a plan for digital VHF service in the New York market. ABC also argues that UHF channels provide inferior service to indoor antennas in urban areas in which buildings impede reception. We note, too, that WABC is a pioneer of digital service, having built full-power digital operations in 2001 and re-built them first at Four Times Square and then on the Empire State Building, with a back-up facility at Alpine Tower in New Jersey, after the September 11, 2001 loss of the World Trade Center. In contrast, WNJB has not built its digital facility and recently requested an extension of its STA beyond the July 1, 2006 ''use-or-lose'' deadline based on its status as a satellite station. Based on all the factors in the record, we believe that the public interest and the factors enumerated in the *Second DTV Periodic* favor granting WABC a TCD on channel 7 notwithstanding the predicted 2.8 percent interference to WNJB on channel 8. We find that WABC's continued transmission on channel 7 will benefit WABC's viewers, many of whom have relied on VHF antennas for decades. Allotting channel 7 to WABC provides the additional benefit of eliminating concerns about potential interference between WABC and WEDH–TV, a NCE station in Hartford, Connecticut (as discussed below in paragraphs 34–37, we propose to allot channel *45 to WEDH–TV, which elected that channel based on its pending swap application), and WOLF in Pennsylvania. Accordingly, we grant ABC's request for waiver of the 0.1 percent interference standard. We also note that NJPBA may apply in the future to modify WNJB–DT's facilities to move to Four Times Square for post-transition service. If that application is granted, WNJB's virtual collocation with WABC–DT and other New York market stations would be likely to reduce or eliminate the predicted interference to its digital operations on channel 8.

37. *Hartford and Norwich, Connecticut.* Connecticut Public Broadcasting, Inc. (''CPBI'') is the licensee of NCE stations WEDH–TV, channel *24, Hartford, Connecticut and WEDN, channel *53, Norwich, Connecticut. In the existing DTV Table, WEDH was assigned digital channel *32 and WEDN was assigned digital channel

*45. In 1999, CPBI filed an application to swap the digital channels between these two stations. This swap application has remained in a pending status. In 2004, CPBI filed a petition for rulemaking to substitute channel *9 as WEDN's digital channel, and the Media Bureau issued a *Notice of Proposed Rulemaking* proposing the channel substitution.

38. The *Second DTV Periodic Report and Order* stated that, during the channel election process, we would protect channels proposed in outstanding rule makings where a Notice of Proposed Rulemaking had been issued, and that we would permit licensees to elect a channel if an NPRM had been issued with respect to a channel change. The *Second DTV Periodic Report and Order* did not specifically address how DTV channels in a pending swap application would be treated.

39. In the first round of the channel election, WEDH–TV elected channel *45 in reliance on the pending 1999 channel swap application, and WEDN elected channel *9 based on the related pending channel substitution rulemaking. Because these elections are based on matters that were pending before the commencement of the channel election process, the 2.0 percent standard set forth in 47 CFR 73.623(c)(2) applies. Our engineering study confirms that the channels elected by CPBI for its Hartford and Norwich stations comply with the 2.0 percent technical standard. Neither WEDH's digital facilities on channel *45 nor WEDN's digital operations on channel *9 would cause more than 2.0 percent interference to adjacent or co-channel stations. WEDN received a TCD for channel *9, but WEDH did not get a TCD for channel *45 due to the unresolved status of stations' channel elections in an adjacent market. WABC–TV in New York had elected its allotted digital channel 45 but contended that WEDH's operation on channel 45 at Hartford would result in a loss of WABC–DT service to approximately 300,000 viewers. WABC–TV preferred to elect its NTSC channel 7. In light of the pending inter-related issues concerning channel 45 in this congested area, we declined to approve TCDs for WABC or WEDH.

40. We believe the public interest would be served by allotting DTV channel *45 to Hartford as well as channel *9 to Norwich, which was tentatively designated after round one. According to CPBI, doing so will enable station WEDH–DT to increase service to an additional 1,275,810 people while reducing its operating costs and, similarly, enable WEDN to increase DTV service to an additional 1,029,678 people while reducing its operating costs. We also note that our proposal facilitates a successful resolution of the channel election process in a highly congested area of the country. For example, WABC–DT's contention that CPBI's proposed operation on channel 45 at Hartford would result in an increase in interference for approximately 300,000 viewers was factored into our conclusion, above, that the public interest would be served by allotting channel 7, rather than channel 45, as WABC–DT's post-transition digital channel. In particular, replacing WEDH's allotted DTV channel *32 with channel *45 eliminates potential interference from channel 33, which WCBS (New York) elected in round two. WCBS was predicted to cause 0.5 percent interference to WEDH (20,311 people) if it remained on channel 32. WCBS agreed to reduce its facilities to comply with the 0.1 percent standard, thus reducing service significantly. As a result of approving WEDH's TCD for channel *45, WCBS would no longer be required to reduce its facilities in this respect. Therefore, we have adjusted the proposed parameters for WCBS in the Appendix to describe their certified facility, rather than the reduced facility they had submitted to resolve the conflict with WEDH's operation on channel 32. In submitting its engineering to resolve the interference conflict in the second round, WCBS had also indicated its intention to withdraw the reduced facility in the event that WEDH would not be operating post-transition on channel 32. Moreover, since the communities of Hartford and Norwich are located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government was sought and has been obtained for the allotments on channels *45 and *9, respectively. The Commission permitted licensees subject to international coordination to certify to operate their post-transition DTV channel pursuant to a pending DTV application for maximized facilities that had not yet been authorized because of a pending international coordination issue. Accordingly, we propose to allot channel *45 to Hartford and channel *9 to Norwich, and these allotments are included in our proposed DTV Table. Both the application and rulemaking proceedings associated with the changes CPBI requested for its Hartford and Norwich stations are superseded by our actions herein, and parties that previously objected to the use of channels *45 and *9, as proposed in the swap application and channel substitution NPRM, may file comments in response to our proposal here.

41. *Stockton, California.* Telefutura Sacramento, LLC is the licensee of station KTFK(TV), NTSC channel 64 and KTFK–DT, DTV channel 62, Stockton, California. In the second round, Telefutura elected channel 26 as part of a NCA with other licensees in the region. The NCA was approved only in part, with Telefutura's election being rejected for violating the freeze. In the third round, Telefutura again elected channel 26 and proposed to move its transmitter site from Mount Diablo to the Walnut Grove antenna farm, which is closer to its community of license. This channel is acceptable under the 0.1 percent criterion that is applied in evaluating DTV channel elections in this proceeding. But in order to do so, Telefutura must modify its station's facilities to change its station's geographic coverage area, which would violate the freeze imposed in connection with the DTV channel election process.

42. Mount Diablo is located near the border between the San Francisco and Sacramento-Stockton-Modesto Designated Market Areas (DMAs), and KTFK and the other station on Mt. Diablo were required to elect channels which would not cause interference to stations in either market. Telefutura has submitted a comprehensive engineering analysis showing that, with the exception of low-VHF channels, only channel 14 is suitable for use on Mt. Diablo, and channel 14 was elected by the other Mt. Diablo licensee, pursuant to a NCA with Telefutura and other licensees in the region.

43. The proposed move to the Walnut Grove antenna farm will permit Telefutura to co-locate KTFK with the other stations in the Sacramento-Stockton-Modesto DMA. According to Telefutura, this move will provide new Telefutura network service to more than 440,000 viewers in KTFK's DMA. While viewers in the San Francisco DMA will lose KTFK service due to terrain blockage, these viewers receive the same network programming from KTFK's ''sister'' station, KFSF, Vallejo, California. In addition, the entire loss area is served by numerous other NTSC and DTV stations. Based on the record before us, and in order to promote overall spectrum efficiency and ensure the best possible DTV service to the public, we believe that the public interest would be served by waiving the freeze to permit modification of KTFK's certified facilities. We believe our proposal facilitates a successful resolution of the channel election process in a highly congested area.

Further, our proposal improves service to KTFK's community of license and the local area. In addition, our proposal will facilitate adoption of the final DTV Table and avoid the allotment of a low-VHF channel, which the Commission has long disfavored. The Commission has recognized in this proceeding that low-VHF channels are subject to technical penalties, including higher ambient noise levels and, in the case of channel 6, concerns of possible interference to and from FM radio service. Accordingly, we propose to allot channel 26 to Stockton as specified in our proposed DTV Table. Because we propose here to give Telefutura its desired TCD for channel 26, we dismiss as moot Telefutura's application for review of the denial of its second round channel election.

44. *Sacramento, California.* KVIE, Inc. is the licensee of NCE television station KVIE(TV), Sacramento, California. KVIE currently operates on NTSC channel *6 and was assigned out-of-core DTV channel *53. As a licensee with only one in-core channel, KVIE elected to release channel *6 and participate in the second round of elections. In that round, KVIE elected channel *9 as part of a NCA with five other licensees in the Bay Area, but elected channel *6 in response to the conflict letter it received. As a licensee with a low-VHF TCD, KVIE was permitted to seek an alternative TCD in the third round, and did so by again electing (via FCC Form 386) channel *9.

45. In its application, KVIE acknowledges that its proposal is predicted to cause 1.3 percent new interference to the TCD of DTV channel *9 for NCE station KIXE-TV, Redding, California. KVIE argues, however, that use of channel 6 would provide inferior service to its viewers, and that the public interest would be better served by Commission approval of KVIE's third round channel selection. KVIE argues that requiring it to operate on channel 6 post-transition ''would frustrate the public interest because the use of a low-VHF band channel would not only prevent KVIE from providing the best possible digital service, but would also create a preclusive effect on NCE FM station operations in the area.'' The Northern California Educational Television Association filed comments opposing KVIE's request, arguing that KVIE does not provide any evidence that channel 6 is inferior to channel 9, and that it is KVIE's responsibility to protect FM radio stations from interference. In the *Third Round TCD PN*, the Media Bureau said this case would be addressed in a subsequent proceeding.

46. As noted above, the Commission has long disfavored the use of channel 6 as a DTV allotment. When it adopted the initial DTV Table, the Commission sought to minimize the potential for interference between DTV and FM radio service by avoiding the use of channel 6 for DTV whenever possible, which resulted in only one channel 6 allotment in the initial DTV Table.

47. We conclude that the public interest would be served by waiving the 0.1 percent interference standard with respect to KIXE. Based on staff engineering analysis, we believe that, at most, 4,921 people within the KIXE contour (out of a total population of 375,342) would receive interference from KVIE's operation on DTV channel 9. Conversely, more than 4 million people residing within the KVIE service area will receive a superior DTV signal from KVIE on channel 9. Accordingly, we propose to allot channel *9 to Sacramento for post-transition DTV operations in our proposed DTV Table. KIXE elected its NTSC channel *9 as its TCD in the first round. KIXE may, if it wishes, file comments proposing to substitute its allotted DTV channel *18, or another channel, for its present TCD.

E. International Coordination

48. *Border Coordination.* Creating a new DTV Table has been a continuing cooperative North American effort, involving complex matters that require careful study and planning by parties on both sides of the negotiation. Under international arrangements with Canada and Mexico, the Commission must obtain concurrence by the Canadian government for any proposed allotments located within 400 kilometers of the U.S.-Canadian border, and by the Mexican government for any proposed allotments located within 275 kilometers of the U.S.-Mexican border. Our international negotiations are continuing in a cooperative manner and we do not believe these negotiations will delay stations' ability to construct their post-transition DTV facilities.

49. We announce here that Industry Canada has objected to the allotment of the TCDs for WBSF-DT, Bay City, Michigan and KAYU-DT, Spokane, Washington. Accordingly, while we include their TCD channels in our proposed DTV Table, we seek comment from these licensees concerning whether they are willing to reduce coverage on their TCD channel in order to address Canadian concerns. As indicated above, they may also request an alternative post-transition DTV channel allotment.

F. Treatment of New Licensees and Permittees and Pending Applications for New Stations

50. In the *Second DTV Periodic Report and Order*, the Commission stated that only Commission licensees and permittees were entitled to participate in the channel election process; applicants for new stations and petitioners for new allotments would not be allowed to make channel elections. The Commission noted that there were applications for approximately 50 new NTSC stations that were pending since before 1997. Several of these applications have since been granted after the start of the channel election process, resulting in new licensees and permittees that were not eligible to take part in the channel election process. Two of these permittees filed channel elections in round three; seven others, similarly situated, did not. In the *Third Round TCD PN*, we did not announce TCDs for these stations because they were authorized after the completion of the first round and, therefore, were not eligible to participate in the channel election process. Accordingly, at this time, we will accommodate these new licensees and permittees with TCDs in our proposed DTV Table.

51. For some of these new licensees and permittees, we have determined that their NTSC or DTV channel is appropriate for post-transition DTV operations. This group consists of: (1) WMBF-TV, channel 32, Myrtle Beach, South Carolina; (2) KWKS, channel 19, Colby, Kansas; and (3) BPCT–960920KY, channel 47, Presque Isle, Maine. Thus, we have tentatively designated their current channel for post-transition DTV operations in our proposed DTV Table.

52. For others of these new licensees and permittees, we have determined that their NTSC or DTV channel is not appropriate for post-transition DTV operations because it would cause impermissible interference to a protected TCD. This group consists of: (1) WHRE, channel 21, Virginia Beach, Virginia; (2) KNIC-TV, channel 17, Blanco, Texas; (3) BPCDT–960920WX, channel 18, Mobile, Alabama; and (4) BPCT–960920WR, channel 29, Gainesville, Florida. DTV operation of the Virginia Beach, Virginia NTSC license on channel 21 (WHRE) would cause 28.9 percent new interference to the channel 20 TCD of WUND-TV, Edenton, North Carolina. DTV operation of the Blanco, Texas NTSC CP on channel 17 (KNIC-TV) would cause 0.8 percent new interference to the channel 16 TCD of KHCE-TV, San Antonio,

Texas. DTV operation of the Mobile, Alabama DTV CP on channel 18 (BPCDT–960920WX) would cause 0.4 percent new interference to the channel 18 TCD of WMAU-TV, Bude, Mississippi. DTV operation of the Gainesville, Florida, NTSC CP on channel 29, (BPCT–960920WR) would cause 0.6 percent new interference to the channel 29 TCD of WFTS-TV, Tampa, Florida. Thus, we have tentatively designated a ''best available'' channel for their post-transition DTV operations in our proposed DTV Table. We will allow these stations to request alternative channel assignments through the procedure discussed above in Section III.B., *supra.* These stations may wish to propose an alternative channel that could be used both during the transition as well as post-transition.

53. We note that additional pending applications may be granted before an Order finalizing the DTV Table is adopted. To the extent possible, we will accommodate these future new permittees in our proposed DTV Table, consistent with the approach described above for existing new permittees. In order to provide interested parties with the opportunity to comment, the Media Bureau will issue public notices, to be published in the **Federal Register**, announcing TCDs for the new permittees that attain permittee status during the pendency of this rulemaking proceeding. If necessary, the Media Bureau is directed to establish a separate pleading cycle so that interested parties are given sufficient time to comment. Comments filed in response to such public notices will be incorporated into the record in this proceeding.

54. Applicants that receive a construction permit after the close of the comment period in this proceeding may either construct their analog facilities or apply to the Commission for permission to construct a digital facility on their analog channel. Such digital facilities are for operation during the transition. Such permittees may request authorization to continue their DTV operations on their NTSC channels after the transition. We anticipate that, in most instances, the same channel that was allotted in the NTSC Table will be allotted in the DTV Table. In the event that the NTSC channel is not suitable for DTV operations, such as if it would cause new interference in excess of 0.1 percent to another DTV station's operations on its allotted channel, we will determine a ''best available'' channel. Before the end of the transition, we will issue a NPRM to amend the DTV Table in order to allot a DTV channel for each remaining authorized facility that does not have an allotted DTV channel.

IV. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

55. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA'') the Commission has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible significant economic impact on small entities by the policies and rules proposed in the *Seventh FNPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments indicated on the first page of the *Seventh FNPRM.* The Commission will send a copy of the *Seventh FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Seventh FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for and Objectives of the Proposed Rules

56. The *Seventh FNPRM* proposes a new DTV Table of Allotments (''DTV Table''), providing all eligible broadcast television stations with channels for DTV operations after the DTV transition. The new DTV Table will affect all commercial and noncommercial broadcast television stations, including low power and TV translator stations.

57. The proposed new DTV Table is based on the tentative channel designations (''TCDs'') announced for eligible broadcast licensees through the channel election process, as well as on the Commission's efforts to promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities. During this election process, which was established by the *Second DTV Periodic Report and Order*, broadcast licensees selected their ultimate DTV channel inside the ''core spectrum,'' consisting of current television channels 2 through 51 (54–698 MHz). In developing the proposed new allotments, the Commission sought to accommodate broadcasters' channel preferences, as well as their replication and maximization service area certifications (made via FCC Form 381).

58. We believe our proposed new DTV Table achieves the goals set forth for the channel election process. First, the proposed new DTV Table provides all eligible stations with channels for DTV operations after the DTV transition. Second, we believe our proposed new DTV Table is the result of informed decisions by licensees when making their channel elections and that licensees benefited from the clarity and transparency of the channel election process. Third, we believe our proposed new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, to the extent feasible. Finally, we believe the proposed new DTV Table reflects our efforts to promote overall spectrum efficiency and ensure the best possible DTV service to the public.

Legal Basis

59. The authority for the action proposed in this rulemaking is contained in sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C 151, 154(i) and (j), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

60. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' small organization,'' and ''small government jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The proposed rules, if adopted, in the *Seventh FNPRM,* will primarily affect television stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

61. *Television Broadcasting.* The proposed rules and policies apply to television broadcast licensees and potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than $13 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on

June 16, 2006, about 915 of the 1,305 commercial television stations (or about 70 percent) have revenues of $13 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

62. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

63. *Class A TV, LPTV, and TV translator stations.* The proposed rules and policies also apply to licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than $13 million in annual receipts. Currently, there are approximately 589 licensed Class A stations, 2,157 licensed LPTV stations, and 4,549 licensed TV translators. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA's definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than $13 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

64. The proposals set forth in the *Seventh FNPRM* would involve no changes to reporting, recordkeeping and other compliance requirements beyond what is already required under the current regulations.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

65. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

66. The proposed new DTV Table provides all eligible broadcast television stations—large and small alike—with channels for post-transition DTV operations. Small broadcasters, just like large ones, benefited from participating in the channel election process. The proposed new DTV Table is the result of informed decisions by licensees when making their channel elections and licensees benefited from the clarity and transparency of the channel election process. Moreover, the proposed new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, to the extent feasible. The TCDs announced primarily were based on the channels elected by licensees. We estimate that more than 98 percent of licensees participating in the channel election process received a TCD for the channel they elected. The *Seventh FNPRM* invites comment from broadcasters, including small broadcasters, on the proposed new DTV Table.

67. In addition, the *Seventh FNPRM* provides an opportunity for certain licensees demonstrating special circumstances to request alternative channel assignments. The Commission will consider requests for alternative channel assignments only from (1) licensees who demonstrate that they cannot construct their full, authorized DTV facilities (The term ''full, authorized DTV facilities'' here refers to the original facilities certified by the licensee in its FCC Form 381. We will not preclude requests for alternative channel assignments from licensees that modified their certified facilities after receiving a conflict letter in the first and second channel election rounds.) with their present TCD because doing so would cause unacceptable interference to protected TCDs (We will consider only engineering demonstrations here. Requests based on financial or other reasons will not be considered.), (2) licensees with international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments, (3) licensees with TCDs for low-VHF channels (channels 2–6); and (4) new licensees and permittees that attained such status after the start of the channel election process and to which we assigned a TCD for post-transition DTV operations because their assigned NTSC channel was determined to cause impermissible interference to existing licensees. Licensees that want to change their DTV allotment, but which are not in any of these categories (*e.g.*, are technically able to construct their full, authorized DTV facilities on their existing TCD) may request a change in allotment only after the proposed DTV Table is finalized and must do so through the existing allotment procedures, as set forth in 47 CFR 1.420. We believe small broadcasters with special circumstances will benefit from this opportunity. We also seek comment from small broadcasters on whether additional measures need to be taken in order to facilitate small broadcasters' transition to their ultimate DTV channel.

Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposals

68. None.

B. Initial Paperwork Reduction Act of 1995 Analysis

69. The *Seventh FNPRM* has been analyzed with respect to the Paperwork Reduction Act of 1995 (''PRA''), and does not contain proposed information collection requirements. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to

the Small Business Paperwork Relief Act of 2002.

C. *Ex Parte* Rules

70. *Permit-But-Disclose.* This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under 47 CFR 1.1206(b). *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b).

D. Filing Requirements

71. *Comments and Replies.* Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (''ECFS''), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

72. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

73. *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

74. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

75. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov.*

76. *Additional Information.* For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov*, or Eloise Gore, *Eloise.Gore@fcc.gov*, of the Media Bureau, Policy Division, (202) 418–2120; Nazifa Sawez, *Nazifa.Sawez@fcc.gov*, of the Media Bureau, Video Division, (202) 418–1600; or Alan Stillwell, *Alan.Stillwell@fcc.gov*, of the Office of Engineering and Technology, (202) 418–2470.

V. Ordering Clauses

77. Accordingly, *it is ordered* that pursuant to sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C 151, 154(i) and (j), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 that *notice is hereby given* of the proposals and tentative conclusions described in the *Seventh FNPRM*, including the proposed DTV Table of Allotment and amendments to part 73 of the Commission's rules, as set forth in the proposed rules.

78. *It is further ordere*d that the Reference Information Center, Consumer Information Bureau, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Digital television, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

2. Section 73.622 is amended by adding new paragraph (i) to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) Post-Transition Table of DTV Allotments.

Community	Channel No.
ALABAMA	
Anniston	9
Bessemer	18
Birmingham	*10, 13, 30, 36, 50
Demopolis	*19
Dothan	21, 36
Dozier	*10
Florence	14, 20, *22
Gadsden	26, 45
Gulf Shores	25
Homewood	28
Huntsville	19, *24, 32, 41, 49
Louisville	*44
Mobile	9, 15, 20, 23, 27, *41
Montgomery	12, 16, *27, 32, 46
Mount Cheaha	*7
Opelika	47
Ozark	33
Selma	29, 42
Troy	48
Tuscaloosa	23, 33
Tuskegee	22
ALASKA	
Anchorage	5, *8, 10, 12, 20, *26, 28, 32
Bethel	*3
Fairbanks	7, *9, 11, 18
Juneau	*10, 11
Ketchikan	13
North Pole	4
Sitka	2
ARIZONA	
Douglas	36
Flagstaff	2, 13, 18, 32
Green Valley	46
Holbrook	*11
Kingman	19
Mesa	12
Phoenix	*8, 10, 15, 17, 20, 24, 26, 33, 39, 49
Prescott	7
Sierra Vista	44
Tolleson	51
Tucson	9, 19, 23, 25,*28, *30, 32, 40
Yuma	11, 16
ARKANSAS	
Arkadelphia	*13
Camden	49
El Dorado	*12, 27, 43
Eureka Springs	34
Fayetteville	*9, 15
Fort Smith	18, 21, 27
Harrison	31
Hot Springs	26
Jonesboro	8, *20, 48
Little Rock	*7, 12, 22, 30, 32, *36, 44
Mountain View	*13
Pine Bluff	24, 39
Rogers	50
Springdale	39
CALIFORNIA	
Anaheim	32
Arcata	22
Avalon	47
Bakersfield	10, 25, 33, 45
Barstow	44
Bishop	20
Calipatria	36
Ceres	*15
Chico	24, 43
Clovis	43
Concord	14
Corona	39
Cotati	*23
El Centro	9, 22
Eureka	3, *11, 17, 28
Fort Bragg	8
Fresno	7, 30, 34, 38, *40
Hanford	20
Huntington Beach	*48
Long Beach	18
Los Angeles	7, 9, 11, 13, *28, 31, 34, 36, *41, 42, 43
Merced	11
Modesto	18
Monterey	31, 32
Novato	47
Oakland	44
Ontario	29
Oxnard	24
Palm Springs	42, 46
Paradise	20
Porterville	48
Rancho Palos Verdes	51
Redding	7, *9
Riverside	45
Sacramento	*9, 10, 21, 35, 40, 48
Salinas	8, 13
San Bernardino	*26, 38,
San Diego	8, 10, 18, 19, *30, 40
San Francisco	7, 19, 27, 29, *30, *33, 38, 39, 45, 51
San Jose	12, 36, 41, 49, *50
San Luis Obispo	15, 34
San Mateo	*43
Sanger	36
Santa Ana	23
Santa Barbara	21, 27
Santa Maria	19
Santa Rosa	32
Stockton	25, 26, 46
Twentynine Palms	23
Vallejo	34
Ventura	49
Visalia	28, *50
Watsonville	*25
COLORADO	
Boulder	15
Broomfield	*38
Castle Rock	46
Colorado Springs	10, 22, 24
Denver	7, 9, *18, 19, 32, 34, 35, *40, 43, 51
Durango	15, *20, 33
Fort Collins	21
Glenwood Springs	23
Grand Junction	2, 7, 12, 15, *18
Longmont	29
Montrose	13
Pueblo	*8, 42
Steamboat Springs	10
Sterling	23
CONNECTICUT	
Bridgeport	42, *49
Hartford	31, 33, *45, 46
New Britain	35
New Haven	*6, 10, 39
New London	26
Norwich	*9
Waterbury	20
DELAWARE	
Seaford	*44
Wilmington	*12, 31
DISTRICT OF COLUMBIA	
Washington	7, 9, *27, *33, 35, 36, 48, 50
FLORIDA	
Boca Raton	*40
Bradenton	42
Cape Coral	35
Clearwater	21
Clermont	17
Cocoa	*30, 51
Daytona Beach	11, 49
Destin	48
Fort Lauderdale	30
Fort Myers	9, 15, *31
Fort Pierce	34, *38
Fort Walton Beach	40, 49, 50
Gainesville	9, 16, *36
High Springs	28
Hollywood	47
Jacksonville	*7, 13, 19, 32, 34, 42, *44
Key West	3, 8
Lake Worth	36
Lakeland	19
Leesburg	40, *46
Live Oak	48
Marianna	51
Melbourne	43, 48
Miami	7, 10, *18, 19, *20, 22, 23, 31, 32, 35, 46
Naples	41, 45
New Smyrna Beach	*33
Ocala	31
Orange Park	10
Orlando	22, *23, 26, 27, 39, 41
Palm Beach	49
Panama City	7, 9, 13, *38
Panama City Beach	47
Pensacola	17, *31, 34, 45
Sarasota	24
St. Petersburg	10, 38, 44
Stuart	44
Tallahassee	24, 27, *32, 40
Tampa	7, 12, *13, 29, *34, 47
Tequesta	16
Tice	33
Venice	25
West Palm Beach	12, 13, *27, 28
GEORGIA	
Albany	10, 12
Athens	*8, 48
Atlanta	10, 19, 20, *21, 25, 27, 39, *41, 43
Augusta	12, 30, 42, 51

Community	Channel No.
Bainbridge	49
Baxley	35
Brunswick	24
Chatsworth	*33
Cochran	*7
Columbus	9, 15, *23, 35, 49
Cordele	51
Dalton	16
Dawson	*8
Macon	13, 16, 40, 45
Monroe	44
Pelham	*6
Perry	32
Rome	51
Savannah	*9, 11, 22, 39
Thomasville	46
Toccoa	24
Valdosta	43
Waycross	*8
Wrens	*6
HAWAII	
Hilo	9, 11, 13, 22, 23
Honolulu	8, 9, *10, *11, 19, 23, 27, 31, 33, 35, 40, *43
Kailua	50
Kailua Kona	25
Kaneohe	41
Wailuku	7, *10, 12, 16, 21, 24
Waimanalo	38
IDAHO	
Boise	7, *21, 28, 39
Caldwell	10
Coeur D'alene	*45
Filer	*18
Idaho Falls	8, 20, 36
Lewiston	32
Moscow	*12
Nampa	12, 24
Pocatello	15, *17, 23, 31
Sun Valley	32
Twin Falls	11, *22, 34
ILLINOIS	
Aurora	50
Bloomington	28
Carbondale	*8
Champaign	41, 48
Charleston	*50
Chicago	7, 11, 19, *21, 27, 29, 31, 43, 45, *47
Decatur	18, 22
East St. Louis	47
Freeport	23
Harrisburg	34
Jacksonville	*15
Joliet	38
LaSalle	10
Macomb	*21
Marion	17
Moline	*23, 38
Mount Vernon	21
Olney	*19
Peoria	19, 25, 30, 39, *46
Quincy	10, 32, *34
Rock Island	4
Rockford	13, 16, 42
Springfield	13, 42, 44
Urbana	*9, 26
INDIANA	
Angola	12
Bloomington	*14, 27, 42, 48
Elkhart	28
Evansville	*9, 25, 28, 45, 46
Fort Wayne	19, 24, 31, 36, *40
Gary	*17, 51
Hammond	36
Indianapolis	9, 13, 16, *21, 25, *44, 45
Kokomo	29
Lafayette	11
Marion	32
Muncie	23
Richmond	39
Salem	51
South Bend	22, *35, 42, 48
Terre Haute	10, 36, 39
Vincennes	*22
IOWA	
Ames	5, 23, *34
Burlington	41
Cedar Rapids	9, 27, 47, 51
Council Bluffs	*33
Davenport	*34, 36, 49
Des Moines	8, *11, 13, 16, 31
Dubuque	43
Fort Dodge	*25
Iowa City	*12, 25
Mason City	*18, 42
Newton	39
Ottumwa	15
Red Oak	*35
Sioux City	9, *28, 39, 41, 44
Waterloo	7, 22, *35
KANSAS	
Colby	17, 19
Dodge City	*21
Ensign	6
Garden City	11, 13
Goodland	10
Great Bend	22
Hays	7, *16
Hoisington	14
Hutchinson	*8, 12, 35
Lakin	*8
Lawrence	41
Pittsburg	7, 14
Salina	17
Topeka	*11, 13, 27, 49
Wichita	10, 26, 31, 45
KENTUCKY	
Ashland	*26, 44
Beattyville	7
Bowling Green	13, 16, *18, *48
Campbellsville	19
Covington	*24
Danville	4
Elizabethtown	*43
Harlan	51
Hazard	12, *16
Lexington	13, 39, 40, *42
Louisville	8, 11, *17, 26, *38, 47, 49
Madisonville	20, *42
Morehead	*15, 21
Murray	*36
Newport	29
Owensboro	30
Owenton	*44
Paducah	32, 41, 49
Pikeville	*24
Somerset	*14
LOUISIANA	
Alexandria	*26, 31, 35, 41
Baton Rouge	9, 13, *25, 34, 45
Columbia	11
Hammond	42
Lafayette	10, 16, *23, 28
Lake Charles	7, *20, 30
Minden	21
Monroe	8, *13
New Iberia	50
New Orleans	8, *11, 15, 21, 26, *31, 36, 43, 50
Shreveport	17, *25, 28, 34, 44
Slidell	24
West Monroe	36, 38
MAINE	
Augusta	*10
Bangor	2, 7, 19
Biddeford	*45
Calais	*10
Lewiston	35
Orono	*9
Poland Spring	8
Portland	38, 43, 44
Presque Isle	8, *10, 47
Waterville	23
MARYLAND	
Annapolis	*42
Baltimore	11, 13, *29, 38, 40, 41, 46,
Frederick	*28
Hagerstown	26, 39, *44
Oakland	*36
Salisbury	21, *28, 47
MASSACHUSETTS	
Adams	36
Boston	7, *19, 20, 30, 31, 32, 39, *43
Cambridge	41
Lawrence	18
Marlborough	27
New Bedford	22, 49
Norwell	10
Pittsfield	13
Springfield	11, *22, 40
Vineyard Haven	40
Worcester	29, *47
MICHIGAN	
Alpena	11, *24
Ann Arbor	31
Bad Axe	*15
Battle Creek	20, 44
Bay City	22, 46
Cadillac	9, *17, 47
Calumet	5
Cheboygan	35
Detroit	7, 14, 21, 41, *43, 44, 45
East Lansing	*40

Community	Channel No.
Escanaba	48
Flint	12, 16, *28
Grand Rapids	7, *11, 13, 19
Iron Mountain	8
Ishpeming	10
Jackson	34
Kalamazoo	*5, 8, 45
Lansing	36, 38, 51
Manistee	*21
Marquette	*13, 19, 35
Mount Clemens	39
Mount Pleasant	*26
Muskegon	24
Onondaga	10
Saginaw	30, 48
Sault Ste. Marie	8, 10
Traverse City	7, 29
University Center	*18
MINNESOTA	
Alexandria	7, 42
Appleton	*10
Austin	*20, 36
Bemidji	*9, 26
Brainerd	*28
Chisholm	11
Crookston	*16
Duluth	*8, 10, 17, 33
Hibbing	13, *31
Mankato	12
Minneapolis	9, 11, 22, 29, 32, 45
Redwood Falls	27
Rochester	10, 46
St. Cloud	40
St. Paul	*26, *34, 35
Thief River Falls	10
Walker	12
Worthington	*15
MISSISSIPPI	
Biloxi	13, *16
Booneville	*12
Bude	*18
Columbus	35, *43
Greenville	15
Greenwood	*25, 32
Gulfport	48
Hattiesburg	22
Holly Springs	41
Houston	45
Jackson	7, 12, *20, 21, 41
Laurel	28
Magee	34
Meridian	11, 24, 31, *44
Mississippi State	*10
Natchez	49
Oxford	*36
Tupelo	8
Vicksburg	35
West Point	16
MISSOURI	
Cape Girardeau	12, 22
Columbia	8, 17
Hannibal	7
Jefferson City	12, 20
Joplin	*25, 43, 46
Kansas City	9, *18, 24, 31, 34, 42, 47, 51
Kirksville	33
Poplar Bluff	15
Sedalia	15
Springfield	10, 19, *23, 28, 44
St. Joseph	7, 21
St. Louis	14, 24, 26, 31, 35, *39, 43
MONTANA	
Billings	10, 11, 18
Bozeman	*8, 13
Butte	5, 6, 19, 24
Glendive	10
Great Falls	7, 8, 26, 45
Hardin	22
Havre	9
Helena	12, 29
Kalispell	9
Lewistown	13
Miles City	3
Missoula	7, *11, 13, 17, 23
NEBRASKA	
Alliance	*13
Bassett	*7
Grand Island	11, 19
Hastings	5, *28
Hayes Center	18
Kearney	36
Lexington	*26
Lincoln	8, 10, *12, 51
McCook	12
Merriman	*12
Norfolk	*19
North Platte	2, *9
Omaha	15, *17, 20, 22, 43, 45
Scottsbluff	7, 17, 29
Superior	34
NEVADA	
Elko	10
Ely	3, 27
Goldfield	50
Henderson	9
Las Vegas	2, 7, *11, 13, 16, 22, 29
Laughlin	32
Paradise	40
Reno	7, 9, 13, *15, 20, 26, 44
Tonopah	9
Winnemucca	7
NEW HAMPSHIRE	
Concord	33
Derry	35
Durham	*11
Keene	*49
Littleton	*48
Manchester	9
Merrimack	34
NEW JERSEY	
Atlantic City	44, 49
Burlington	27
Camden	*22
Linden	36
Montclair	*51
New Brunswick	*8
Newark	13, 41
Newton	18
Paterson	40
Secaucus	38
Trenton	*43
Vineland	29
West Milford	*29
Wildwood	36
NEW MEXICO	
Albuquerque	7, 13, *17, 22, 24, 26, *35, 42, 45
Carlsbad	19, 25
Clovis	20
Farmington	8, 12
Hobbs	29
Las Cruces	*23, 47
Portales	*32
Roswell	8, 10, 21, 27
Santa Fe	*9, 10, 27, 29
Silver City	10, 12
NEW YORK	
Albany	7, 12, 26
Amsterdam	50
Batavia	23
Bath	14
Binghamton	7, 8, 34, *42
Buffalo	14, 32, 33, 34, 38, 39, *43
Carthage	7
Corning	*30, 48
Elmira	18, 36
Garden City	*21
Ithaca	20
Jamestown	26
Kingston	48
New York	7, 11, *24, 28, 31, 33, 44
North Pole	14
Norwood	*23
Plattsburgh	*38
Poughkeepsie	27
Riverhead	47
Rochester	10, 13, *16, 28, 45
Saranac Lake	40
Schenectady	6, *34, 43
Smithtown	23
Springville	7
Syracuse	15, 17, 19, 24, *25, 44, 47
Utica	27, 29, 30
Watertown	21, *41
NORTH CAROLINA	
Asheville	13, *25, 45
Belmont	47
Burlington	14
Chapel Hill	*25
Charlotte	*11, 22, 23, 27, 34
Concord	*44
Durham	11, 28
Edenton	*20
Fayetteville	36, 38
Goldsboro	17
Greensboro	33, 43, 51
Greenville	10, 14, *23, 51
Hickory	40
High Point	8
Jacksonville	*19, 34
Kannapolis	50
Lexington	19
Linville	*17

Community	Channel No.
Lumberton	*31
Manteo	9
Morehead City	8
New Bern	12
Raleigh	27, 48, 49
Roanoke Rapids	*36
Rocky Mount	15
Washington	32
Wilmington	*29, 30, 44, 46
Wilson	42
Winston Salem	29, 31, *32
NORTH DAKOTA	
Bismarck	12, 16, *22, 26, 31
Devils Lake	8, *25
Dickinson	7, *9, 19
Ellendale	*20
Fargo	*13, 19, 21, 44
Grand Forks	*15, 27
Jamestown	7
Minot	10, 13, 14, 24, *40
Pembina	12
Valley City	38
Williston	8, 14, *51
OHIO	
Akron	23, 30, *50
Alliance	*45
Athens	*27
Bowling Green	*27
Cambridge	*35
Canton	39, 47
Chillicothe	46
Cincinnati	10, 12, 33, *34, 35
Cleveland	8, 15, 17, *26, 34
Columbus	13, 14, 21, 36, *38
Dayton	*16, 30, 41, 50, 51
Lima	8, 47
Lorain	28
Mansfield	12
Newark	24
Oxford	*28
Portsmouth	17, *43
Sandusky	42
Shaker Heights	10
Springfield	26
Steubenville	9
Toledo	5, 11, 13, *29, 46, 49
Youngstown	20, 36, 41
Zanesville	40
OKLAHOMA	
Ada	26
Bartlesville	17
Cheyenne	*8
Claremore	*36
Eufaula	*31
Lawton	11
Muskogee	20
Norman	46
Oklahoma City	7, 9, *13, 15, 24, 27, 33, 40, 50, 51
Okmulgee	28
Shawnee	29
Tulsa	8, 10, *11, 22, 42, 45, 47, 49
Woodward	35
OREGON	
Bend	*11, 21
Coos Bay	11, 22
Corvallis	*7
Eugene	9, 13, 17, *29, 31
Grants Pass	30
Klamath Falls	13, 29, *33
La Grande	*13, 29
Medford	5, *8, 10, 12, 26
Pendleton	11
Portland	8, *10, 12, 24, 40, 43
Roseburg	18, 19, 45
Salem	22, 33
PENNSYLVANIA	
Allentown	*39, 46
Altoona	24, 32, 46
Bethlehem	9
Clearfield	*15
Erie	12, 16, 22, 24, *50
Greensburg	50
Harrisburg	10, 21, *36
Hazleton	45
Jeannette	49
Johnstown	8, 34
Lancaster	8, 23
Philadelphia	6, 17, 26, 32, 34, *35, 42
Pittsburgh	*13, 25, 38, 42, 43, 48, 51
Reading	25
Red Lion	30
Scranton	13, 32, 38, *41, 49
Wilkes Barre	11
Williamsport	29
York	47
RHODE ISLAND	
Block Island	17
Providence	12, 13, *21, 51
SOUTH CAROLINA	
Allendale	*33
Anderson	14
Beaufort	*44
Charleston	*7, 24, 34, 36, 47, 50
Columbia	8, 10, 17, *32, 47, 48
Conway	*9
Florence	13, 16, 21, *45
Georgetown	*38
Greenville	*9, 16, 21, 36
Greenwood	*18
Hardeeville	28
Myrtle Beach	18, 32
Rock Hill	15, 39
Spartanburg	7, 43
Sumter	*28, 39
SOUTH DAKOTA	
Aberdeen	9, *17
Brookings	*8
Eagle Butte	*13
Florence	3
Huron	12
Lead	10, 29
Lowry	*11
Martin	*8
Mitchell	26
Pierre	*10, 19
Rapid City	2, 16, 18, 21, *26
Reliance	13
Sioux Falls	7, 11, 13, *24, 36, 47
Vermillion	*34
TENNESSEE	
Chattanooga	9, 12, 13, *29, 40
Cleveland	42
Cookeville	*22, 36
Crossville	20
Greeneville	38
Hendersonville	51
Jackson	39, 43
Jellico	23
Johnson City	11
Kingsport	19
Knoxville	7, 10, *17, 26, 30, 34
Lebanon	44
Lexington	*47
Memphis	5, *10, 13, *14, 25, 28, *29, 31, 51
Murfreesboro	38
Nashville	5, *8, 10, 15, 21, 23, 27,
Sneedville	*41
Tazewell	48
TEXAS	
Abilene	15, 24, 29
Alvin	36
Amarillo	7, *8, 10, 15, 19
Arlington	42
Austin	7, 21, *22, 33, 43, 49
Baytown	41
Beaumont	12, 21, *33
Belton	46
Big Spring	33
Blanco	18
Borger	31
Brownsville	24
Bryan	28, 50
College Station	*12
Conroe	32, 42
Corpus Christi	8, 10, 13, *23, 27, 38
Dallas	8, *14, 32, 35, 36, 40, 45
Decatur	30
Del Rio	28
Denton	*43
Eagle Pass	18
El Paso	7, 9, *13, 15, 18, 25, *39, 51
Farwell	18
Fort Worth	9, 11, 18, 41
Fredericksburg	5
Galveston	*23, 48
Garland	23
Greenville	46
Harlingen	31, *34, 38
Houston	*8, 11, 13, 19, *24, 26, 35, 38, 44
Irving	48
Jacksonville	22
Katy	47
Kerrville	32
Killeen	13
Lake Dallas	39
Laredo	8, 13, 19
Llano	27
Longview	31, 38
Lubbock	11, 16, 27, 35, *39, 40
Lufkin	9
Mcallen	49
Midland	18, 26

Community	Channel No.
Nacogdoches	18
Odessa	7, 9, 23, 30, *38, 42
Port Arthur	40
Rio Grande City	20
Rosenberg	45
San Angelo	11, 16, 19
San Antonio	*9, 12, *16, 30, 38, 39, 41, 48,
Sherman	12
Snyder	17
Sweetwater	20
Temple	9
Texarkana	15
Tyler	7
Uvalde	26
Victoria	11, 15
Waco	10, *20, 26, 44
Weslaco	13
Wichita Falls	15, 22, 28
Wolfforth	22
UTAH	
Cedar City	14
Logan	12
Ogden	24, *36, 48
Price	11
Provo	29, 32, *44
Richfield	*19
Salt Lake City	13, 20, 34, 38, 40, *42, 46
St. George	9, *18
Vernal	16
VERMONT	
Burlington	13, 22, *32, 43
Hartford	25
Rutland	*9
St. Johnsbury	*18
Windsor	*24
VIRGINIA	
Arlington	15
Ashland	47
Bristol	5
Charlottesville	19, 32, *46
Danville	24
Fairfax	*24
Front Royal	*21
Goldvein	*30
Grundy	49
Hampton	13
Hampton Norfolk	*16
Harrisonburg	49
Lynchburg	13, 20
Manassas	34
Marion	*42
Norfolk	33, 40, 46
Norton	*32
Petersburg	22
Portsmouth	31, 50
Richmond	12, 25, 26, *42, *44
Roanoke	*3, 17, 18, 30, 36
Staunton	*11
Virginia Beach	23, 29
WASHINGTON	
Bellevue	33, 50
Bellingham	19, 35
Centralia	*19
Everett	31
Kennewick	44
Pasco	18
Pullman	*10, 24
Richland	26, *38
Seattle	*9, 25, 38, 39, 44, 48
Spokane	7, *8, 13, 20, 28, 34, 36
Tacoma	11, 13, 14, *27, *42
Vancouver	30
Walla Walla	9
Yakima	14, 16, *21, 33
WEST VIRGINIA	
Bluefield	40, 46
Charleston	19, 39, 41
Clarksburg	10, 12
Grandview	*10
Huntington	13, 23, *34
Lewisburg	8
Martinsburg	12
Morgantown	*33
Oak Hill	4
Parkersburg	49
Weston	5
Wheeling	7
WISCONSIN	
Antigo	46
Appleton	27
Chippewa Falls	49
Crandon	12
Eagle River	28
Eau Claire	13, 15
Fond Du Lac	44
Green Bay	11, 23, 39, 41, *42
Janesville	32
Kenosha	40
La Crosse	8, 14, 17, *30
Madison	11, 19, *20, 26, 50
Mayville	43
Menomonie	*27
Milwaukee	*8, 18, 22, 25, 28, 33, 34, *35, 46
Park Falls	*36
Racine	48
Rhinelander	16
Superior	19
Suring	21
Wausau	7, 9, *24
Wittenberg	50
WYOMING	
Casper	*6, 12, 14, 17, 20
Cheyenne	11, 27, 30
Jackson	2, 11
Lander	7, *8
Laramie	*8
Rawlins	9
Riverton	10
Rock Springs	23
Sheridan	7, 13
GUAM	
Agana	8, 12
Tamuning	14
PUERTO RICO	
Aguada	50
Aguadilla	12, 17, *34
Arecibo	14, 46
Bayamon	30
Caguas	11, *48
Carolina	51
Fajardo	13, *16, 33
Guayama	45
Humacao	49
Mayaguez	22, 23, 29, 35
Naranjito	18
Ponce	7, 9, 15, 19, *25, 47
San Juan	21, 27, 28, 31, 32, *43
San Sebastian	39
Yauco	41
VIRGIN ISLANDS	
Charlotte Amalie	17, 43, *44
Christiansted	15, 20, 23

Note: The following Appendix will not appear in the Code of Federal Regulations.

Appendix—Proposed DTV Table of Allotments Information

The table in this appendix presents the Commission's proposals for assigning the DTV channel allotments to individual broadcast television stations for post-transition DTV operations. It sets forth the proposed technical facilities—effective radiated power, antenna height above average terrain, and antenna identification code—and transmitter site for which each TV station would be authorized on its post-transition channel. The table also provides information on stations' predicted service coverage and the percentage of their service population that would be affected by interference received from other DTV stations. The channels proposed for assignment to stations here are the same as those the Commission is proposing to include in the new DTV Table of Allotments (DTV Table), which, if adopted, would be codified in 47 CFR 73.622(i).

The table includes a proposed DTV channel assignment for all television stations that are eligible under the qualifying criteria, set forth in the *Second DTV Periodic Report and Order* and reiterated in the discussion above. The proposed technical facilities parameters, which were also used for calculation of the tabulated engineering information, were developed in the three-round channel election process that the Commission conducted to create the proposed DTV Table. These technical facilities data are also available in an EXCEL format at *http://www.fcc.gov/dtv.*

Data Elements

Facility ID: A five-digit code for identification of TV or DTV stations associated with channel allotments. A unique code is assigned to each station at the time the Commission first receives an application for a construction permit for that station and does not change, even where the license for the station changes ownership or major changes are made to the station, such as a change of channel or community.

City and State: The city and State to which the channel is allotted and the station is licensed to serve.

NTSC Channel: The station's current analog (NTSC) channel. This field is left blank in the case of stations that are only licensed to operate digital television service. If a station currently operates only an analog channel, that analog channel will appear in this field. Note: Stations must cease analog operations at the end of the DTV transition on February 17, 2009. *See* 47 U.S.C. 309(j)(14)(A).

DTV Channel: The channel proposed for the station's post-transition DTV operation.

DTV Power: The effective radiated power (ERP) proposed for the station's post-transition DTV operation. This value is the ERP specified for the station's post-transition operation in the channel election process and, accordingly, may be the station's: (1) Currently authorized ERP, (2) 1997 service replication ERP, (3) other allowable value to which it agreed to operate to resolve a conflict or as part of a negotiated agreement in the channel election process; or (4) in cases where a station's proposed DTV channel is not its current DTV channel, a value determined by the Commission that will enable the station to provide coverage of the station's service area as specified in the channel election process. The value shown is the maximum, over a set of uniformly spaced compass directions, of the ERP values used in determining the station's specified noise-limited DTV service contour. This value is used in the calculations of service and interference also shown herein.

In cases where the TV Engineering Database indicated employment of a directional antenna, the ERP in each specific direction was determined through linear interpolation of the relative field values describing the directional pattern. (The directional pattern stored in the FCC computer database provides relative field values at 10 degree intervals and may include additional values in special directions. The result of linear interpolation of these relative field values is squared and multiplied by the overall maximum ERP listed for the station in the TV Engineering Database to find the ERP in a specific direction.)

Where a station's ERP was determined by the Commission, it was calculated using the following methodology. First, the distance to the station's noise-limited DTV contour (or Grade B contour for stations that do not have a DTV channel) was determined in each of 360 uniformly spaced compass directions starting from true north. This determination was made using information in the engineering database, including directional antenna data, and using terrain elevation data at points separated by 3 arc-seconds of longitude and latitude. FCC curves (47 CFR 73.699) were applied in the usual way, as described in 47 CFR 73.684, to find this noise-limited contour distance, with the exception that dipole factor considerations were applied to the field strength contour specified in 47 CFR 73.683 for UHF channels.

The station's proposed post-transition DTV ERP was then calculated by a further application of FCC curves, with noise-limited DTV coverage defined as the presence of field strengths of 28 dBu, 36 dBu, and 41 dBu as set forth in 47 CFR 73.622(e), respectively for low-VHF, high-VHF and UHF, at 50 percent of locations and 90 percent of the time. The family of FCC propagation curves for predicting field strength at 50 percent of locations 90 percent of the time is found by the formula $F(50, 90) = F(50, 50) - [F(50, 10) - F(50, 50)]$. That is, the F(50, 90) value is lower than F(50, 50) by the same amount that F(50, 10) exceeds F(50, 50). At UHF, the precise value 41 dBu was applied for channel 38; and the value used for other UHF channels is 41 dBu plus a dipole factor modification. This results in reception on channel 14 needing 2.3 dB less, and channel 69 needing 2.3 dB more, than the 41 dBu for channel 38. The dipole factor modification used in ERP calculations is equal to 20 times log10 of the ratio of the center frequency of the UHF channel of interest to the center frequency of channel 38.

In general, these computations of a station's DTV power on a new channel to match the distance to its noise-limited contour result in ERP values, which vary with azimuth. For example, the azimuthal ERP pattern that replicates for a UHF channel, the noise-limited contour of an omnidirectional VHF operation will be somewhat different because terrain has a different effect on propagation in the two bands. Thus, the procedure described here effectively derives a new directional antenna pattern wherever necessary for a precise match according to FCC curves.

Finally, the ERP specified for a station's new UHF DTV channel was limited so that it does not exceed 1 megawatt. This was done by scaling the azimuthal power pattern rather than by truncation. For example, if replication by FCC curves as described above requires an ERP of 1.2 megawatts, the power pattern is reduced by a factor of 1.2 in all directions. The azimuthal pattern is used in subsequent service and interference calculations for the station.

Antenna Height: The height of the station's transmitting antenna above average terrain, that is, antenna height above average terrain (antenna HAAT). In general, the antenna HAAT value shown for each station is the same as that specified for the station in the channel election process. This value represents the height of the radiation center of the station whose service area is being replicated, above terrain averaged from 3.2 to 16.1 kilometers (2 to 10 miles) from the station's transmitter site, over 8 evenly spaced radials. In computations of service coverage and interference, the value of antenna HAAT was determined every 5 degrees directly from the terrain elevation data, and by linear interpolation for compass directions in between.

Antenna ID: A six digit number that identifies the radiation pattern for the station's transmitting antenna that is stored in the Commission's Consolidated Database System (CDBS). In cases where a station's proposed post-transition channel is the same as its currently assigned DTV channel, the station's antenna pattern is the same as its certified facilities antenna. In other cases, such as where a station chose its analog channel or a different channel, or where the Commission's staff selected a ''best available'' channel for the station's post-transition operation, the antenna pattern for the station was developed by our computer software to allow the station to replicate the coverage area reached by operation at its certified facilities on its proposed channel (*i.e.*, the station's TCD from the channel election process); or the station has indicated that it would use a particular antenna for its post-transition operation in the channel election process, the station's antenna pattern is the same as specified in Schedule B of FCC Forms 383 and 385. These antenna patterns are used in the calculation of service area and interference. The CDBS can be accessed on the Internet at *http://www.fcc.gov/mb/cdbs.html.*

Transmitter Latitude: The geographic latitude coordinates of the station's transmitter location.

Transmitter Longitude: The geographic longitude coordinates of the station's transmitter location.

Service Area, Service Population, and Percent Interference Received: Under the heading ''DIGITAL TELEVISION SERVICE AFTER THE TRANSITION,'' prospective conditions are evaluated in terms of both area and population. The values tabulated under this heading are net values: service area is the area where the desired signal is above the DTV noise threshold, less the area where service receives predicted interference from other DTV stations. Similarly, the number of people served is the population receiving an adequate signal relative to noise excluding people in areas with predicted interference. The level of interference received to a station's service is calculated based on desired-to-undesired (D/U) ratios, and these levels must be above certain threshold values for acceptable service. The percent interference received value is the percentage of the station's otherwise noise-limited service area that is affected by predicted interference from other DTV stations. The threshold values used to prepare the interference estimates in this appendix are those set forth in 47 CFR 73.623(c). The procedure used to identify areas of service and interference is that specified in *OET Bulletin No. 69. See* OET Bulletin No. 69, Longley-Rice Methodology for Evaluating TV Coverage and Interference, February 6, 2004 (''*OET Bulletin No. 69*''), available at *http://www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet69/oet69.pdf.*

Facility ID	State	City	NTSC	DTV								
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDDMMSS)	Area (sq km)	Population (thousand)	Percent interference received
21488	AK	ANCHORAGE	5	5	45	277	74343	612010	1493046	45353	348	0
804	AK	ANCHORAGE	7	8	50	240	67898	612522	1495220	26532	317	0
10173	AK	ANCHORAGE	2	10	21	240	67943	612522	1495220	22841	317	0
13815	AK	ANCHORAGE	13	12	41	240	65931	612522	1495220	25379	317	0
35655	AK	ANCHORAGE	4	20	234	55	74791	611311	1495324	10885	302	0
83503	AK	ANCHORAGE	9	26	1000	212	74792	610402	1494436	23703	323	0
49632	AK	ANCHORAGE	11	28	52	61	64802	611133	1495401	7946	296	0
25221	AK	ANCHORAGE	33	32	50	33	74793	610957	1494102	8943	287	0
4983	AK	BETHEL	4	3	1	61	74794	604733	1614622	10324	9	0
64597	AK	FAIRBANKS	7	7	3.2	214	74449	645520	1474255	11355	82	0
69315	AK	FAIRBANKS	9	9	3.2	152	74463	645442	1474638	6623	81	0
49621	AK	FAIRBANKS	11	11	3.2	1	74991	645036	1474248	5673	82	0
13813	AK	FAIRBANKS	2	18	60	33	74795	645042	1474252	6901	82	0
8651	AK	JUNEAU	3	10	0.748	1	.....	581804	1342521	3982	30	0
13814	AK	JUNEAU	8	11	3	33	74796	581806	1342629	5513	30	0
60520	AK	KETCHIKAN	4	13	3.2	1	29997	552059	1314012	4355	15	0
20015	AK	NORTH POLE	4	4	1	5	74432	644532	1471926	6293	82	0
60519	AK	SITKA	13	2	1	1	.....	570301	1352004	6898	8	0
56642	AL	ANNISTON	40	9	15.6	359	39744	333624	862503	24554	1437	6.6
71325	AL	BESSEMER	17	18	350	675	44013	332851	872403	37533	1549	1.4
717	AL	BIRMINGHAM	10	10	3	426	.....	332904	864825	22745	1363	4.9
74173	AL	BIRMINGHAM	13	13	16.9	408	75054	332926	864748	31517	1646	1.9
5360	AL	BIRMINGHAM	42	30	1000	426	43265	332904	864825	31006	1687	0.4
16820	AL	BIRMINGHAM	68	36	885	406	68103	332904	864825	28264	1553	1.1
71221	AL	BIRMINGHAM	6	50	1000	420	74797	332919	864758	33118	1692	0.9
720	AL	DEMOPOLIS	41	19	1000	324	60739	322145	875204	26322	330	6.5
43846	AL	DOTHAN	18	21	1000	223	.....	311425	851843	24804	451	0
4152	AL	DOTHAN	4	36	995	573	.....	305510	854428	43948	886	0.4
714	AL	DOZIER	2	10	3.2	393	74361	313316	862332	23623	353	8.7
65128	AL	FLORENCE	15	14	1000	431	66619	350009	870809	30313	1112	0
6816	AL	FLORENCE	26	20	50	230	74798	343438	874657	15572	355	1.7
715	AL	FLORENCE	36	22	556	202	.....	343441	874702	20778	544	0.2
1002	AL	GADSDEN	60	26	150	315	29932	334853	862655	17740	1379	0.2
73312	AL	GADSDEN	44	45	225	309	43164	335327	862813	17701	1357	0.1
83943	AL	GULF SHORES	55	25	64.5	308	74787	303640	873626	15544	932	0
74138	AL	HOMEWOOD	21	28	1000	409	29634	332904	864825	31285	1678	1
48693	AL	HUNTSVILLE	19	19	40.7	514	.....	344419	863156	23609	992	2.2
713	AL	HUNTSVILLE	25	24	396	340	.....	344413	863145	27052	1092	0.7
57292	AL	HUNTSVILLE	31	32	50	546	74799	344415	863202	24520	1018	0.4
28119	AL	HUNTSVILLE	54	41	400	518	43864	344412	863159	29827	1213	1
591	AL	HUNTSVILLE	48	49	41	552	.....	344239	863207	22282	936	0.8
710	AL	LOUISVILLE	43	44	925	262	59887	314304	852603	18777	337	0.1
4143	AL	MOBILE	10	9	29	381	.....	304117	874754	34970	1203	0
11906	AL	MOBILE	15	15	510	558	74580	303640	873627	35605	1284	0.5
60827	AL	MOBILE	21	20	500	436	42051	303518	873316	27240	1215	0
83740	AL	MOBILE	.....	23	337	574	75124	303645	873843	38025	1283	0
73187	AL	MOBILE	5	27	1000	581	74800	304120	874949	45411	1406	0.3
721	AL	MOBILE	42	41	199	185	.....	303933	875333	16297	912	0.1
13993	AL	MONTGOMERY	12	12	24.9	507	74369	315828	860944	31615	788	0.5
73642	AL	MONTGOMERY	20	16	1000	518	29552	315828	860944	37695	829	1.3
706	AL	MONTGOMERY	26	27	568	176	.....	322255	861733	18017	549	3.7
72307	AL	MONTGOMERY	32	32	199	545	75049	320830	864443	28414	579	0.6
60829	AL	MONTGOMERY	45	46	500	308	28430	322413	861147	21909	641	0.3
711	AL	MOUNT CHEAHA	7	7	19	610	74635	332907	854833	40921	2236	2.9
11113	AL	OPELIKA	66	47	136	539	74487	321916	844728	24321	662	1.3
32851	AL	OZARK	34	33	15	151	68078	311228	853649	8868	244	0
84802	AL	SELMA	29	29	1000	408	32810	323227	865033	26729	620	5.9
701	AL	SELMA	8	42	787	507	.....	320858	864651	38739	722	0.1
62207	AL	TROY	67	48	50	345	30182	320336	855701	14891	479	2
77496	AL	TUSCALOOSA	23	23	50	266	74752	330315	873257	13651	355	0.1
21258	AL	TUSCALOOSA	33	33	160	625	70330	332848	872550	30995	1357	0.5
68427	AL	TUSKEGEE	22	22	100	325	74464	320336	855702	17779	532	0.4
2768	AR	ARKADELPHIA	9	13	7.3	320	.....	335426	930646	22157	299	16.9
86534	AR	CAMDEN	49	49	68.1	175	74782	331619	924212	13417	146	0.5
92872	AR	EL DORADO	.....	12	6	541	65573	330441	921341	19618	362	19.4
35692	AR	EL DORADO	10	27	734	605	74801	330441	921341	43603	631	5.5
84164	AR	EL DORADO	43	43	206	530	74776	330441	921341	26259	446	0.1
81593	AR	EUREKA SPRINGS	34	34	87.1	213	75069	362630	935825	12963	442	0.1
2767	AR	FAYETTEVILLE	13	9	19	501	.....	354853	940141	35150	889	1.5
60354	AR	FAYETTEVILLE	29	15	180	266	.....	360057	940459	19569	560	3.5
66469	AR	FORT SMITH	5	18	550	286	.....	354949	940924	25959	736	0.2
60353	AR	FORT SMITH	40	21	325	602	.....	350415	944043	33811	525	7.4
29560	AR	FORT SMITH	24	27	200	305	41354	354236	940815	19242	627	0.7
78314	AR	HARRISON	31	31	191	339	75064	364218	930345	18376	533	2.8
608	AR	HOT SPRINGS	26	26	66.4	258	74370	342221	930247	13726	250	0.1
13988	AR	JONESBORO	8	8	18	531	74348	355322	905608	39540	689	0.2
2769	AR	JONESBORO	19	20	50	310	.....	355414	904614	18806	312	0
2784	AR	JONESBORO	48	48	982	295	75036	353616	903118	24784	1386	0
2770	AR	LITTLE ROCK	2	7	8.06	548	74338	342631	921303	30372	952	0
2787	AR	LITTLE ROCK	11	12	55	519	.....	344757	922959	41233	1110	2.4

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33543	AR	LITTLE ROCK	7	22	750	574	.....	342824	921210	43307	1087	0.3
11951	AR	LITTLE ROCK	16	30	1000	449	40344	344757	922929	32289	1043	0
33440	AR	LITTLE ROCK	4	32	1000	503	74802	344757	922959	39177	1098	0.6
58267	AR	LITTLE ROCK	36	36	50	394	74768	344756	922945	16626	809	0.2
37005	AR	LITTLE ROCK	42	44	1000	485	59098	344745	922944	31868	1038	0.5
2777	AR	MOUNTAIN VIEW	6	13	4.05	407	66439	354847	921724	20292	260	14.5
607	AR	PINE BLUFF	25	24	725	356	40413	343155	920241	24562	845	0
41212	AR	PINE BLUFF	38	39	1000	590	40345	342631	921303	34162	1006	0
29557	AR	ROGERS	51	50	1000	267	.....	362447	935716	23556	643	0
67347	AR	SPRINGDALE	57	39	316	114	40726	361107	941749	12789	422	0.1
81441	AZ	DOUGLAS	3	36	1000	9	74708	312208	1093145	10673	34	0
24749	AZ	FLAGSTAFF	2	2	7.25	465	74450	345806	1113028	33788	270	0.2
41517	AZ	FLAGSTAFF	13	13	19.6	474	74998	345805	1113029	29913	203	0
74149	AZ	FLAGSTAFF	4	18	726	487	74804	345804	1113030	34193	227	0
35104	AZ	FLAGSTAFF	9	32	1000	343	.....	345806	1113029	32388	215	0.8
63927	AZ	GREEN VALLEY	46	46	70.8	1095	74581	322454	1104256	26056	802	0
81458	AZ	HOLBROOK	11	11	3.2	54	74722	345505	1100825	8819	16	0
24753	AZ	KINGMAN	6	19	1000	585	74805	350157	1142156	30420	175	0
35486	AZ	MESA	12	12	22	543	74517	332000	1120348	33724	3236	0
2728	AZ	PHOENIX	8	8	30.7	527	75007	332000	1120349	35929	3239	0
35587	AZ	PHOENIX	10	10	22.2	558	74488	332003	1120343	34519	3236	0
59440	AZ	PHOENIX	15	15	218	509	74636	332000	1120346	28668	3229	0
41223	AZ	PHOENIX	5	17	1000	507	67336	332002	1120340	31756	3237	0
67868	AZ	PHOENIX	21	20	500	489	.....	332002	1120342	30913	3232	0
40993	AZ	PHOENIX	3	24	1000	501	43557	332001	1120345	31415	3234	0
68886	AZ	PHOENIX	45	26	1000	517	33195	332001	1120332	32353	3237	0
35705	AZ	PHOENIX	33	33	196	510	74503	332000	1120346	22493	3226	0
83491	AZ	PHOENIX	39	39	50	491	.....	332001	1120344	18695	3211	0
7143	AZ	PHOENIX	61	49	531	497	43560	332002	1120344	24945	3227	0
35811	AZ	PRESCOTT	7	7	3.2	850	74984	344115	1120701	24427	266	0.6
35095	AZ	SIERRA VISTA	58	44	1000	319	65401	314532	1104803	18972	893	0
26655	AZ	TOLLESON	51	51	197	546	74584	332003	1120338	25018	3227	0
36918	AZ	TUCSON	9	9	9.23	1134	74508	322454	1104259	39703	999	0.1
11908	AZ	TUCSON	18	19	480	1123	59934	322456	1104250	37731	924	0.1
25735	AZ	TUCSON	4	23	405	1123	68106	322456	1104250	35035	914	0.2
44052	AZ	TUCSON	11	25	480	1123	64314	322456	1104250	35738	911	0.2
2722	AZ	TUCSON	27	28	50	178	42999	321253	1110021	8550	831	0
2731	AZ	TUCSON	6	30	668	1092	.....	322455	1104251	45415	983	0
48663	AZ	TUCSON	13	32	108	1123	43979	322456	1104250	25638	807	0.7
30601	AZ	TUCSON	40	40	396	621	74564	321456	1110658	22249	933	0
74449	AZ	YUMA	11	11	22.3	468	74556	330310	1144940	34281	326	0
33639	AZ	YUMA	13	16	510	475	74806	330317	1144934	28310	324	0
24518	CA	ANAHEIM	56	32	1000	937	68180	341335	1180358	38204	15487	0.1
8263	CA	ARCATA	23	22	50	510	74807	404336	1235818	20016	120	0
29234	CA	AVALON	54	47	350	937	66764	341337	1180357	31305	14729	0
40878	CA	BAKERSFIELD	23	10	4.6	1128	74808	352714	1183537	23144	841	0
34459	CA	BAKERSFIELD	17	25	135	405	44570	352617	1184422	18738	698	0
4148	CA	BAKERSFIELD	29	33	110	1128	27939	352711	1183525	24592	992	0
7700	CA	BAKERSFIELD	45	45	210	387	74619	352620	1184424	16819	697	0
63865	CA	BARSTOW	64	44	1000	596	.....	343634	1171711	27479	1578	0
83825	CA	BISHOP	20	20	50	928	74744	372443	1181106	16923	23	0
40517	CA	CALIPATRIA	54	36	155	476	75040	330302	1144938	20044	318	0
4939	CA	CERES	23	15	15	172	.....	372934	1211329	11340	1202	0
33745	CA	CHICO	24	24	331	537	74518	401531	1220524	28699	422	0
24508	CA	CHICO	12	43	1000	396	74809	395730	1214248	25916	597	1.5
23302	CA	CLOVIS	43	43	283	642	75024	364446	1191657	31884	1452	0.1
21533	CA	CONCORD	42	14	50	856	74701	375334	1215353	31816	8599	0
19783	CA	CORONA	52	39	54	912	41582	341247	1180341	21865	14174	0
57945	CA	COTATI	22	23	110	628	68181	382054	1223438	23262	4471	0
51208	CA	EL CENTRO	9	9	19.5	414	75031	330319	1144944	31675	325	0
36170	CA	EL CENTRO	7	22	1000	477	36690	330302	1144938	33276	325	0
53382	CA	EUREKA	3	3	8.39	503	74390	404352	1235706	35110	149	0
55435	CA	EUREKA	13	11	40	550	.....	404338	1235817	39817	149	0
42640	CA	EUREKA	6	17	30	550	44483	404339	1235817	17975	118	0
58618	CA	EUREKA	29	28	119	381	28858	404336	1235826	15820	121	0
8378	CA	FORT BRAGG	8	8	44.9	733	74379	394138	1233443	38724	143	0.2
67494	CA	FRESNO	53	7	38	560	29423	370423	1192552	33624	1631	0.2
8620	CA	FRESNO	30	30	182	614	74349	370437	1192601	22938	1437	0.1
56034	CA	FRESNO	47	34	185	577	44959	370414	1192531	24853	1422	0.1
35594	CA	FRESNO	24	38	528	601	74391	370419	1192549	30409	1541	0.1
69733	CA	FRESNO	18	40	250	698	67432	364445	1191651	29501	1441	0
34439	CA	HANFORD	21	20	350	580	29793	370422	1192550	28070	1509	0
4328	CA	HUNTINGTON BEACH	50	48	855	921	64663	341337	1180357	36556	15107	0.3
35608	CA	LONG BEACH	18	18	111	889	75204	341250	1180340	19277	14109	2.8
282	CA	LOS ANGELES	7	7	11.2	978	74603	341337	1180358	37220	15572	0.1
21422	CA	LOS ANGELES	9	9	12	951	69629	341338	1180400	34447	15439	0
22208	CA	LOS ANGELES	11	11	40.2	902	74702	341329	1180348	40526	15807	0.1
33742	CA	LOS ANGELES	13	13	14.1	899	74704	341342	1180402	36927	15505	0
13058	CA	LOS ANGELES	28	28	107	913	70604	341326	1180343	21994	14312	1.9
35670	CA	LOS ANGELES	5	31	1000	954	32823	341336	1180356	42312	15543	0.2

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35123	CA	LOS ANGELES	34	34	392	956	74509	341336	1180359	31607	15014	0
47906	CA	LOS ANGELES	4	36	711	984	74810	341332	1180352	41039	15464	0
38430	CA	LOS ANGELES	58	41	162	901	41475	341326	1180345	22054	13992	1
26231	CA	LOS ANGELES	22	42	486	892	42167	341247	1180341	24664	14427	1.1
9628	CA	LOS ANGELES	2	43	300	947	69117	341338	1180400	31477	14811	0.5
58608	CA	MERCED	51	11	58	575	75200	370419	1192549	35621	1691	0
58609	CA	MODESTO	19	18	500	555	36726	380707	1204327	29812	3331	0
35611	CA	MONTEREY	67	31	50	701	29629	364523	1213005	14541	1065	42.1
26249	CA	MONTEREY	46	32	46	758	44481	363205	1213714	16387	761	9
49153	CA	NOVATO	68	47	1000	402	28688	380900	1223531	15940	5258	3
35703	CA	OAKLAND	2	44	811	433	74637	374519	1222706	23016	6336	0
60549	CA	ONTARIO	46	29	400	937	68117	341336	1180359	32827	14946	1.2
56384	CA	OXNARD	63	24	85	533	40843	341949	1190124	16906	2413	38.5
25577	CA	PALM SPRINGS	42	42	50	219	72090	335158	1162602	7335	372	4.4
16749	CA	PALM SPRINGS	36	46	50	207	74811	335200	1162556	7220	371	0
58605	CA	PARADISE	30	20	661	448	27908	395750	1214238	23929	576	0
35512	CA	PORTERVILLE	61	48	197	804	38116	361714	1185017	27708	1741	0
55083	CA	RANCHO PALOS VERDES	44	51	1000	937	65079	341335	1180357	33638	15007	0
8291	CA	REDDING	7	7	11.6	1106	74504	403610	1223900	38353	371	0.1
47285	CA	REDDING	9	9	9.69	1097	74412	403609	1223901	37993	370	1.4
22161	CA	RIVERSIDE	62	45	670	907	74510	341250	1180340	31637	15069	0
35855	CA	SACRAMENTO	6	9	19.2	567	74604	381618	1213018	33919	5291	13.9
25048	CA	SACRAMENTO	10	10	16.6	595	74695	381424	1213003	37093	6313	0
51499	CA	SACRAMENTO	31	21	850	581	.....	381554	1212924	39963	6384	0
33875	CA	SACRAMENTO	3	35	1000	591	74812	381552	1212922	37892	5069	17.4
10205	CA	SACRAMENTO	40	40	765	581	70334	381618	1213018	31502	4587	4.2
52953	CA	SACRAMENTO	29	48	1000	489	44981	381554	1212924	30324	4218	1.1
19653	CA	SALINAS	8	8	19.2	736	70343	364523	1213005	28847	2561	14.8
14867	CA	SALINAS	35	13	19.8	720	44925	364522	1213006	23793	1122	49.2
58795	CA	SAN BERNARDINO	24	26	440	529	.....	335757	1171705	20478	13150	0
58978	CA	SAN BERNARDINO	30	38	1000	909	46152	341246	1180341	23334	14423	0
42122	CA	SAN DIEGO	8	8	5.42	208	74621	325016	1171456	18230	2929	0
40876	CA	SAN DIEGO	10	10	11	205	74985	325020	1171456	19575	2948	0.7
10238	CA	SAN DIEGO	51	18	355	576	39587	324150	1165604	29082	2910	3.5
58827	CA	SAN DIEGO	69	19	323	598	65036	324147	1165607	29443	3106	0.2
6124	CA	SAN DIEGO	15	30	350	567	33507	324153	1165603	27819	3013	0.3
35277	CA	SAN DIEGO	39	40	370	563	68010	324148	1165606	26970	2968	0.3
34470	CA	SAN FRANCISCO	7	7	21	509	74465	374520	1222705	32516	6516	7.3
51189	CA	SAN FRANCISCO	20	19	383	418	19024	374519	1222706	22989	6360	1
37511	CA	SAN FRANCISCO	26	27	500	403	67202	374112	1222603	21218	6116	1.8
25452	CA	SAN FRANCISCO	5	29	1000	506	74813	374520	1222705	36742	7115	0
35500	CA	SAN FRANCISCO	9	30	709	509	74814	374520	1222705	33396	6579	4.7
43095	CA	SAN FRANCISCO	32	33	50	491	74815	374520	1222705	16151	5924	0.1
65526	CA	SAN FRANCISCO	4	38	712	446	74655	374519	1222706	23056	6322	1.7
71586	CA	SAN FRANCISCO	38	39	1000	428	29544	374519	1222706	24293	6266	4
69619	CA	SAN FRANCISCO	44	45	206	491	74816	374520	1222705	16434	5799	2.1
33778	CA	SAN FRANCISCO	14	51	476	701	28493	372957	1215216	19534	6377	0.1
35280	CA	SAN JOSE	11	12	103	377	64426	374107	1222601	36145	6703	0.1
34564	CA	SAN JOSE	36	36	740	668	74585	372917	1215159	28572	6601	4.5
22644	CA	SAN JOSE	65	41	1000	418	60706	374115	1222601	23495	6250	3.3
64987	CA	SAN JOSE	48	49	257	688	38067	372957	1215216	21071	6083	1.5
35663	CA	SAN JOSE	54	50	290	662	34197	372917	1215159	16608	6021	1.7
19654	CA	SAN LUIS OBISPO	6	15	1000	515	28386	352137	1203918	30360	439	0
12930	CA	SAN LUIS OBISPO	33	34	82	441	44369	352138	1203921	18410	410	0.2
58912	CA	SAN MATEO	60	43	536	428	44617	374519	1222706	20821	6089	2.4
59013	CA	SANGER	59	36	372	600	43974	370437	1192601	27078	1440	0
67884	CA	SANTA ANA	40	23	50	881	74817	341327	1180344	22547	13672	6
12144	CA	SANTA BARBARA	38	21	1000	923	33205	343128	1195735	36089	1343	0
60637	CA	SANTA BARBARA	3	27	699	917	74818	343132	1195728	42071	1298	2.1
63165	CA	SANTA MARIA	12	19	188	591	74819	345437	1201108	26167	413	0
34440	CA	SANTA ROSA	50	32	19.9	928	72086	384010	1223752	18189	742	4.5
56550	CA	STOCKTON	13	25	1000	594	32519	381424	1213003	39491	6024	7.9
20871	CA	STOCKTON	64	26	425	599	71124	381424	1213003	27821	4135	4.8
10242	CA	STOCKTON	58	46	600	580	.....	381554	1212924	33050	4788	9.9
16729	CA	TWENTYNINE PALMS	.....	23	150	784	36709	340217	1164847	20828	1929	44.4
51429	CA	VALLEJO	66	34	150	419	39592	374519	1222706	17332	5881	3.2
14000	CA	VENTURA	57	49	1000	937	65163	341335	1180357	34722	15066	0
51488	CA	VISALIA	26	28	219	763	28096	364002	1185242	30550	1433	0
16950	CA	VISALIA	49	50	185	834	.....	361714	1185017	31085	1753	0
8214	CA	WATSONVILLE	25	25	81.1	699	70678	364522	1213004	17432	1895	7.1
57219	CO	BOULDER	14	15	200	351	66988	394017	1051306	21679	2934	0
22685	CO	BROOMFIELD	12	38	1000	730	38280	394055	1052949	31357	2941	0
37101	CO	CASTLE ROCK	53	46	300	178	30026	392557	1043918	13108	2332	0
35037	CO	COLORADO SPRINGS	11	10	20.1	725	20589	384441	1045141	29268	959	54
35991	CO	COLORADO SPRINGS	21	22	51	641	44318	384443	1045140	22342	1109	0
52579	CO	COLORADO SPRINGS	13	24	459	652	74820	384445	1045138	30518	2149	0
40875	CO	DENVER	7	7	37.4	295	74403	394350	1051353	24932	2899	2
23074	CO	DENVER	9	9	39.6	318	74392	394350	1051353	25732	2925	1.8
14040	CO	DENVER	6	18	1000	292	74821	394349	1051500	25306	2939	0.4
68581	CO	DENVER	20	19	1000	295	44187	394350	1051353	24975	2948	0.3

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126	CO	DENVER	31	32	1000	314	30041	394345	1051412	23205	2875	0
35883	CO	DENVER	2	34	1000	318	.....	394358	1051408	26818	2981	0.2
47903	CO	DENVER	4	35	1000	373	44452	394351	1051354	25932	2957	0.2
20476	CO	DENVER	41	40	74.8	344	.....	393559	1051235	17700	2624	0
68695	CO	DENVER	59	43	145	356	74822	394024	1051303	17371	2700	0.4
24514	CO	DENVER	50	51	900	233	36173	394358	1051408	19718	2711	0
48589	CO	DURANGO	6	15	46	90	44437	371546	1075358	8794	91	0
84224	CO	DURANGO	.....	20	46	130	65291	371546	1075358	7843	65	0
82613	CO	DURANGO	33	33	50	122	75068	371546	1075345	6607	54	0
125	CO	FORT COLLINS	22	21	1000	233	.....	403832	1044905	25510	1284	0
70578	CO	GLENWOOD SPRINGS	3	23	879	771	74823	392505	1072201	26213	110	0
70596	CO	GRAND JUNCTION	5	2	1	−23	74824	390515	1083356	8618	129	0
52593	CO	GRAND JUNCTION	8	7	9.7	829	74825	390255	1081506	31964	185	0
24766	CO	GRAND JUNCTION	11	12	10.8	429	74826	390400	1084441	21114	141	0.4
31597	CO	GRAND JUNCTION	4	15	71.5	422	74827	390356	1084452	12523	131	0
14042	CO	GRAND JUNCTION	18	18	51.2	883	74404	390314	1081513	19336	121	0
38375	CO	LONGMONT	25	29	650	358	68107	400557	1045348	24325	2840	0
70579	CO	MONTROSE	10	13	3.2	24	74828	383102	1075112	8771	58	1.1
69170	CO	PUEBLO	8	8	20.3	727	74992	384444	1045139	29601	900	56.5
59014	CO	PUEBLO	5	42	1000	396	74829	382225	1043327	28419	745	0.1
20373	CO	STEAMBOAT SPRINGS	24	10	0.481	175	44199	402743	1065057	6228	29	0
63158	CO	STERLING	3	23	599	204	.....	403457	1030156	21554	73	0
70493	CT	BRIDGEPORT	43	42	1000	156	.....	412143	730648	18425	5544	2.5
13594	CT	BRIDGEPORT	49	49	50	222	74586	411643	731108	10597	3792	3.3
147	CT	HARTFORD	61	31	380	506	66902	414213	724957	23488	3645	16.3
53115	CT	HARTFORD	3	33	1000	289	44846	414630	724820	21115	3536	16.1
13602	CT	HARTFORD	24	45	465	505	65933	414213	724957	26781	4223	1.4
3072	CT	HARTFORD	18	46	217	269	.....	414630	724804	16467	3302	7.6
74170	CT	NEW BRITAIN	30	35	250	434	65777	414202	724957	24350	4252	3.8
13595	CT	NEW HAVEN	65	6	0.4	88	.....	411942	725425	9116	2740	9.2
74109	CT	NEW HAVEN	8	10	20.5	342	65037	412522	725706	25655	6252	11.5
33081	CT	NEW HAVEN	59	39	170	301	46284	412522	725706	17709	4376	2.9
51980	CT	NEW LONDON	26	26	76	363	74505	412504	721155	18595	3357	0.7
13607	CT	NORWICH	53	9	3.2	192	75021	413114	721003	11997	1198	29.8
14050	CT	WATERBURY	20	20	58.5	515	74364	414213	724957	21645	3935	9.5
1051	DC	WASHINGTON	7	7	15	254	74539	385701	770447	22232	7053	0.2
65593	DC	WASHINGTON	9	9	17	254	74506	385701	770447	22544	7075	0.3
65670	DC	WASHINGTON	26	27	90	254	66360	385701	770447	16074	6626	1.6
27772	DC	WASHINGTON	32	33	100	254	.....	385701	770447	17550	6781	0.1
51567	DC	WASHINGTON	20	35	500	254	.....	385701	770447	21882	7046	0.2
22207	DC	WASHINGTON	5	36	1000	235	74830	385721	770457	22214	7092	0.8
47904	DC	WASHINGTON	4	48	1000	237	74831	385624	770454	22223	7074	0.1
30576	DC	WASHINGTON	50	50	123	253	75050	385744	770136	17031	6767	0.1
72335	DE	SEAFORD	64	44	98	196	66096	383915	753642	11086	465	7.4
72338	DE	WILMINGTON	12	12	9.9	294	74622	400230	751424	21656	7752	1.6
51984	DE	WILMINGTON	61	31	200	374	39302	400230	751411	18478	6836	9.5
51349	FL	BOCA RATON	63	40	524	311	75025	255934	801027	20929	4837	0
6601	FL	BRADENTON	66	42	210	476	.....	274910	821539	28906	3722	1
70649	FL	CAPE CORAL	36	35	930	404	67859	264742	814805	28363	1378	1.1
11125	FL	CLEARWATER	22	21	1000	409	32885	274910	821539	26800	3503	0.1
53465	FL	CLERMONT	18	17	1000	472	38022	283512	810458	36917	3225	0.1
6744	FL	COCOA	68	30	182	491	38429	283635	810335	26292	2631	0
24582	FL	COCOA	52	51	155	285	74832	281826	805448	14303	1971	0
25738	FL	DAYTONA BEACH	2	11	54.9	511	41527	283635	810335	43816	3125	4.4
131	FL	DAYTONA BEACH	26	49	150	459	.....	285516	811909	25951	2645	0.1
81669	FL	DESTIN	.....	48	1000	318	65951	305952	864313	23444	743	1.5
64971	FL	FORT LAUDERDALE	51	30	329	304	74587	255908	801137	20553	4770	0.2
22093	FL	FORT MYERS	11	9	20	451	.....	264801	814548	37693	1562	0
71085	FL	FORT MYERS	20	15	1000	454	59198	264921	814554	36098	1643	0
62388	FL	FORT MYERS	30	31	50	293	74833	264854	814544	17120	943	0.1
35575	FL	FORT PIERCE	34	34	522	438	75041	270719	802320	28293	2144	0
29715	FL	FORT PIERCE	21	38	700	303	30704	270132	801043	22697	2117	0
31570	FL	FORT WALTON BEACH	53	40	33.5	219	29918	302409	865935	11996	581	0
54938	FL	FORT WALTON BEACH	58	49	50	59	74834	302343	863011	3785	163	12
6554	FL	FORT WALTON BEACH	35	50	1000	221	.....	302346	865913	21954	689	0
83965	FL	GAINESVILLE	29	9	3.2	278	75127	293747	823425	18457	501	1.7
16993	FL	GAINESVILLE	20	16	91	287	74835	293211	822400	16264	707	0
69440	FL	GAINESVILLE	5	36	1000	263	.....	294234	822340	26470	1150	0
7727	FL	HIGH SPRINGS	53	28	104	278	74836	293747	823424	13480	562	0
60536	FL	HOLLYWOOD	69	47	575	297	43915	255909	801137	21946	4801	0
73130	FL	JACKSONVILLE	7	7	16.2	288	74527	301651	813412	25919	1314	0.5
65046	FL	JACKSONVILLE	12	13	25	310	.....	301624	813313	31176	1381	1.6
35576	FL	JACKSONVILLE	47	19	1000	291	42083	301651	813412	27268	1345	0.3
11909	FL	JACKSONVILLE	30	32	1000	291	42562	301651	813412	25771	1324	0.2
29712	FL	JACKSONVILLE	17	34	1000	283	29378	301636	813347	24697	1308	0
53116	FL	JACKSONVILLE	4	42	976	294	41583	301624	813313	26562	1329	0
29719	FL	JACKSONVILLE	59	44	1000	300	41428	301651	813412	24847	1311	0
72053	FL	KEY WEST	22	3	1	62	74837	243318	814807	9983	45	0
27387	FL	KEY WEST	8	8	3.2	33	74365	243419	814425	5713	45	0
27290	FL	LAKE WORTH	67	36	1000	385	43353	263520	801244	28708	4345	12.9

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53819	FL	LAKELAND	32	19	1000	458	.....	274910	821539	41503	4346	1.7
60018	FL	LEESBURG	55	40	1000	514	32830	283511	810458	37198	3155	0.2
9881	FL	LEESBURG	45	46	1000	472	59171	283512	810458	31806	3050	0.2
22245	FL	LIVE OAK	57	48	1000	597	.....	304051	835821	44034	970	0
81594	FL	MARIANNA	51	51	50	254	74785	303042	852917	13673	278	0
5802	FL	MELBOURNE	43	43	1000	300	74433	281822	805445	23789	2340	0.3
67602	FL	MELBOURNE	56	48	1000	456	67869	280537	810728	31239	2955	3.5
63840	FL	MIAMI	7	7	14.3	293	74968	255749	801244	28101	4869	0
53113	FL	MIAMI	10	10	30	294	74350	255759	801244	27703	4931	0
13456	FL	MIAMI	2	18	1000	309	30258	255730	801244	26169	4906	0
10203	FL	MIAMI	39	19	1000	252	32748	255807	801320	21088	4813	0.2
66358	FL	MIAMI	17	20	625	301	42558	255846	801146	23263	4880	0
47902	FL	MIAMI	4	22	1000	298	.....	255807	801320	31232	4922	0
73230	FL	MIAMI	23	23	485	257	74466	255807	801320	18379	4714	0
63154	FL	MIAMI	6	31	1000	311	.....	255807	801320	30510	4920	0
12497	FL	MIAMI	33	32	1000	263	41330	255802	801234	21017	4771	0
48608	FL	MIAMI	35	35	242	282	74993	255909	801137	18162	4564	2.8
67971	FL	MIAMI	45	46	500	308	36387	255934	801027	19031	4815	0
19183	FL	NAPLES	26	41	1000	454	59197	264921	814554	32033	1491	2
61504	FL	NAPLES	46	45	1000	456	33429	264708	814740	28232	1369	0.4
12171	FL	NEW SMYRNA BEACH	15	33	308	491	59744	283635	810335	28477	2677	0.1
70651	FL	OCALA	51	31	500	259	39152	292132	821943	19210	910	0.2
11893	FL	ORANGE PARK	25	10	12	298	.....	301624	813313	26958	1318	0.9
41225	FL	ORLANDO	35	22	1000	392	28032	283613	810511	34755	2981	0.2
12855	FL	ORLANDO	24	23	950	380	40155	283608	810537	32898	2991	0
71293	FL	ORLANDO	6	26	547	516	71980	283635	810335	35732	2960	0.2
55454	FL	ORLANDO	27	27	247	477	74371	283407	810316	32237	2872	0
72076	FL	ORLANDO	9	39	1000	492	.....	283407	810316	40585	3220	0.2
54940	FL	ORLANDO	65	41	1000	515	.....	283635	810335	40291	3165	2.7
11123	FL	PALM BEACH	61	49	800	125	44853	264547	801219	13671	2395	0
73136	FL	PANAMA CITY	7	7	52	244	74969	302600	852451	25857	372	0.4
2942	FL	PANAMA CITY	28	9	2.3	142	67964	302342	853202	12161	238	2.4
66398	FL	PANAMA CITY	13	13	35.5	405	74426	302108	852328	32536	721	0.1
6093	FL	PANAMA CITY	56	38	49.2	137	.....	302202	855528	12069	275	0
4354	FL	PANAMA CITY BEACH	46	47	50	59	74838	301059	854642	5037	154	0
71363	FL	PENSACOLA	3	17	1000	579	.....	303645	873843	47474	1408	0
17611	FL	PENSACOLA	23	31	1000	549	38343	303640	873626	33337	1253	0.1
10894	FL	PENSACOLA	33	34	1000	415	33836	303735	873850	27979	1210	0
41210	FL	PENSACOLA	44	45	1000	457	42957	303516	873313	28956	1244	0
61251	FL	SARASOTA	40	24	116	233	74588	273321	822149	15298	2563	12
11290	FL	ST. PETERSBURG	10	10	18.5	440	74467	281104	824539	31248	3396	0.2
4108	FL	ST. PETERSBURG	38	38	1000	438	70212	275032	821546	30498	3664	0.1
74112	FL	ST. PETERSBURG	44	44	463	452	74681	275052	821548	32518	3887	0.8
83929	FL	STUART	.....	44	773	80	74682	264337	800448	14826	2240	0
82735	FL	TALLAHASSEE	.....	24	24	39	65784	302940	842503	5308	304	0
41065	FL	TALLAHASSEE	27	27	1000	487	74451	304006	835810	41970	951	0.1
21801	FL	TALLAHASSEE	11	32	938	237	.....	302131	843638	25384	516	0
66908	FL	TALLAHASSEE	40	40	1000	600	70213	304051	835821	38440	784	0.1
64592	FL	TAMPA	8	7	19	465	.....	275032	821545	37899	4257	0.6
68569	FL	TAMPA	13	12	72.3	436	17613	274908	821426	42687	4205	6.6
21808	FL	TAMPA	3	13	17.1	473	75058	274948	821559	36363	4123	1.2
64588	FL	TAMPA	28	29	987	475	67821	275032	821545	38497	4186	0
69338	FL	TAMPA	16	34	475	453	.....	275052	821548	32898	3939	2
60559	FL	TAMPA	50	47	500	317	59290	275032	821545	22988	3453	0.3
51988	FL	TEQUESTA	25	16	1000	454	29425	270717	802342	33467	2807	0.9
71580	FL	TICE	49	33	1000	429	32880	264708	814741	27350	1275	0.4
16788	FL	VENICE	62	25	750	472	39529	274910	821539	32426	3786	0.1
59443	FL	WEST PALM BEACH	5	12	13.4	387	74623	263520	801243	29999	4818	0
52527	FL	WEST PALM BEACH	12	13	29.5	291	39117	263518	801230	28983	4782	0
61084	FL	WEST PALM BEACH	42	27	400	440	44609	263437	801432	26429	4992	0
39736	FL	WEST PALM BEACH	29	28	630	458	38600	263437	801432	31715	5137	0
70713	GA	ALBANY	10	10	18.2	272	74405	311952	835144	24614	626	1.2
70815	GA	ALBANY	31	12	60	287	38373	311952	835143	28865	746	0.7
23948	GA	ATHENS	8	8	15.6	305	74366	334818	840840	24589	4507	0.5
48813	GA	ATHENS	34	48	1000	310	.....	334826	842022	27603	4694	0.1
51163	GA	ATLANTA	11	10	80	303	.....	334524	841955	34627	4867	0.6
72120	GA	ATLANTA	46	19	1000	329	.....	334826	842022	32016	4822	0.1
64033	GA	ATLANTA	17	20	1000	310	.....	334826	842022	30474	4766	0.5
4190	GA	ATLANTA	30	21	50	334	74839	334535	842007	17636	4101	4.3
22819	GA	ATLANTA	36	25	500	332	.....	334826	842022	26868	4612	2
70689	GA	ATLANTA	5	27	1000	332	.....	334751	842002	30601	4773	0.6
23960	GA	ATLANTA	2	39	1000	301	65852	334551	842142	27454	4618	0.1
13206	GA	ATLANTA	57	41	165	319	.....	340359	842717	20717	4373	0.5
6900	GA	ATLANTA	69	43	1000	335	.....	334440	842136	29770	4733	0.1
73937	GA	AUGUSTA	12	12	20.2	485	74489	332429	815036	37025	1357	0.6
70699	GA	AUGUSTA	26	30	400	483	.....	332420	815001	34939	1259	0.2
27140	GA	AUGUSTA	6	42	1000	507	.....	332420	815001	40539	1454	0
3228	GA	AUGUSTA	54	51	37	363	67958	332500	815006	16372	615	0.1
23486	GA	BAINBRIDGE	49	49	190	410	75042	303901	841213	20059	513	12.2
69446	GA	BAXLEY	34	35	650	454	.....	320335	812043	36067	827	0

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71236	GA	BRUNSWICK	21	24	650	403	40210	304917	814413	29871	1299	0
23942	GA	CHATSWORTH	18	33	426	537	32774	344506	844254	27892	2790	0.9
23935	GA	COCHRAN	29	7	22	369	.....	322811	831517	32941	784	1.7
595	GA	COLUMBUS	9	9	1	503	70342	321925	844646	22435	642	4.7
3359	GA	COLUMBUS	3	15	1000	449	.....	321925	844646	39856	1110	11.7
23918	GA	COLUMBUS	28	23	250	462	33233	325108	844204	27159	1332	0.1
37179	GA	COLUMBUS	38	35	50	399	74840	322728	845308	21298	660	0
12472	GA	COLUMBUS	54	49	500	312	67961	322739	845243	20626	649	0.7
63867	GA	CORDELE	55	51	200	109	.....	315335	834818	14405	356	0.3
60825	GA	DALTON	23	16	300	447	28422	345707	852258	25162	1180	2.9
23930	GA	DAWSON	25	8	6	313	44505	315615	843315	19618	471	21
46991	GA	MACON	13	13	30	238	.....	324510	833332	27301	820	4.2
58262	GA	MACON	24	16	1000	226	29738	324458	833335	21895	689	0.3
43847	GA	MACON	41	40	50	237	74841	324512	833346	15033	537	0
24618	GA	MACON	64	45	1000	223	60980	324551	833332	19160	655	0.8
68058	GA	MONROE	63	44	700	303	.....	334441	842136	25422	4531	0.2
23917	GA	PELHAM	14	6	3.8	474	74339	304013	835626	30535	844	0
54728	GA	PERRY	58	32	50	247	74842	324509	833335	15647	553	0
51969	GA	ROME	14	51	1000	622	32746	341848	843855	35465	5192	0.4
23947	GA	SAVANNAH	9	9	9.72	293	74979	320848	813705	22960	682	0.1
590	GA	SAVANNAH	11	11	14.8	420	74380	320314	812101	28682	752	0
37174	GA	SAVANNAH	22	22	166	436	74457	320330	812020	25120	667	0
48662	GA	SAVANNAH	3	39	1000	442	.....	320331	811755	37667	832	0.1
31590	GA	THOMASVILLE	6	46	1000	619	.....	304013	835626	45196	972	0.1
63329	GA	TOCCOA	32	24	600	209	.....	343644	832205	20917	1161	1.8
28155	GA	VALDOSTA	44	43	50	253	40583	311018	832157	13316	328	0
23929	GA	WAYCROSS	8	8	20	286	74351	311317	823424	28648	426	5.7
23937	GA	WRENS	20	6	30	436	74332	331533	821709	25555	782	0
36914	HI	HILO	9	9	3.2	33	74970	194300	1550813	10655	79	0
4146	HI	HILO	11	11	3.35	33	74440	194357	1550404	5336	78	0
64544	HI	HILO	13	13	3.73	1	74413	194357	1550404	6703	79	0
34846	HI	HILO	2	22	8	1	44792	194351	1550411	1638	64	0.5
37103	HI	HILO	14	23	35	33	28420	194300	1550813	7064	78	0
4144	HI	HONOLULU	2	8	7.2	1	.....	211746	1575036	11570	817	0
36917	HI	HONOLULU	9	9	7	33	74971	211746	1575036	10027	826	0
51241	HI	HONOLULU	38	10	3.2	580	74540	212345	1580558	23366	775	9.9
26431	HI	HONOLULU	11	11	3.2	637	74414	212403	1580610	22771	862	0
34527	HI	HONOLULU	20	19	60.7	606	43104	212351	1580600	16294	788	0
34445	HI	HONOLULU	5	23	1000	629	74843	212403	1580610	31295	852	0.4
3246	HI	HONOLULU	26	27	262	580	45219	212345	1580558	14530	829	0
36846	HI	HONOLULU	14	31	50	33	28782	211849	1575143	6227	746	0
65395	HI	HONOLULU	32	33	50	33	74844	211849	1575143	5067	758	0
34867	HI	HONOLULU	13	35	550	33	74845	211709	1575019	10827	780	0
64548	HI	HONOLULU	4	40	85	1	68040	211737	1575034	4992	767	1.4
27425	HI	HONOLULU	44	43	6.46	577	.....	212345	1580558	14133	764	0
83180	HI	KAILUA	50	50	50	632	74783	211949	1574524	25899	841	0
664	HI	KAILUA KONA	6	25	700	871	66907	194316	1555515	42674	64	3.4
77483	HI	KANEOHE	66	41	297	632	.....	211949	1574524	37079	778	8.5
4145	HI	WAILUKU	7	7	3.69	1809	74519	204241	1561526	44292	146	0
26428	HI	WAILUKU	10	10	3.2	1811	74479	204240	1561534	41901	131	2.2
64551	HI	WAILUKU	12	12	3.94	1664	75008	204216	1561635	30905	139	0
34859	HI	WAILUKU	15	16	50	1723	74846	204234	1561554	27836	135	0
37105	HI	WAILUKU	21	21	53.1	1298	75029	204058	1561907	28579	146	0
36920	HI	WAILUKU	3	24	72.4	1814	.....	204241	1561535	48946	137	9.2
89714	HI	WAIMANALO	56	38	50	632	74789	211949	1574524	27066	843	0
8661	IA	AMES	5	5	3.91	613	74683	414947	933656	43150	987	0
51502	IA	AMES	23	23	246	613	74753	414947	933656	38510	952	0
82619	IA	AMES	34	34	50	150	75070	415849	934423	12603	598	0
7841	IA	BURLINGTON	26	41	500	388	29888	410808	904830	26895	855	0.4
9719	IA	CEDAR RAPIDS	9	9	19.2	607	74589	421859	915131	42342	970	0.8
35336	IA	CEDAR RAPIDS	28	27	1000	449	29380	420525	920513	33845	815	0
21156	IA	CEDAR RAPIDS	48	47	500	.....	309	421717	915254	25135	694	0
25685	IA	CEDAR RAPIDS	2	51	500	585	.....	421859	915130	38136	900	0.1
29108	IA	COUNCIL BLUFFS	32	33	200	98	.....	411515	955008	13206	816	0
5471	IA	DAVENPORT	36	34	150	102	.....	412829	902645	12845	542	0.1
6885	IA	DAVENPORT	6	36	696	329	74638	411844	902246	29295	999	0.2
54011	IA	DAVENPORT	18	49	1000	344	44477	411844	902245	28483	958	0
33710	IA	DES MOINES	8	8	29.4	566	74490	414835	933716	43186	984	1.2
29102	IA	DES MOINES	11	11	19.8	600	75043	414833	933653	43121	984	0.3
66221	IA	DES MOINES	13	13	36.1	609	74427	414947	933656	47714	1038	2.2
56527	IA	DES MOINES	17	16	500	612	39534	414947	933656	40497	974	0
78915	IA	DES MOINES	.....	31	628	589	74639	414947	933656	37868	947	0.1
17625	IA	DUBUQUE	40	43	800	262	39740	423109	903711	19008	305	0.9
29100	IA	FORT DODGE	21	25	600	363	.....	424903	942441	31286	337	4.1
29095	IA	IOWA CITY	12	12	17.8	439	75030	414315	912030	35080	1111	0
35096	IA	IOWA CITY	20	25	1000	419	39521	414329	912110	33132	1057	1.4
29086	IA	MASON CITY	24	18	500	437	41152	432220	924959	30335	598	0
66402	IA	MASON CITY	3	42	1000	447	.....	432220	924959	38283	717	1.2
81509	IA	NEWTON	39	39	116	154	74772	414905	931232	11998	651	0
53820	IA	OTTUMWA	15	15	50	332	74372	411142	915715	17119	305	0.1

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29085	IA	RED OAK	36	35	600	475	32182	412040	951521	30526	932	0.1
11265	IA	SIOUX CITY	9	9	22.3	616	74480	423512	961357	44501	639	1.5
29096	IA	SIOUX CITY	27	28	475	348	.....	423053	961815	29270	353	0
39665	IA	SIOUX CITY	14	39	1000	611	.....	423512	961319	45543	662	0
66170	IA	SIOUX CITY	4	41	873	609	.....	423512	961318	44386	655	0
77451	IA	SIOUX CITY	44	44	914	587	75037	423512	961318	37907	553	0.7
593	IA	WATERLOO	7	7	3.2	527	74624	422402	915036	29923	770	1.7
81595	IA	WATERLOO	22	22	80.9	198	74750	422453	920034	14283	453	0.2
29114	IA	WATERLOO	32	35	250	584	.....	421859	915131	35668	869	1
34858	ID	BOISE	7	7	39.8	785	74994	434516	1160556	42508	556	0
62442	ID	BOISE	4	21	725	858	66936	434521	1160554	35287	552	0
49760	ID	BOISE	2	28	978	777	74847	434517	1160553	45215	558	0
35097	ID	BOISE	39	39	50	534	74773	434423	1160815	10348	464	0
59363	ID	CALDWELL	9	10	14	818	41421	434518	1160552	30230	551	0
62424	ID	COEUR D'ALENE	26	45	50	465	74848	474354	1164347	14948	548	0
12284	ID	FILER	19	18	50	161	74849	424347	1142452	13431	132	0
66258	ID	IDAHO FALLS	8	8	63	463	74352	433003	1123936	42673	272	0
41238	ID	IDAHO FALLS	20	20	50	223	74745	434544	1115730	14669	165	0
56028	ID	IDAHO FALLS	3	36	200	457	28614	432951	1123950	22981	247	0
56032	ID	LEWISTON	3	32	200	361	29292	462727	1170556	16016	133	0
62382	ID	MOSCOW	12	12	129	340	.....	464054	1165813	38149	264	18.5
28230	ID	NAMPA	12	12	17	829	74980	434518	1160552	41343	555	0.2
59255	ID	NAMPA	6	24	823	811	74850	434520	1160555	45069	558	0
86205	ID	POCATELLO	15	15	251	327	74733	425150	1123110	16199	216	0
62430	ID	POCATELLO	10	17	190	465	74851	433002	1123936	29893	260	0
1270	ID	POCATELLO	6	23	505	452	28852	425515	1122044	24439	241	0
78910	ID	POCATELLO	31	31	72.3	447	75065	425515	1122044	12855	207	0.1
81570	ID	SUN VALLEY	5	32	1000	572	74711	432647	1141252	28884	161	0
35200	ID	TWIN FALLS	11	11	16.4	323	74393	424348	1142452	27640	152	0
62427	ID	TWIN FALLS	13	22	50	161	74852	424347	1142452	12892	124	0
1255	ID	TWIN FALLS	35	34	21.7	152	66302	424342	1142443	7375	99	0
60539	IL	AURORA	60	50	172	509	74684	415244	873808	23585	9162	1
5875	IL	BLOOMINGTON	43	28	1000	293	.....	403845	891045	30031	1013	0.2
4297	IL	CARBONDALE	8	8	14.1	271	74549	380611	891440	25153	740	2.8
25684	IL	CHAMPAIGN	15	41	895	396	.....	400411	875445	33308	1072	4.8
42124	IL	CHAMPAIGN	3	48	1000	287	74853	400623	882659	26770	809	0.6
18301	IL	CHARLESTON	51	50	50	70	74854	392843	881021	9118	170	0
73226	IL	CHICAGO	7	7	3.2	515	74590	415244	873810	29082	9389	0.7
9617	IL	CHICAGO	2	11	1.18	497	.....	415244	873808	22111	8967	2.2
72115	IL	CHICAGO	9	19	645	453	39765	415244	873810	31624	9509	0.5
12279	IL	CHICAGO	20	21	98.9	378	33366	415356	873723	20833	8983	0.1
71428	IL	CHICAGO	26	27	160	510	45223	415244	873810	26141	9273	0.2
47905	IL	CHICAGO	5	29	350	508	31269	415244	873810	32084	9517	0.2
22211	IL	CHICAGO	32	31	690	475	.....	415244	873810	37880	9711	0.1
10981	IL	CHICAGO	38	43	200	509	38347	415244	873808	26028	9256	0.5
70119	IL	CHICAGO	44	45	467	472	27856	415244	873810	28750	9402	0.2
10802	IL	CHICAGO	11	47	300	465	33534	415244	873810	27544	9338	0.3
70852	IL	DECATUR	17	18	350	375	29834	395707	884955	25571	913	0
16363	IL	DECATUR	23	22	253	401	46084	395656	885012	25397	918	0
57221	IL	EAST ST. LOUIS	46	47	187	345	74855	382318	902916	19175	2686	0
4689	IL	FREEPORT	23	23	50	219	74557	421748	891015	14188	909	6.1
73999	IL	HARRISBURG	3	34	1000	302	.....	373650	885220	31461	703	0.1
70536	IL	JACKSONVILLE	14	15	75	295	.....	393609	900247	19431	508	1.2
12498	IL	JOLIET	66	38	137	401	74605	415356	873723	19882	8980	0.2
998	IL	LASALLE	35	10	16	403	28403	411651	885613	29068	2753	4.9
70537	IL	MACOMB	22	21	75	131	.....	402354	904355	13185	224	0.2
67786	IL	MARION	27	17	800	213	41637	373326	890124	20778	529	0
5468	IL	MOLINE	24	23	80	269	45050	411844	902245	16674	596	0.1
73319	IL	MOLINE	8	38	1000	334	.....	411844	902246	30696	927	13.3
40861	IL	MOUNT VERNON	13	21	1000	242	68044	383253	892917	22609	2280	0.6
4301	IL	OLNEY	16	19	61	284	.....	385019	880747	18316	326	0
6866	IL	PEORIA	19	19	52.7	160	74550	403911	893514	12050	556	0.8
24801	IL	PEORIA	25	25	246	212	75203	403745	893252	17487	652	1.7
42121	IL	PEORIA	31	30	1000	180	.....	403806	893219	21448	755	0
52280	IL	PEORIA	59	39	100	180	.....	403834	893238	14564	599	0.1
28311	IL	PEORIA	47	46	190	216	.....	403744	893412	17264	655	0
54275	IL	QUINCY	10	10	5.56	238	75059	395703	911954	21902	288	0.2
4593	IL	QUINCY	16	32	50	302	74856	395818	911942	17825	236	0
71561	IL	QUINCY	27	34	58.6	153	.....	395841	911832	13012	184	1.4
13950	IL	ROCK ISLAND	4	4	3.88	408	74670	413249	902835	33309	983	0
73940	IL	ROCKFORD	13	13	5.07	216	75060	421750	891424	18953	1127	4.7
72945	IL	ROCKFORD	17	16	196	201	.....	421714	891015	18378	1234	0
52408	IL	ROCKFORD	39	42	1000	149	40572	421726	890951	16199	1099	9.3
42116	IL	SPRINGFIELD	49	13	5.08	183	74606	394727	893053	19340	553	0.2
25686	IL	SPRINGFIELD	20	42	725	436	.....	394815	892740	33981	1133	2.6
62009	IL	SPRINGFIELD	55	44	335	416	.....	394757	892646	28977	881	0
68939	IL	URBANA	12	9	30	302	.....	400218	884010	30142	1063	4.8
69544	IL	URBANA	27	26	507	138	44738	401846	875500	15153	385	0
67787	IN	ANGOLA	63	12	16.5	132	33342	412715	844810	17906	894	4.1
66536	IN	BLOOMINGTON	30	14	224	221	43429	390831	862943	17415	1005	0

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10253	IN	BLOOMINGTON	63	27	165	310	.....	392416	860837	22019	1993	0
68007	IN	BLOOMINGTON	42	42	391	297	74640	392412	860850	23242	2054	0.1
56523	IN	BLOOMINGTON	4	48	870	337	66628	392427	860852	22496	2099	1.9
74007	IN	ELKHART	28	28	205	335	74671	413658	861138	20905	1383	4.6
67802	IN	EVANSVILLE	9	9	30	285	74975	375901	871613	24887	793	1.4
24215	IN	EVANSVILLE	25	25	50	301	74685	375157	873404	17964	632	0.4
3661	IN	EVANSVILLE	7	28	1000	273	39643	380127	872143	24657	765	0
72041	IN	EVANSVILLE	44	45	500	288	.....	375317	873237	23639	730	0.2
13991	IN	EVANSVILLE	14	46	250	310	.....	375314	873107	22329	711	0
13960	IN	FORT WAYNE	33	19	350	224	.....	410539	851036	19961	1027	2.8
73905	IN	FORT WAYNE	21	24	335	224	.....	410607	851104	20232	1052	0.1
39270	IN	FORT WAYNE	15	31	1000	242	66172	410538	851048	21871	1106	2
25040	IN	FORT WAYNE	55	36	1000	241	29265	410633	851142	20604	1082	1
22108	IN	FORT WAYNE	39	40	90	221	.....	410613	851128	16043	835	0
49803	IN	GARY	56	17	300	290	46333	412056	872402	17974	6919	0
48772	IN	GARY	50	51	1000	523	30328	415244	873810	36200	9648	0
32334	IN	HAMMOND	62	36	50	455	20094	415244	873810	13905	7988	0.2
39269	IN	INDIANAPOLIS	8	9	19.5	284	.....	395325	861220	25906	2472	3.7
70162	IN	INDIANAPOLIS	13	13	13.1	265	74573	395543	861055	23955	2427	0.7
37102	IN	INDIANAPOLIS	40	16	225	284	28275	395340	861221	19773	2154	0.4
41397	IN	INDIANAPOLIS	20	21	200	236	33405	395359	861201	16842	1912	0.1
40877	IN	INDIANAPOLIS	6	25	898	294	.....	395358	861202	29472	2605	0.1
7908	IN	INDIANAPOLIS	69	44	215	167	.....	395320	861207	14297	1830	3.7
146	IN	INDIANAPOLIS	59	45	700	285	.....	395320	861207	24873	2432	1
56526	IN	KOKOMO	29	29	624	285	75202	395320	861207	22949	2371	0.5
73204	IN	LAFAYETTE	18	11	30	214	46110	402320	863646	25791	2000	2.1
28462	IN	MARION	23	32	1000	271	33152	400856	855615	24181	2240	1.2
3646	IN	MUNCIE	49	23	79.1	246	74591	400537	852332	17374	1494	0.1
67869	IN	RICHMOND	43	39	500	281	17601	393044	843809	20965	3107	0.7
34167	IN	SALEM	58	51	1000	390	43303	382100	855057	30937	1759	0.7
73983	IN	SOUTH BEND	22	22	203	325	74481	413700	861301	24469	1519	2.1
41671	IN	SOUTH BEND	34	35	50	333	.....	413649	861120	18528	1202	1.3
41674	IN	SOUTH BEND	16	42	695	299	.....	413620	861246	26352	1633	0.8
36117	IN	SOUTH BEND	46	48	300	295	30032	413543	860938	20015	1214	2.2
70655	IN	TERRE HAUTE	10	10	14.2	293	74468	391436	872307	26489	743	2.4
20426	IN	TERRE HAUTE	2	36	1000	290	.....	391433	872329	28397	785	0.3
65247	IN	TERRE HAUTE	38	39	1000	282	.....	391355	872341	27325	762	0.3
4329	IN	VINCENNES	22	22	50	174	74592	383906	872837	11671	268	0.5
65523	KS	COLBY	4	17	1000	232	.....	391509	1012109	26138	40	0
162115	KS	COLBY	.....	19	500	384	67184	391431	1012138	28456	43	0.6
79258	KS	DODGE CITY	21	21	8.42	99	.....	374933	1001040	8571	41	0
66414	KS	ENSIGN	6	6	20	198	74340	373828	1002039	35374	155	0
72361	KS	GARDEN CITY	11	11	7.4	244	74394	374640	1005208	23078	136	0
65535	KS	GARDEN CITY	13	13	21.2	250	74415	373900	1004006	26607	139	0.6
66416	KS	GOODLAND	10	10	34.7	285	74373	392810	1013319	29681	45	0
72359	KS	GREAT BEND	2	22	1000	296	74857	382554	984618	30069	200	0
66415	KS	HAYS	7	7	10.3	216	74434	385301	992015	23256	93	0
60675	KS	HAYS	9	16	496	304	43521	384616	984416	26243	116	0.4
83181	KS	HOISINGTON	14	14	50	163	74728	383754	985052	13887	84	0
33345	KS	HUTCHINSON	8	8	9.28	244	75009	380321	974635	22260	672	4.1
66413	KS	HUTCHINSON	12	12	18.5	463	74428	380340	974549	36561	822	0
77063	KS	HUTCHINSON	36	35	1000	310	29560	375623	973042	22741	712	0
60683	KS	LAKIN	3	8	35	149	64618	374940	1010635	20549	77	7.4
42636	KS	LAWRENCE	38	41	551	291	74520	385842	943201	19399	1978	0
58552	KS	PITTSBURG	7	7	4.2	340	74981	371315	944225	23837	455	0.4
83992	KS	PITTSBURG	14	14	182	163	74729	371315	944222	14189	315	0
11912	KS	SALINA	18	17	65	314	28829	390616	972315	15730	202	0
70938	KS	TOPEKA	11	11	26	281	74458	390350	954549	22483	1047	0.2
63160	KS	TOPEKA	13	13	18.1	421	75026	390019	960258	33558	674	0.4
67335	KS	TOPEKA	27	27	50	320	74472	390534	954704	18654	485	0
49397	KS	TOPEKA	49	49	123	451	75032	390134	955458	19858	519	0
65522	KS	WICHITA	10	10	24.6	310	74441	374653	973108	30061	743	0.1
11911	KS	WICHITA	24	26	350	303	43659	374640	973037	21248	704	0
72348	KS	WICHITA	33	31	1000	345	.....	374801	973129	31920	747	0.1
72358	KS	WICHITA	3	45	891	312	.....	374626	973051	28473	740	0.1
34171	KY	ASHLAND	25	26	61.3	137	31365	382744	823712	11240	483	0.8
67798	KY	ASHLAND	61	44	50	189	74858	382511	822406	9527	517	1.8
27696	KY	BEATTYVILLE	65	7	28	322	.....	373647	834018	29307	1000	0.8
4692	KY	BOWLING GREEN	13	13	7.65	226	74498	370352	862607	20982	542	2.1
61217	KY	BOWLING GREEN	40	16	600	224	43547	370210	861020	18291	424	1.5
71861	KY	BOWLING GREEN	24	18	61	177	.....	370349	862607	14430	362	0.9
34177	KY	BOWLING GREEN	53	48	54.8	234	44491	370522	863805	13561	342	0.1
25173	KY	CAMPBELLSVILLE	34	19	1000	370	32906	373151	852645	29990	2015	0.6
34204	KY	COVINGTON	54	24	53.5	117	31523	390150	843023	10324	1949	2.2
64017	KY	DANVILLE	56	4	26.5	327	64813	375251	841916	36898	1250	0.1
34181	KY	ELIZABETHTOWN	23	43	61	178	31543	374055	855031	12210	840	0
37809	KY	HARLAN	44	51	550	577	.....	364800	832236	33564	1196	3.3
24915	KY	HAZARD	57	12	50	398	.....	371138	831052	32164	793	8
34196	KY	HAZARD	35	16	53.2	369	31615	371135	831117	16906	377	2.2
24914	KY	LEXINGTON	27	13	30	282	40363	380223	842410	23937	921	3

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73203	KY	LEXINGTON	18	39	475	288	67223	380203	842339	19658	838	3
51597	KY	LEXINGTON	36	40	69.5	305	74859	380203	842339	17819	810	0.1
34207	KY	LEXINGTON	46	42	48	252	31539	375245	841933	13467	735	0.3
73692	KY	LOUISVILLE	21	8	27	200	45865	380159	854517	21952	1500	0.7
32327	KY	LOUISVILLE	11	11	15.7	370	74625	382123	855052	27238	1613	0.3
21432	KY	LOUISVILLE	15	17	60.3	237	17602	382201	854954	15178	1350	0
53939	KY	LOUISVILLE	32	26	600	392	39847	382208	854948	29069	1687	0.1
34195	KY	LOUISVILLE	68	38	61.6	218	64196	382201	854954	13653	1295	0
13989	KY	LOUISVILLE	3	47	1000	392	42782	382208	854948	29283	1681	0.1
28476	KY	LOUISVILLE	41	49	1000	390	29606	382100	855057	32130	1759	0.7
74592	KY	MADISONVILLE	19	20	1000	216	.....	372456	873130	23946	744	0.4
34212	KY	MADISONVILLE	35	42	55.1	298	31621	371121	873049	15780	419	0.1
34202	KY	MOREHEAD	38	15	51.4	289	31617	381038	832417	16277	340	0.3
23128	KY	MOREHEAD	67	21	719	428	67075	375426	833801	30369	1018	1.5
34174	KY	MURRAY	21	36	56.9	187	31619	364134	883211	12682	320	0.6
39738	KY	NEWPORT	19	29	227	290	19124	390719	843252	17827	2366	12.3
34205	KY	OWENSBORO	31	30	63.3	124	31660	375107	871944	11399	529	0
34211	KY	OWENTON	52	44	49.7	214	31662	383131	844839	12714	763	2.4
51991	KY	PADUCAH	6	32	906	492	.....	371131	885853	40593	865	0.1
65758	KY	PADUCAH	29	41	55.7	143	44512	370539	884020	11285	239	0.2
39561	KY	PADUCAH	49	49	550	324	.....	372342	885623	26296	631	0.3
34200	KY	PIKEVILLE	22	24	50.4	423	32103	371706	823128	16779	419	0.6
34222	KY	SOMERSET	29	14	53.3	429	31822	371003	844930	21530	541	0.2
38590	LA	ALEXANDRIA	25	26	76	413	64838	313356	923250	20977	324	0
52907	LA	ALEXANDRIA	31	31	50	333	75022	313354	923300	19032	273	0.1
51598	LA	ALEXANDRIA	5	35	1000	485	74860	310215	922945	38196	921	2.1
16940	LA	ALEXANDRIA	41	41	191	307	74775	305420	923717	16229	368	0
589	LA	BATON ROUGE	9	9	0.36	509	70344	302158	911247	16013	847	1.1
38616	LA	BATON ROUGE	2	13	30	515	36880	301749	911140	34334	1962	8
38586	LA	BATON ROUGE	27	25	200	295	65435	302222	911216	19244	997	0
70021	LA	BATON ROUGE	33	34	1000	522	32895	301934	911636	37256	1695	0.1
12520	LA	BATON ROUGE	44	45	1000	424	29743	301935	911636	30315	1564	0
52046	LA	COLUMBIA	11	11	17.8	572	74657	320319	921112	41125	677	0.3
83945	LA	HAMMOND	.....	42	1000	294	58980	295841	895626	25352	1754	0
35059	LA	LAFAYETTE	10	10	17.2	507	74641	301919	921659	39312	1166	1.9
33261	LA	LAFAYETTE	15	16	800	359	29847	302144	921253	29700	851	0
38588	LA	LAFAYETTE	24	23	50	463	32658	301919	921658	21068	658	0
33471	LA	LAFAYETTE	3	28	1000	507	.....	301919	921659	42710	1354	0.3
13994	LA	LAKE CHARLES	7	7	17	451	74972	302346	930003	36541	1017	0
38587	LA	LAKE CHARLES	18	20	55	299	59155	302346	930003	16195	351	0
35852	LA	LAKE CHARLES	29	30	1000	315	17585	301726	933435	25760	730	0
81507	LA	MINDEN	21	21	1000	502	66613	324108	935600	36243	952	2.4
48975	LA	MONROE	8	8	17	518	74345	321150	920414	39190	663	0.3
38589	LA	MONROE	13	13	21.1	543	74429	321145	920410	38310	679	2.1
82476	LA	NEW IBERIA	50	50	179	303	74784	302032	915832	17747	767	0
4149	LA	NEW ORLEANS	8	8	14.7	302	75010	295714	895658	28567	1795	0
25090	LA	NEW ORLEANS	12	11	70.8	306	67937	295713	895658	30008	1898	0
54280	LA	NEW ORLEANS	38	15	360	309	69135	295857	895658	23729	1728	0
37106	LA	NEW ORLEANS	20	21	300	254	41946	295511	900129	19099	1617	0
72119	LA	NEW ORLEANS	26	26	1000	309	74381	295857	895658	27762	1834	0
18819	LA	NEW ORLEANS	32	31	66.7	308	74861	295857	895709	15007	1456	0
74192	LA	NEW ORLEANS	4	36	958	311	.....	295422	900222	30245	1829	0
71357	LA	NEW ORLEANS	6	43	1000	283	74862	295701	895728	28471	1791	0
21729	LA	NEW ORLEANS	49	50	1000	272	44211	295511	900129	21583	1671	0
70482	LA	SHREVEPORT	12	17	175	518	.....	324028	935600	33403	943	1.5
38591	LA	SHREVEPORT	24	25	50	326	74863	324041	935535	19407	591	0
35652	LA	SHREVEPORT	3	28	1000	543	74864	324108	935600	42815	1075	1.7
12525	LA	SHREVEPORT	33	34	1000	551	29201	323958	935559	38998	1012	0.1
73706	LA	SHREVEPORT	45	44	500	505	32870	323957	935558	30463	888	0.1
13938	LA	SLIDELL	54	24	1000	272	43616	295511	900129	24235	1729	0
3658	LA	WEST MONROE	14	36	1000	.....	570	320542	921034	43210	682	5
38584	LA	WEST MONROE	39	38	1000	154	.....	323021	920855	19639	356	0
74419	MA	ADAMS	19	36	48	631	68110	423814	731008	20520	1724	7.7
72145	MA	BOSTON	7	7	16.8	288	74565	421841	711300	26113	6966	0.2
72099	MA	BOSTON	2	19	700	374	.....	421837	711414	32268	7320	0.4
65684	MA	BOSTON	5	20	625	390	.....	421837	711414	30535	7199	2.1
25456	MA	BOSTON	4	30	825	390	.....	421837	711414	31736	7275	1.2
6463	MA	BOSTON	25	31	1000	341	30342	421812	711308	26108	6911	3.2
7692	MA	BOSTON	68	32	300	292	41971	421827	711327	19066	6343	2.3
73982	MA	BOSTON	38	39	70.8	354	74865	421812	711308	19832	6586	1.1
72098	MA	BOSTON	44	43	500	391	.....	421837	711414	26942	7013	1.7
73238	MA	CAMBRIDGE	56	41	550	345	46190	421812	711308	22716	6867	0.2
41436	MA	LAWRENCE	62	18	1000	357	67714	421827	711327	28934	6962	2.1
60551	MA	MARLBOROUGH	66	27	100	334	69136	422302	712937	17821	6431	0.4
3978	MA	NEW BEDFORD	28	22	350	203	64975	414639	705541	17274	4604	0.9
22591	MA	NEW BEDFORD	6	49	350	284	66255	415154	711715	19160	5455	0.6
23671	MA	NORWELL	46	10	5	144	.....	420038	710242	15414	5297	3.4
136751	MA	PITTSFIELD	51	13	28	396	71986	423731	740038	9068	761	19.3
6868	MA	SPRINGFIELD	22	11	10	268	65476	420505	724214	16915	2476	11.9
72096	MA	SPRINGFIELD	57	22	50	306	74672	421430	723854	14145	2074	9.7

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25682	MA	SPRINGFIELD	40	40	380	324	70318	421430	723857	17575	2286	10.6
6476	MA	VINEYARD HAVEN	58	40	300	153	42283	414120	702049	14774	973	3.7
30577	MA	WORCESTER	27	29	200	453		422007	714254	24769	6977	8.9
18783	MA	WORCESTER	48	47	365	217	40890	421827	711327	15283	5984	0
65942	MD	ANNAPOLIS	22	42	350	265	74866	390036	763633	19332	6752	2.4
65696	MD	BALTIMORE	11	11	6.91	312	74686	392005	763903	22401	6953	3.9
25455	MD	BALTIMORE	13	13	21.4	312	70306	392005	763903	25622	7452	5
65944	MD	BALTIMORE	67	29	50	250	74867	392701	764637	14260	5285	4.6
59442	MD	BALTIMORE	2	38	775	305	74593	392005	763903	26023	7730	0.3
7933	MD	BALTIMORE	54	40	845	373	46004	392010	763859	26825	7782	0.5
60552	MD	BALTIMORE	24	41	200	313	66845	391715	764538	17292	6151	5.6
10758	MD	BALTIMORE	45	46	550	373	46108	392010	763859	22879	7061	5.2
40626	MD	FREDERICK	62	28	30	159	67466	391537	771844	7313	2448	34.6
25045	MD	HAGERSTOWN	25	26	575	359	74627	393945	775754	22215	1362	28.7
10259	MD	HAGERSTOWN	68	39	82.5	394	74528	395331	775802	13861	814	6
65943	MD	HAGERSTOWN	31	44	209	359	33311	393904	775815	15728	977	4.1
40619	MD	OAKLAND	36	36	71.7	291	75062	392414	791737	10542	216	6.8
71218	MD	SALISBURY	16	21	635	279	64847	383017	753837	21695	659	0
40618	MD	SALISBURY	28	28	76.7	157	74642	382309	753533	14077	426	0
16455	MD	SALISBURY	47	47	225	292	75201	383006	754400	18171	579	0.3
39659	ME	AUGUSTA	10	10	15.3	305	74406	440916	700037	25690	818	1.3
39644	ME	BANGOR	2	2	2.37	199	74986	444410	684017	19580	334	0
3667	ME	BANGOR	7	7	14.5	250	74374	444535	683401	24704	334	0.6
17005	ME	BANGOR	5	19	465	402	74868	444213	690447	30384	488	1.1
39656	ME	BIDDEFORD	26	45	50	231	41344	432500	704817	10502	659	5
39649	ME	CALAIS	13	10	3.5	133		450145	671925	13040	29	3.4
48408	ME	LEWISTON	35	35	57.8	258	74473	435106	701940	12534	593	0.3
39648	ME	ORONO	12	9	15	375	40127	444211	690447	25072	442	5.5
73288	ME	POLAND SPRING	8	8	21.3	586	74574	435044	704543	33555	1358	4.1
25683	ME	PORTLAND	13	38	1000	491	28274	435528	702928	34527	1169	0
53065	ME	PORTLAND	51	43	750	265		435106	701940	20484	732	12.4
39664	ME	PORTLAND	6	44	1000	610	74869	435132	704240	34195	1315	1.3
48305	ME	PRESQUE ISLE	8	8	3.2	107	74395	464344	680007	9352	44	0
39662	ME	PRESQUE ISLE	10	10	16.4	332	74435	463305	674837	25597	66	0.6
83708	ME	PRESQUE ISLE	47	47	50	86	75129	464512	681028	6607	39	0
84088	ME	WATERVILLE	23	23	213	331	74754	440915	700037	18925	769	0
67048	MI	ALPENA	11	11	19.8	202	74982	444211	833126	20697	131	1.9
9917	MI	ALPENA	6	24	106	393	74658	450818	840945	24405	219	1.5
5800	MI	ANN ARBOR	31	31	106	328	74499	422225	840410	18881	4073	7.1
16530	MI	BAD AXE	35	15	200	309		433233	833937	23073	1204	6.1
10212	MI	BATTLE CREEK	41	20	270	311		423415	852807	25083	2119	0.4
71871	MI	BATTLE CREEK	43	44	212	305		424045	850357	20617	1951	2.6
41221	MI	BAY CITY	5	22	1000	275	67337	432813	835035	26692	1509	4.2
82627	MI	BAY CITY	46	46	50	306	74778	432826	835044	12942	965	0
26994	MI	CADILLAC	9	9	20.1	497	74551	440812	852033	38645	826	0
9922	MI	CADILLAC	27	17	338	393	60511	444453	850408	26844	392	0
25396	MI	CADILLAC	33	47	500	393	67847	444453	850408	25466	378	0
76001	MI	CALUMET	5	5	20.5	388	74362	462617	880258	37246	196	0
21254	MI	CHEBOYGAN	4	35	78	168	58961	453901	842037	11815	82	0
73123	MI	DETROIT	2	7	11.2	305	74673	422738	831250	24581	5551	2.5
51570	MI	DETROIT	50	14	50	293	74870	422901	831844	18484	5122	0.1
74211	MI	DETROIT	20	21	500	324	28693	422652	831023	25276	5606	2.8
10267	MI	DETROIT	7	41	1000	305	74871	422815	831500	27189	5767	0.3
16817	MI	DETROIT	56	43	200	318		422652	831023	22343	5247	0
72123	MI	DETROIT	62	44	345	323		422653	831023	22661	5131	5.6
53114	MI	DETROIT	4	45	973	281	19013	422858	831219	23734	5440	0.4
6104	MI	EAST LANSING	23	40	50	296	74628	424208	842451	16787	1481	4.4
9630	MI	ESCANABA	3	48	989	327		460805	865655	29896	159	0
21735	MI	FLINT	12	12	13.7	287	74521	431348	840335	26522	2102	5.5
21737	MI	FLINT	66	16	1000	287	28994	431318	840314	23878	2363	1.7
69273	MI	FLINT	28	28	126	258	74594	425356	832741	17128	4320	0
36838	MI	GRAND RAPIDS	8	7	30	288		424114	853034	28306	2299	4.5
24784	MI	GRAND RAPIDS	35	11	50	238	64586	425735	855345	24319	1681	4.1
49713	MI	GRAND RAPIDS	13	13	15.1	305	74541	431834	855444	27942	1392	0.1
68433	MI	GRAND RAPIDS	17	19	725	306	43453	424115	853157	22480	1789	6.1
15498	MI	IRON MOUNTAIN	8	8	3.2	190	74452	454910	880235	16892	112	2.6
59281	MI	ISHPEMING	10	10	4.54	105	74721	462110	875115	11135	84	3.2
29706	MI	JACKSON	18	34	130	299	39980	422513	843125	18640	1398	2.2
24783	MI	KALAMAZOO	52	5	10	174		421823	853925	28093	2338	1
74195	MI	KALAMAZOO	3	8	20	305	74333	423756	853216	28560	2341	1.4
11033	MI	KALAMAZOO	64	45	50	319	74872	423352	852731	12174	1247	5.6
74420	MI	LANSING	6	36	663	288	72523	424119	842235	25519	3046	2.3
74094	MI	LANSING	47	38	1000	281	29954	422803	843906	20865	1458	0
36533	MI	LANSING	53	51	900	300	59127	422513	843125	24069	1807	0.2
9913	MI	MANISTEE	21	21	50	93	74674	440357	861958	9143	81	4.3
4318	MI	MARQUETTE	13	13	15.7	332	74500	462109	875132	29278	183	0.1
81448	MI	MARQUETTE	19	19	50	248	74742	463614	873715	12593	69	0
21259	MI	MARQUETTE	6	35	83	262	67896	462011	875056	13760	93	0
455	MI	MOUNT CLEMENS	38	39	1000	170	32831	423315	825315	16235	4698	1.2
9908	MI	MOUNT PLEASANT	14	26	226	299	74643	434511	851240	22581	643	0

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67781	MI	MUSKEGON	54	24	280	281	40886	425725	855407	20561	1480	2.3
6863	MI	ONONDAGA	10	10	11.6	299	74659	422633	843421	26535	2284	1.2
72052	MI	SAGINAW	25	30	193	356	.....	431301	834317	24557	2414	3.8
67792	MI	SAGINAW	49	48	1000	287	40887	431318	840314	23991	2035	0.1
59279	MI	SAULT STE. MARIE	8	8	24	288	74353	460308	840638	23547	98	0.1
26993	MI	SAULT STE. MARIE	10	10	16.3	370	75038	460349	840608	30785	103	0.1
21253	MI	TRAVERSE CITY	7	7	3.2	230	75044	444636	854102	14835	225	5.4
59280	MI	TRAVERSE CITY	29	29	62.1	393	74491	444453	850408	19503	332	0
16528	MI	UNIVERSITY CENTER	19	18	50	140	74873	433343	835854	13163	802	0
9632	MN	ALEXANDRIA	7	7	15.6	341	74469	454103	950814	30286	438	0.1
35584	MN	ALEXANDRIA	42	42	395	358	.....	454159	951035	27590	404	0.3
71549	MN	APPLETON	10	10	24.2	364	74492	451003	960002	29007	219	0.4
28510	MN	AUSTIN	15	20	400	303	.....	433834	923135	26035	497	0.1
18285	MN	AUSTIN	6	36	500	295	.....	433742	930912	25023	484	0.1
49578	MN	BEMIDJI	9	9	15.4	329	74416	474203	942915	29401	114	2
83714	MN	BEMIDJI	26	26	50	141	74758	472807	944923	12672	72	0
49579	MN	BRAINERD	22	28	46.8	227	.....	462521	942742	15201	153	0
82698	MN	CHISHOLM	11	11	12.2	200	74723	475139	925646	22244	112	2.9
132606	MN	CROOKSTON	.....	16	105	220	38385	475838	963618	15345	124	0
17726	MN	DULUTH	8	8	22.1	278	74529	464730	920721	25977	253	0.7
71338	MN	DULUTH	10	10	19.4	268	74568	464715	920721	25154	252	0.2
35525	MN	DULUTH	21	17	1000	299	.....	464737	920703	30737	294	0.2
4691	MN	DULUTH	3	33	1000	302	74874	464707	920715	26586	269	0
71336	MN	HIBBING	13	13	3.9	211	74522	472253	925715	15849	116	0.2
159007	MN	HIBBING	.....	31	500	212	59939	472253	925715	16478	118	0
68853	MN	MANKATO	12	12	17.4	291	74530	435613	942438	26737	345	1.9
68883	MN	MINNEAPOLIS	9	9	17.9	435	74995	450330	930727	34544	3381	0.6
23079	MN	MINNEAPOLIS	11	11	24	435	74511	450344	930821	36657	3438	0.1
36395	MN	MINNEAPOLIS	23	22	1000	410	30005	450344	930821	33367	3310	0
11913	MN	MINNEAPOLIS	29	29	1000	352	74442	450330	930727	29943	3302	0
9629	MN	MINNEAPOLIS	4	32	1000	432	.....	450344	930821	37736	3468	0
35843	MN	MINNEAPOLIS	45	45	1000	430	75027	450345	930821	35610	3421	0
35585	MN	REDWOOD FALLS	43	27	50	167	74875	442903	952927	10112	84	0
35678	MN	ROCHESTER	10	10	16.8	381	74523	433415	922537	31210	565	0.9
35906	MN	ROCHESTER	47	46	1000	343	28767	433834	923135	19950	424	0.7
35907	MN	ST. CLOUD	41	40	1000	430	64438	452300	934230	30570	3263	0
68597	MN	ST. PAUL	17	26	63.1	396	74396	450329	930727	19236	3053	0
68594	MN	ST. PAUL	2	34	1000	399	74876	450330	930727	35080	3410	0.1
28010	MN	ST. PAUL	5	35	755	433	.....	450344	930821	35373	3407	0.1
55370	MN	THIEF RIVER FALLS	10	10	9.7	113	74660	480119	962212	16952	121	0.3
9640	MN	WALKER	12	12	14.3	283	74436	465603	942725	26947	214	1.5
71558	MN	WORTHINGTON	20	15	200	290	33521	435352	955650	19967	290	0
592	MO	CAPE GIRARDEAU	12	12	4.01	564	74661	372546	893014	32285	689	0.5
19593	MO	CAPE GIRARDEAU	23	22	435	543	66965	372423	893344	31962	691	1
65583	MO	COLUMBIA	8	8	8.1	242	74524	385316	921548	23056	473	0.1
63164	MO	COLUMBIA	17	17	50	348	74453	384629	923322	20656	475	0
4690	MO	HANNIBAL	7	7	13.6	271	75011	395822	911954	25163	309	0.1
41110	MO	JEFFERSON CITY	13	12	15.1	308	.....	384130	920544	27895	590	0.6
48521	MO	JEFFERSON CITY	25	20	1000	293	29933	384215	920521	25334	533	0.2
51101	MO	JOPLIN	26	25	55	280	.....	370437	943215	17491	402	0
18283	MO	JOPLIN	12	43	1000	284	.....	370437	943215	26214	555	1.8
67766	MO	JOPLIN	16	46	1000	213	.....	370433	943316	21690	462	0.2
65686	MO	KANSAS CITY	9	9	85	357	74967	390501	943057	34707	2334	0
53843	MO	KANSAS CITY	19	18	55	355	.....	390459	942849	21206	2033	0
41230	MO	KANSAS CITY	5	24	1000	319	67335	390415	943457	29717	2259	0
64444	MO	KANSAS CITY	29	31	1000	332	.....	390501	943057	31070	2224	0.2
11291	MO	KANSAS CITY	4	34	1000	344	74877	390420	943545	31289	2286	0.5
59444	MO	KANSAS CITY	41	42	450	276	43791	385842	943201	21585	1987	0
33336	MO	KANSAS CITY	62	47	1000	356	.....	390526	942818	31520	2174	0
33337	MO	KANSAS CITY	50	51	1000	339	.....	390119	943049	30240	2158	0
21251	MO	KIRKSVILLE	3	33	87	290	44120	403147	922629	15915	149	0
73998	MO	POPLAR BLUFF	15	15	50	184	74417	364804	902706	11945	143	1.2
4326	MO	SEDALIA	6	15	322	603	.....	383736	925203	41150	733	0.1
28496	MO	SPRINGFIELD	10	10	19.6	573	74595	371308	925656	41180	838	0.3
35630	MO	SPRINGFIELD	33	19	1000	596	.....	371308	925656	47590	935	0.1
51102	MO	SPRINGFIELD	21	23	100	617	.....	371011	925630	33195	715	0
3659	MO	SPRINGFIELD	27	28	960	546	.....	371308	925656	43501	881	0.3
36003	MO	SPRINGFIELD	3	44	1000	622	74878	371011	925630	43618	863	2.4
20427	MO	ST. JOSEPH	2	7	7.45	247	74608	394612	944753	22032	970	0.8
999	MO	ST. JOSEPH	16	21	500	356	29942	390526	942819	27817	2121	0
48525	MO	ST. LOUIS	24	14	1000	396	33092	382140	903254	32732	2820	0
70034	MO	ST. LOUIS	4	24	540	335	74644	383147	901758	29120	2842	0
35417	MO	ST. LOUIS	11	26	1000	288	.....	383424	901930	29590	2841	0
56524	MO	ST. LOUIS	30	31	1000	321	.....	383450	901945	31023	2858	0
46981	MO	ST. LOUIS	5	35	1000	332	74879	383405	901955	31112	2855	0.1
62182	MO	ST. LOUIS	9	39	991	326	74880	382856	902353	29448	2832	0.1
35693	MO	ST. LOUIS	2	43	1000	337	.....	383207	902223	30697	2850	0
13995	MS	BILOXI	13	13	14.1	366	74542	304323	890528	27980	951	4.8
43197	MS	BILOXI	19	16	150	477	45861	304518	885644	25131	878	16.7
43170	MS	BOONEVILLE	12	12	5.89	227	74629	344000	884505	20448	418	2.9

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43184	MS	BUDE	17	18	1000	341	.....	312222	904504	34462	721	0
12477	MS	COLUMBUS	4	35	1000	610	74881	334506	885240	44448	727	3.9
83735	MS	COLUMBUS	.....	43	81	204	43679	335031	884148	18843	412	2.6
25236	MS	GREENVILLE	15	15	330	269	.....	333926	904218	23434	322	0
43176	MS	GREENWOOD	23	25	625	317	.....	332234	903232	28909	387	3.6
43203	MS	GREENWOOD	6	32	664	572	74612	332223	903225	41773	583	0.5
53517	MS	GULFPORT	25	48	300	456	28507	304448	890330	26058	946	14.2
48668	MS	HATTIESBURG	22	22	140	244	.....	312420	891413	18687	353	0.1
60830	MS	HOLLY SPRINGS	40	41	500	122	.....	345920	894113	16048	1278	0.2
83310	MS	HOUSTON	45	45	50	491	74777	334740	890516	23489	478	0
68542	MS	JACKSON	3	7	7	393	74354	321249	902256	28290	725	0.2
48667	MS	JACKSON	12	12	17.9	464	74596	321426	902415	34580	796	2.9
43168	MS	JACKSON	29	20	400	482	.....	321129	902422	36308	825	0.3
49712	MS	JACKSON	16	21	1000	332	39758	321641	901740	28450	740	2.5
71326	MS	JACKSON	40	41	1000	598	40781	321249	902256	40118	884	0.2
21250	MS	LAUREL	7	28	79	128	42804	312712	891705	11063	251	0.3
136749	MS	MAGEE	34	34	98.7	305	75071	320718	893239	19368	665	2.7
4686	MS	MERIDIAN	11	11	6.15	165	75039	321938	884128	18166	254	2.3
73255	MS	MERIDIAN	24	24	956	170	74996	321940	884131	18636	278	0.1
24314	MS	MERIDIAN	30	31	1000	183	27899	321940	884131	18936	263	0.4
43169	MS	MERIDIAN	14	44	880	369	.....	320818	890536	31838	662	0
43192	MS	MISSISSIPPI STATE	2	10	4.3	349	.....	332114	890900	24659	370	0.3
16539	MS	NATCHEZ	48	49	1000	313	38528	314008	914130	24377	340	0
43193	MS	OXFORD	18	36	225	421	33510	341728	894221	23767	905	2.1
74148	MS	TUPELO	9	8	9	542	74662	334740	890516	35700	634	3.2
84253	MS	VICKSBURG	35	35	186	253	70324	321935	903703	14172	526	1
37732	MS	WEST POINT	27	16	450	494	39741	334740	890516	33099	599	0.6
35694	MT	BILLINGS	2	10	160	165	.....	454600	1082727	29573	158	0.4
35724	MT	BILLINGS	8	11	14.5	229	74882	454535	1082714	21580	152	0
5243	MT	BILLINGS	6	18	1000	249	74883	454826	1082025	24590	153	0
43567	MT	BOZEMAN	9	8	17.9	251	67316	454024	1105202	14163	84	0.3
33756	MT	BOZEMAN	7	13	18.9	271	67232	454024	1105202	13989	84	0
35959	MT	BUTTE	4	5	10.7	588	43752	460027	1122630	43135	183	0
18066	MT	BUTTE	6	6	6.81	576	74501	460027	1122630	38275	174	0
14674	MT	BUTTE	18	19	125	585	42948	460024	1122630	15884	65	0
81438	MT	BUTTE	24	24	50	570	74755	460024	1122630	15762	67	0
24287	MT	GLENDIVE	5	10	30	152	.....	470315	1044045	20652	21	1.6
35567	MT	GREAT FALLS	3	7	160	180	44451	473209	1111702	28365	93	0
34412	MT	GREAT FALLS	5	8	28.6	.....	180	473208	1111702	22360	91	0
81331	MT	GREAT FALLS	26	26	50	65	74759	473223	1111706	8905	84	0
13792	MT	GREAT FALLS	16	45	157	300	30029	473626	1112127	16946	90	0
47670	MT	HARDIN	4	22	1000	323	74884	454429	1080819	28232	153	0
83689	MT	HAVRE	9	9	3.2	389	74719	482032	1094341	22474	25	0
5290	MT	HELENA	12	12	9.36	697	74375	464935	1114233	26663	152	0
68717	MT	HELENA	10	29	43.4	697	68037	464935	1114233	14425	139	0
18079	MT	KALISPELL	9	9	3.2	850	74531	480048	1142155	28217	110	0
84794	MT	LEWISTOWN	13	13	3.2	636	74726	471046	1093205	25112	16	0.4
5237	MT	MILES CITY	3	3	1.03	30	74367	462534	1055138	7580	11	0
35455	MT	MISSOULA	8	7	28	623	.....	470106	1140041	37525	171	0.2
66611	MT	MISSOULA	11	11	3.2	631	74999	464809	1135821	18430	132	0
18084	MT	MISSOULA	13	13	16.1	610	74552	470104	1140047	32125	164	0.2
81348	MT	MISSOULA	17	17	50	628	74739	464808	1135819	16846	132	0
14675	MT	MISSOULA	23	23	92.6	618	74525	470110	1140046	18786	150	0
56537	NC	ASHEVILLE	13	13	29.8	853	70317	352532	824525	37759	2349	2.1
69300	NC	ASHEVILLE	33	25	185	797	41130	352532	824525	22420	1439	5.7
70149	NC	ASHEVILLE	62	45	1000	555	.....	351320	823258	34527	2043	0.1
73152	NC	BELMONT	46	47	1000	595	.....	352144	810919	40397	3404	0.6
65074	NC	BURLINGTON	16	14	95	213	.....	361454	793921	16777	1712	1.1
69080	NC	CHAPEL HILL	4	25	300	448	69110	355159	791000	26537	2744	0.4
10645	NC	CHARLOTTE	42	11	2.2	363	.....	351714	804145	20685	2180	3.7
32326	NC	CHARLOTTE	36	22	791	577	64697	352049	811015	36939	3096	1.3
30826	NC	CHARLOTTE	3	23	1000	565	.....	352151	811113	43975	3599	0.1
49157	NC	CHARLOTTE	18	27	1000	368	28621	351601	804405	30079	2748	6.1
74070	NC	CHARLOTTE	9	34	1000	348	.....	351541	804338	31482	2747	5.7
69292	NC	COLUMBIA	2	20	1000	302	74885	355359	762052	31709	661	0
69124	NC	CONCORD	58	44	149	422	74886	352130	803637	24190	2537	3.7
8617	NC	DURHAM	11	11	19.2	607	74597	354005	783158	40971	2807	4.4
54963	NC	DURHAM	28	28	225	.....	610	354028	783140	36204	2685	1.5
21245	NC	FAYETTEVILLE	62	36	1000	242	36997	345305	790429	20318	985	0.2
16517	NC	FAYETTEVILLE	40	38	500	509	60837	353044	785841	33401	2898	0.6
50782	NC	GOLDSBORO	17	17	244	628	70663	354029	783140	32343	2496	7
25544	NC	GREENSBORO	48	33	700	575	38478	355203	794926	33109	2816	11.6
54452	NC	GREENSBORO	61	43	105	527	42438	355202	794926	25142	2207	5.7
72064	NC	GREENSBORO	2	51	1000	569	.....	355213	795025	41290	3777	5.9
57838	NC	GREENVILLE	9	10	35	575	.....	352155	772338	45399	1370	15.8
35582	NC	GREENVILLE	14	14	50	205	74443	352644	772208	15450	649	0
69149	NC	GREENVILLE	25	23	71	331	42548	353310	773606	17438	801	0.1
81508	NC	GREENVILLE	38	51	90.7	155	74769	352409	772510	13446	594	0.1
65919	NC	HICKORY	14	40	600	182	67111	354359	811951	11030	776	19.1
72106	NC	HIGH POINT	8	8	15	398	70590	354846	795029	29992	2769	3.7

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69444	NC	JACKSONVILLE	19	19	66.6	561	74418	350618	772015	23999	799	0.4
37971	NC	JACKSONVILLE	35	34	600	199	41098	343110	772652	18502	568	0
12793	NC	KANNAPOLIS	64	50	50	348	.....	351541	804338	18157	2047	2.1
35385	NC	LEXINGTON	20	19	800	576	.....	355202	794926	44436	4287	2.1
69114	NC	LINVILLE	17	17	61.6	546	74613	360347	815033	18558	1085	4.1
69416	NC	LUMBERTON	31	31	109	319	69624	344750	790242	17329	889	3.6
76324	NC	MANTEO	4	9	21.3	274	74336	363254	761116	29522	1725	0
37982	NC	MOREHEAD CITY	8	8	9.88	216	74470	345301	763021	20774	299	0
18334	NC	NEW BERN	12	12	20.5	591	75033	350618	772015	42035	1314	2.5
73205	NC	RALEIGH	22	27	568	610	74663	354028	783140	41286	2847	2.8
8688	NC	RALEIGH	5	48	916	629	69133	354029	783140	41654	2853	0
64611	NC	RALEIGH	50	49	1000	614	.....	354029	783140	44298	2980	0.1
69397	NC	ROANOKE RAPIDS	36	36	50	368	74543	361728	775010	19141	604	8.4
20590	NC	ROCKY MOUNT	47	15	180	354	36353	360611	781129	22787	1759	0.1
594	NC	WASHINGTON	7	32	806	594	74887	352155	772338	44561	1497	1.1
69332	NC	WILMINGTON	39	29	700	297	.....	341916	781343	27800	786	2.2
72871	NC	WILMINGTON	26	30	547	419	67959	340753	781117	27737	750	0.1
48666	NC	WILMINGTON	6	44	575	280	59015	341916	781343	20378	591	0
12033	NC	WILMINGTON	3	46	1000	594	74888	340751	781116	44363	1060	0
10133	NC	WILSON	30	42	873	539	68096	354953	780850	32166	2162	2
414	NC	WINSTON-SALEM	45	29	990	576	39890	355203	794926	37525	3484	4.7
53921	NC	WINSTON-SALEM	12	31	815	572	.....	362231	802226	37537	2625	4.2
69360	NC	WINSTON-SALEM	26	32	263	504	74889	362234	802214	22283	1867	6.9
55686	ND	BISMARCK	12	12	19.1	466	74459	463517	1004826	35655	127	0.3
22121	ND	BISMARCK	17	16	1000	275	68012	463515	1004820	25005	113	0
53324	ND	BISMARCK	3	22	97.3	392	18952	463523	1004802	21415	110	0
82611	ND	BISMARCK	26	26	50	300	74760	463523	1004739	17826	104	0
41427	ND	BISMARCK	5	31	1000	427	74890	463619	1004830	37254	130	0
22124	ND	DEVILS LAKE	8	8	16.2	451	74687	480824	975938	35778	150	0
162016	ND	DEVILS LAKE	.....	25	134	245	66852	480347	992008	18194	39	0
41430	ND	DICKINSON	7	7	11.3	223	74419	465649	1025917	22541	33	0
53329	ND	DICKINSON	9	9	8.35	246	74437	464334	1025456	22539	36	0
55684	ND	DICKINSON	2	19	50	217	59817	464335	1025457	13157	28	0
53315	ND	ELLENDALE	19	20	72.3	163	64873	461756	985156	13632	18	0
53321	ND	FARGO	13	13	11.4	344	74460	470048	971137	28996	257	0
55372	ND	FARGO	15	19	1000	379	28940	464029	961340	27968	320	0.1
22129	ND	FARGO	6	21	1000	356	.....	470028	971202	34973	345	0
61961	ND	FARGO	11	44	414	543	.....	472032	971720	36736	325	0
53320	ND	GRAND FORKS	2	15	50	408	74645	480818	975935	20362	116	0
86208	ND	GRAND FORKS	27	27	50	96	74762	475745	970312	11054	108	0
55364	ND	JAMESTOWN	7	7	17.3	107	74420	465527	984619	15835	39	2.2
41425	ND	MINOT	10	10	4.75	207	74675	481256	1011905	19318	73	0.6
55685	ND	MINOT	13	13	16.1	344	74570	480302	1012029	29701	89	0
22127	ND	MINOT	14	14	60	216	.....	480311	1012305	16113	70	0
82615	ND	MINOT	24	24	50	239	74756	480314	1012603	15862	69	0
53313	ND	MINOT	6	40	146	249	59853	480302	1012325	15514	70	0
55362	ND	PEMBINA	12	12	28.7	413	74382	485944	972428	35647	43	0.1
49134	ND	VALLEY CITY	4	38	1000	619	74891	471645	972018	46557	366	0
41429	ND	WILLISTON	8	8	7.21	323	74598	480802	1035136	24857	38	0
55683	ND	WILLISTON	11	14	50	257	59878	480830	1035334	14655	32	0.5
53318	ND	WILLISTON	4	51	53.9	248	64823	480830	1035334	12463	31	0
47996	NE	ALLIANCE	13	13	20.9	469	74471	415024	1030318	35161	90	0.2
47981	NE	BASSETT	7	7	18.7	453	74383	422005	992901	35068	41	3.3
7894	NE	GRAND ISLAND	11	11	15.2	308	74493	403520	984810	28363	219	0.3
27220	NE	GRAND ISLAND	17	19	1000	186	28644	404344	983413	18605	195	0
48003	NE	HASTINGS	5	5	2.8	218	74444	403856	982301	21865	205	0
47987	NE	HASTINGS	29	28	200	366	39665	404620	980521	22084	179	0.1
21162	NE	HAYES CENTER	6	18	1000	216	74892	403729	1010158	24515	76	0
21160	NE	KEARNEY	13	36	753	338	74893	403928	985204	30484	227	0
47975	NE	LEXINGTON	3	26	375	251	32442	402305	992730	19875	107	0
11264	NE	LINCOLN	8	8	17.8	440	75015	405259	971820	35535	695	2.8
7890	NE	LINCOLN	10	10	18.4	454	74987	404808	971046	36426	887	0.4
66589	NE	LINCOLN	12	12	8.16	253	74553	410818	962719	23247	1145	0.1
84453	NE	LINCOLN	51	51	200	461	74786	404738	971422	25974	454	0
72362	NE	MCCOOK	8	12	10.4	218	.....	394948	1004204	23270	48	0.3
47971	NE	MERRIMAN	12	12	15.7	328	74407	424038	1014236	26596	27	1.2
47995	NE	NORFOLK	19	19	53.8	348	74397	421415	971641	15893	214	5.9
49273	NE	NORTH PLATTE	2	2	3.61	145	74454	411213	1004358	20245	59	0
47973	NE	NORTH PLATTE	9	9	15.5	311	74398	410116	1010910	28103	66	0
23277	NE	OMAHA	15	15	301	530	74532	410415	961330	37589	1264	0
47974	NE	OMAHA	26	17	200	117	.....	411528	960032	15002	836	0
53903	NE	OMAHA	7	20	700	396	.....	411832	960133	35092	1220	0
65528	NE	OMAHA	6	22	1000	398	.....	411840	960137	37205	1242	0
51491	NE	OMAHA	42	43	360	574	.....	410415	961330	36841	1261	0
35190	NE	OMAHA	3	45	1000	426	.....	411824	960136	35409	1221	0.3
17683	NE	SCOTTSBLUFF	4	7	32	.....	475	415028	1030427	37696	97	0.6
136747	NE	SCOTTSBLUFF	16	17	91.5	238	74736	415023	1034935	14585	56	0.2
63182	NE	SCOTTSBLUFF	10	29	1000	256	74894	415958	1033955	23681	74	1.4
21161	NE	SUPERIOR	4	34	1000	344	74895	400513	975513	31844	185	0.1
48406	NH	CONCORD	21	33	100	344	42932	431104	711912	16703	2327	3.5

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14682	NH	DERRY	50	35	7.3	191	.....	424407	712331	9172	3874	1.5
69237	NH	DURHAM	11	11	8.27	302	74664	431033	711229	23470	3392	0.8
69271	NH	KEENE	52	49	50	329	74896	430200	722204	11793	404	5
69328	NH	LITTLETON	49	48	50	390	74897	442114	714423	11253	131	0
73292	NH	MANCHESTER	9	9	7.11	305	74688	425902	713524	20862	4589	2.6
51864	NH	MERRIMACK	60	34	80	293	28154	425902	713520	13421	3094	4
9739	NJ	ATLANTIC CITY	.....	44	200	284	40339	394341	745039	13582	5320	11
23142	NJ	ATLANTIC CITY	62	49	130	296	27898	393753	742112	15516	1908	0.2
7623	NJ	BURLINGTON	48	27	225	335	33174	400236	751433	20486	7208	4.5
48481	NJ	CAMDEN	23	22	197	266	.....	394341	745039	20659	6862	0
73333	NJ	LINDEN	47	36	832	408	42433	404454	735910	28648	19697	1.7
48477	NJ	MONTCLAIR	50	51	200	238	.....	405153	741203	16560	17216	0.3
48457	NJ	NEW BRUNSWICK	58	8	20.2	212	32754	403717	743015	20825	17069	9.7
18795	NJ	NEWARK	13	13	3.2	500	74696	404243	740049	25699	19255	1.5
60555	NJ	NEWARK	68	41	235	321	69633	404522	735912	16835	17261	2.1
43952	NJ	NEWTON	63	18	1000	250	67170	405153	741203	18520	17260	0
74215	NJ	PATERSON	41	40	300	421	29858	404454	735910	23300	19037	0.4
74197	NJ	SECAUCUS	9	38	136	500	74898	404243	740049	26502	19428	0.3
48465	NJ	TRENTON	52	43	50	271	74899	401700	744120	14079	8751	11.3
60560	NJ	VINELAND	65	29	225	396	72018	400230	751411	20528	7421	5.7
20818	NJ	WEST MILFORD	66	29	200	167	33869	404718	741519	8221	13973	12.1
61111	NJ	WILDWOOD	40	36	200	128	.....	390728	744556	14738	739	0.9
53928	NM	ALBUQUERQUE	7	7	27.6	1243	74445	351253	1062701	53948	961	0
48575	NM	ALBUQUERQUE	13	13	7.03	1287	74399	351240	1062657	43540	925	0
1151	NM	ALBUQUERQUE	32	17	65.6	1247	58949	351251	1062701	34322	913	0
57220	NM	ALBUQUERQUE	14	22	303	376	74730	352444	1064332	16156	820	0
993	NM	ALBUQUERQUE	23	24	200	1243	.....	351254	1062702	47308	935	0
35313	NM	ALBUQUERQUE	4	26	290	1262	.....	351242	1062657	49465	939	0
55528	NM	ALBUQUERQUE	5	35	250	1287	.....	351249	1062701	46539	929	0
35084	NM	ALBUQUERQUE	41	42	321	1262	.....	351241	1062656	46959	928	0
55049	NM	ALBUQUERQUE	50	45	245	1287	41944	351248	1062700	42560	921	0
53908	NM	CARLSBAD	6	19	912	333	.....	324738	1041229	32150	153	0.7
83707	NM	CARLSBAD	25	25	50	134	74757	322609	1041114	11804	51	0
40450	NM	CLOVIS	12	20	598	204	74900	341134	1031644	21451	87	0
53904	NM	FARMINGTON	3	8	40	166	.....	364017	1081352	23531	151	0
35321	NM	FARMINGTON	12	12	12.7	102	74408	364143	1081314	13056	121	0
27431	NM	HOBBS	29	29	67.4	159	74400	324328	1030546	13761	81	0
55516	NM	LAS CRUCES	22	23	1000	223	44448	321722	1064149	21045	708	0
36916	NM	LAS CRUCES	48	47	200	134	74901	320230	1062741	8205	693	0
18338	NM	PORTALES	3	32	82.6	190	.....	341508	1031420	15679	81	0
62272	NM	ROSWELL	8	8	20.8	499	74533	332231	1034612	38887	159	0
48556	NM	ROSWELL	10	10	24.3	610	74558	330320	1034912	43742	187	0.1
84157	NM	ROSWELL	21	21	164	128	74747	330601	1041515	11510	77	0
53539	NM	ROSWELL	27	27	50	115	74474	332458	1043359	7370	63	0
84215	NM	SANTA FE	.....	9	0.2	1241	67438	351245	1062658	20827	857	0.8
60793	NM	SANTA FE	11	10	30	608	.....	354648	1063133	38985	904	1.3
32311	NM	SANTA FE	2	27	255	1278	.....	351250	1062701	48245	934	0.2
76268	NM	SANTA FE	19	29	245	1289	.....	351244	1062657	47629	935	0
53911	NM	SILVER CITY	10	10	3.2	485	74976	325146	1081428	22295	59	0.2
85114	NM	SILVER CITY	6	12	3.2	502	74712	325149	1081427	16454	58	0
63845	NV	ELKO	10	10	3.2	557	74973	404152	1155413	21628	36	0
86537	NV	ELY	3	3	1	279	74709	391446	1145536	6317	8	0
86538	NV	ELY	6	27	1000	270	74713	391553	1145335	13318	8	0
86201	NV	GOLDFIELD	7	50	50	448	74716	380305	1171330	8739	3	0
35870	NV	HENDERSON	5	9	86	385	.....	360026	1150022	29838	1362	0.1
69677	NV	LAS VEGAS	3	2	27.7	384	.....	360030	1150020	41279	1419	0
35042	NV	LAS VEGAS	8	7	30.1	609	.....	355644	1150233	33021	1366	0
11683	NV	LAS VEGAS	10	11	105	371	.....	360027	1150024	30092	1360	0
74100	NV	LAS VEGAS	13	13	16	606	74977	355643	1150232	27920	1363	0
67089	NV	LAS VEGAS	15	16	1000	571	36067	355646	1150234	24277	1352	0
10179	NV	LAS VEGAS	21	22	630	368	27967	360028	1150024	18202	1351	0
10195	NV	LAS VEGAS	33	29	1000	383	30143	360028	1150024	18817	1350	0
41237	NV	LAUGHLIN	34	32	1000	607	66737	353907	1141842	27047	1276	0.1
63768	NV	PARADISE	39	40	200	357	.....	360036	1150020	14586	1350	0
60307	NV	RENO	4	7	16.1	879	.....	391857	1195302	39300	677	3
63331	NV	RENO	8	9	15.6	893	.....	391849	1195300	38673	660	3.1
59139	NV	RENO	2	13	16.1	876	.....	391857	1195302	38571	678	0.3
10228	NV	RENO	5	15	50	140	74902	393501	1194752	6245	389	0
19191	NV	RENO	21	20	53	176	42485	393503	1194751	6065	363	0
51493	NV	RENO	27	26	1000	894	28095	391847	1195259	36813	577	0.5
48360	NV	RENO	11	44	1000	836	44000	393523	1195537	19310	403	0
86643	NV	TONOPAH	9	9	3.2	448	74720	380305	1171330	12823	3	0
63846	NV	WINNEMUCCA	7	7	3.2	650	74978	410041	1174559	23032	17	0
11970	NY	ALBANY	23	7	10	434	.....	423731	740038	26101	1488	1.1
73363	NY	ALBANY	13	12	9.1	436	.....	423731	740038	26438	1477	0.2
74422	NY	ALBANY	10	26	1000	305	74903	423815	735954	20505	1313	0.8
13933	NY	AMSTERDAM	55	50	450	207	38556	425904	741056	13763	993	0
2325	NY	BATAVIA	51	23	445	279	74609	425342	780056	19868	2211	0.5
72623	NY	BATH	14	14	50	318	74731	421828	771317	16473	511	6.7
23337	NY	BINGHAMTON	12	7	20.4	342	.....	420331	755706	27248	1001	1.8

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62210	NY	BINGHAMTON	40	8	3.2	375	74904	420322	755639	21411	803	0.9
11260	NY	BINGHAMTON	34	34	450	263	70326	420339	755636	16714	635	2.2
74034	NY	BINGHAMTON	46	42	50	408		420340	755645	17846	603	1.2
415	NY	BUFFALO	29	14	1000	312	68007	430132	785543	18072	1356	0.7
71905	NY	BUFFALO	23	32	1000	314		430148	785515	28788	1538	2.1
64547	NY	BUFFALO	2	33	480	295		424307	783347	22868	1848	1.2
67784	NY	BUFFALO	49	34	167	355	43011	424658	782728	13832	1332	2.2
54176	NY	BUFFALO	7	38	358	433		423814	783712	29192	1988	0.3
7780	NY	BUFFALO	4	39	790	417		423933	783733	32947	2280	0.1
71928	NY	BUFFALO	17	43	156	330	74905	430148	785515	21439	1386	0.1
68851	NY	CARTHAGE	7	7	15.6	203	74512	435715	754345	17022	191	7.9
78908	NY	CORNING	30	30	50	319		420829	770439	16043	439	0.6
62219	NY	CORNING	48	48	50	166	75045	420943	770215	9517	285	1
60653	NY	ELMIRA	18	18	90	363	70327	420622	765217	16933	606	3.1
71508	NY	ELMIRA	36	36	50	320	74631	420620	765217	15689	544	0.3
38336	NY	GARDEN CITY	21	21	89.9	111	74455	404719	732709	10930	13638	0.1
34329	NY	ITHACA	52	20	0.015	1		422546	762948	382	66	2.6
30303	NY	JAMESTOWN	26	26	234	463	75000	422336	791344	22922	1548	0.2
74156	NY	KINGSTON		48	950	378	65356	412918	735656	23706	14181	1.2
1328	NY	NEW YORK	7	7	3.2	491	74571	404243	740049	26553	19368	0.9
73881	NY	NEW YORK	11	11	5.89	448	74502	404243	740049	24100	19044	1.7
6048	NY	NEW YORK	25	24	200	411	40002	404454	735910	23849	18957	0.9
47535	NY	NEW YORK	4	28	164	515	74906	404243	740049	28665	19695	1
73356	NY	NEW YORK	31	31	225	458	74482	404243	740049	20498	17944	5.8
9610	NY	NEW YORK	2	33	239	482	74646	404243	740049	26765	19217	3.4
22206	NY	NEW YORK	5	44	225	515	74907	404243	740049	27036	19135	3.6
57476	NY	NORTH POLE	5	14	650	842	41544	443133	724854	38888	642	0
62137	NY	NORWOOD	18	23	50	243	74908	442930	745129	15315	160	0.1
46755	NY	PLATTSBURGH	57	38	100	737	66309	444143	735300	26048	413	0
67993	NY	POUGHKEEPSIE	54	27	800	358	43683	412920	735653	23985	10805	34.2
73206	NY	RIVERHEAD	55	47	410	196	72009	405350	725456	14328	4541	1
70041	NY	ROCHESTER	10	10	5.9	152	74676	430807	773502	17449	1148	0
73371	NY	ROCHESTER	13	13	5.83	152	74689	430807	773503	17099	1134	0.7
57274	NY	ROCHESTER	21	16	180	130	68025	430807	773503	12874	1118	0.1
413	NY	ROCHESTER	31	28	320	161	66841	430805	773507	13190	1127	0
73964	NY	ROCHESTER	8	45	1000	152	74909	430807	773502	18539	1182	0.1
77515	NY	SARANAC LAKE	40	40	50	440	74774	440935	742834	11926	38	1.7
73942	NY	SCHENECTADY	6	6	4.46	426	74544	423731	740038	30424	1569	1.6
73263	NY	SCHENECTADY	17	34	325	426		423731	740038	24147	1423	0.8
73264	NY	SCHENECTADY	45	43	676	413	67289	423731	740038	24328	1401	0.8
60553	NY	SMITHTOWN	67	23	150	204	39829	405323	725713	13643	4088	15.3
9088	NY	SPRINGVILLE	67	7	15.5	411	74575	423814	783711	16571	1369	0.7
64352	NY	SYRACUSE	56	15	78.2	379	74790	431818	760300	17835	1053	0.8
73113	NY	SYRACUSE	9	17	105	402	44725	425642	760128	22102	1222	0.1
40758	NY	SYRACUSE	68	19	621	445	29285	425250	761200	29954	1648	0.3
21252	NY	SYRACUSE	3	24	210	405	74614	425642	760707	26452	1367	0.2
53734	NY	SYRACUSE	24	25	97	393		425644	760707	22595	1276	0
58725	NY	SYRACUSE	43	44	680	445	68111	425250	761200	27029	1402	0.1
74151	NY	SYRACUSE	5	47	500	290		425718	760634	22529	1239	0
43424	NY	UTICA	33	27	688	433	59327	430213	752641	25323	1081	0.7
60654	NY	UTICA	2	29	708	402	45240	430609	745627	28423	1292	3.4
57837	NY	UTICA	20	30	50	244	74910	430843	751035	11877	502	8
16747	NY	WATERTOWN	50	21	25	331	44780	435247	754312	15745	186	0
62136	NY	WATERTOWN	16	41	50	370	74911	435144	754340	18784	234	0.3
70491	OH	AKRON	23	23	317	296	74690	410353	813459	21976	4065	0.2
72958	OH	AKRON	55	30	1000	334	66037	412302	814144	16202	3445	0
49421	OH	AKRON	49	50	180	305		410458	813802	18680	3641	6.7
49439	OH	ALLIANCE	45	45	388	223	74576	405423	805439	15811	2304	0
50147	OH	ATHENS	20	27	250	242		391852	820859	19485	708	1.9
6568	OH	BOWLING GREEN	27	27	110	320	74647	410812	835424	21416	1313	0
50141	OH	CAMBRIDGE	44	35	310	385	68039	400532	811719	24017	1218	1.1
67893	OH	CANTON	17	39	200	292		410320	813538	20718	3970	1
43870	OH	CANTON	67	47	1000	134	40562	410633	812010	15829	3690	0.1
21158	OH	CHILLICOTHE	53	46	1000	328	33138	393520	830644	27403	2595	0.2
59438	OH	CINCINNATI	9	10	15.4	305	75072	390731	842957	27101	3084	0.5
11289	OH	CINCINNATI	12	12	15.6	305	75016	390658	843005	26101	3003	2.2
11204	OH	CINCINNATI	64	33	500	337	39190	391201	843122	24978	3100	0
65666	OH	CINCINNATI	48	34	500	326	32656	390727	843118	24471	3023	0.1
46979	OH	CINCINNATI	5	35	1000	311		390727	843118	29790	3176	0.1
73150	OH	CLEVELAND	8	8	15.7	305	75017	412147	814258	27942	3966	1.5
59441	OH	CLEVELAND	5	15	1000	311	75073	412227	814306	31477	4147	3.2
73195	OH	CLEVELAND	3	17	1000	296	72095	412310	814121	30737	4170	0
18753	OH	CLEVELAND	25	26	100	313	42131	412028	814425	18860	3498	0.1
60556	OH	CLEVELAND	61	34	525	334	40362	412258	814207	25232	3931	0.3
56549	OH	COLUMBUS	6	13	59	286	39803	395614	830116	26569	2541	9.9
50781	OH	COLUMBUS	4	14	902	264		395816	830140	28164	2467	0.4
71217	OH	COLUMBUS	10	21	1000	279		395816	830140	28083	2497	2.6
74137	OH	COLUMBUS	28	36	1000	271		395614	830116	25885	2312	1.6
66185	OH	COLUMBUS	34	38	250	291		400933	825523	21605	2191	0.4
25067	OH	DAYTON	16	16	126	320	74677	394316	841500	21274	3118	2.2

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411	OH	DAYTON	45	30	425	351	29247	394328	841518	22724	2886	7
41458	OH	DAYTON	7	41	1000	290	67218	394402	841453	24360	3196	0.5
65690	OH	DAYTON	2	50	1000	323		394307	841522	29230	3498	0.3
73155	OH	DAYTON	22	51	138	351		394328	841518	21345	3050	1.9
37503	OH	LIMA	35	8	30	165	36733	404454	840755	23276	1109	8.5
1222	OH	LIMA	44	47	50	207	75074	404547	841059	14055	556	0.1
8532	OH	LORAIN	43	28	200	337	38130	412245	814312	22230	3706	0
41893	OH	MANSFIELD	68	12	13	180	68132	404550	823704	19292	1128	14.2
11118	OH	NEWARK	51	24	1000	132	39194	400445	824141	18218	1935	0.2
25065	OH	OXFORD	14	28	400	268	43343	390719	843252	20730	2781	0
65130	OH	PORTSMOUTH	30	17	50	237	75075	384542	830341	16947	596	1.5
66190	OH	PORTSMOUTH	42	43	50	382		384542	830341	19181	604	8.3
11027	OH	SANDUSKY	52	42	50	236	75076	412348	824731	15066	834	0
39746	OH	SHAKER HEIGHTS	19	10	3.5	304	19316	412315	814143	18681	3562	1.2
70138	OH	SPRINGFIELD	26	26	50	291	74421	394328	841518	15181	2003	0.9
74122	OH	STEUBENVILLE	9	9	8.82	261	74665	402033	803714	21161	2829	0.1
17076	OH	TOLEDO	40	5	1	174	75077	414441	840106	11594	1129	13.3
13992	OH	TOLEDO	11	11	13.1	263	74409	414022	832247	22585	2388	0.5
74150	OH	TOLEDO	13	13	14.6	305	74430	414100	832449	22711	2547	3
66285	OH	TOLEDO	30	29	50	314	75078	413927	832555	18428	2208	0
19190	OH	TOLEDO	36	46	110	356	40304	413922	832641	18875	2041	0.8
73354	OH	TOLEDO	24	49	59	409	42576	414003	832122	18182	1915	0
72062	OH	YOUNGSTOWN	21	20	460	295	43442	410448	803825	23468	3296	0
4693	OH	YOUNGSTOWN	33	36	50	148		410343	803807	12151	1299	3.1
73153	OH	YOUNGSTOWN	27	41	700	418		410324	803844	29686	3817	26.3
61216	OH	ZANESVILLE	18	40	620	169		395542	815907	18268	818	1.3
35666	OK	ADA	10	26	1000	426		342134	963334	37746	516	1.1
1005	OK	BARTLESVILLE	17	17	210	296	74384	363059	954611	20958	949	0
50194	OK	CHEYENNE	12	8	30	303		353536	994002	30003	101	2.9
57431	OK	CLAREMORE	35	36	79	256	75079	362405	953633	14124	888	0
50198	OK	EUFAULA	3	31	1000	364		351101	952019	31355	600	0.1
35645	OK	LAWTON	7	11	138	327		341255	984313	40212	446	1.6
78322	OK	MUSKOGEE	19	20	245	252	72527	354508	954815	19870	1000	0.4
84225	OK	NORMAN	46	46	50	416	74779	353552	972922	18773	1213	0
12508	OK	OKLAHOMA CITY	5	7	34	430	41104	353345	972924	34028	1407	0.1
25382	OK	OKLAHOMA CITY	9	9	19.4	465	74545	353258	972950	36596	1436	0.2
50205	OK	OKLAHOMA CITY	13	13	26.4	465	74494	353552	972922	38935	1456	0
67999	OK	OKLAHOMA CITY	14	15	500	358		353435	972909	29701	1365	1.1
35388	OK	OKLAHOMA CITY	25	24	1000	476	44126	353258	972918	37403	1448	0
66222	OK	OKLAHOMA CITY	4	27	790	489		353552	972922	39060	1449	0.7
50170	OK	OKLAHOMA CITY	34	33	1000	458		353258	972918	39194	1464	0
50182	OK	OKLAHOMA CITY	43	40	55.6	475	74566	353522	972903	23666	1272	0
2566	OK	OKLAHOMA CITY	62	50	200	483		353552	972922	28774	1341	0
38214	OK	OKLAHOMA CITY	52	51	1000	458		353552	972922	36936	1428	0
7078	OK	OKMULGEE	44	28	1000	219	19049	355002	960728	20170	978	0.5
77480	OK	SHAWNEE	30	29	1000	253		351658	972018	26283	1304	0
59439	OK	TULSA	2	8	18.2	558	74648	360115	954032	40080	1293	0.2
35685	OK	TULSA	8	10	6.9	542	42996	355808	953655	28865	1168	1.7
66195	OK	TULSA	11	11	22.2	396	74534	360115	954032	33193	1211	0.3
11910	OK	TULSA	23	22	1000	400		360136	954044	35807	1235	1
54420	OK	TULSA	41	42	900	381		360136	954044	32275	1195	0.2
35434	OK	TULSA	6	45	840	573	74632	360115	954032	40706	1297	0.7
37099	OK	TULSA	47	47	50	460	75034	360115	954032	19212	1018	0
24485	OK	TULSA	53	49	50	182	74912	360234	955711	13058	893	0
86532	OK	WOODWARD	35	35	50	339	74767	361606	992656	16828	37	0
50588	OR	BEND	3	11	160	226		440441	1211957	29073	157	0
55907	OR	BEND	21	21	53.7	197	74422	440440	1211949	10195	150	0
49750	OR	COOS BAY	11	11	3.2	188	74446	432326	1240746	12943	82	0
35183	OR	COOS BAY	23	22	10	179	44658	432339	1240756	8368	65	0.9
50590	OR	CORVALLIS	7	7	10.1	375	74546	443825	1231625	24451	1118	9.6
34406	OR	EUGENE	9	9	12.1	502	75028	440657	1225957	24311	513	0.1
49766	OR	EUGENE	13	13	30.9	407	74988	440007	1230653	28949	648	7.6
35189	OR	EUGENE	16	17	70	473	44473	440657	1225957	17731	465	0.1
50591	OR	EUGENE	28	29	100	403	60215	440007	1230653	15614	477	0
8322	OR	EUGENE	34	31	88	372	67996	440004	1230645	13922	460	0
83306	OR	GRANTS PASS	30	30	50	654	74763	422256	1231629	19481	185	0
8284	OR	KLAMATH FALLS	2	13	9	659		420548	1213757	29481	84	0.2
60740	OR	KLAMATH FALLS	31	29	50	691	74913	420550	1213759	19200	65	0
61335	OR	KLAMATH FALLS	22	33	50	656	74914	420550	1213759	20779	67	0
50592	OR	LA GRANDE	13	13	31.8	775	74341	451833	1174354	28988	78	3.1
81447	OR	LA GRANDE	16	29	50	773	74737	451835	1174357	20192	42	0
8260	OR	MEDFORD	5	5	6.35	823	74385	424149	1231339	49279	483	0
61350	OR	MEDFORD	8	8	16.9	818	74567	424132	1231345	36640	386	1
22570	OR	MEDFORD	10	10	11.5	1009	74513	420455	1224307	38336	337	0
60736	OR	MEDFORD	12	12	16.9	823	74535	424132	1231346	35257	377	2.2
32958	OR	MEDFORD	26	26	50	428	75001	421754	1224459	11117	216	0
12729	OR	PENDLETON	11	11	22	472	74974	454451	1180211	30203	316	0
34874	OR	PORTLAND	8	8	21.9	509	74577	453121	1224446	30424	2379	3.6
50589	OR	PORTLAND	10	10	32	509	75002	453121	1224445	32672	2474	0.1
50633	OR	PORTLAND	12	12	21.9	543	74483	453119	1224453	30824	2429	1.2

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47707	OR	PORTLAND	24	24	654	522	74572	453058	1224359	30708	2486	0
35380	OR	PORTLAND	6	40	1000	523	.....	453058	1224358	30516	2489	0
21649	OR	PORTLAND	2	43	1000	524	.....	453057	1224359	30145	2486	0
31437	OR	ROSEBURG	36	18	50	213	34395	431409	1231916	9672	93	0
61551	OR	ROSEBURG	4	19	50	274	28609	431408	1231918	9394	89	0
35187	OR	ROSEBURG	46	45	12	109	44472	431222	1232156	5542	76	0
5801	OR	SALEM	22	22	1000	490	74337	453121	1224445	31809	2507	0
10192	OR	SALEM	32	33	750	523	.....	453058	1224358	30072	2482	0.1
36989	PA	ALLENTOWN	39	39	50	302	74699	403358	752606	15373	4857	2.5
39884	PA	ALLENTOWN	69	46	500	314	59122	403352	752624	16535	6538	2.3
20287	PA	ALTOONA	23	24	1000	311	29784	403406	782638	19812	757	0.8
23341	PA	ALTOONA	10	32	1000	323	28867	403401	782630	24213	875	2.9
13929	PA	ALTOONA	47	46	50	308	74915	403412	782626	13077	575	0.7
60850	PA	BETHLEHEM	60	9	3.2	284	59326	403352	752624	15841	5342	8.4
66219	PA	CLEARFIELD	3	15	810	413	59340	410720	782629	31830	862	1.4
24970	PA	ERIE	12	12	8.63	305	74599	420352	800019	24260	675	0.6
49711	PA	ERIE	35	16	200	279	30039	420215	800343	19713	636	0.6
19707	PA	ERIE	66	22	850	276	65637	420233	800356	14972	581	0
65749	PA	ERIE	24	24	523	310	70354	420225	800409	20313	702	1.1
53716	PA	ERIE	54	50	200	271	67971	420234	800356	18066	531	3.5
13924	PA	GREENSBURG	40	50	362	264	44438	402334	794654	16116	2634	2.7
72326	PA	HARRISBURG	27	10	14	346	40451	401857	765702	22372	2185	0.6
72313	PA	HARRISBURG	21	21	500	372	70325	402043	765209	22848	2357	4.6
73083	PA	HARRISBURG	33	36	50	427	74916	402045	765206	16831	1972	8.6
73375	PA	HAZLETON	56	45	546	488	.....	411100	755210	27414	1940	16.2
69880	PA	JEANNETTE	19	49	233	325	74484	401051	790946	16394	1872	22.4
20295	PA	JOHNSTOWN	8	8	6.5	352	70335	401053	790905	20947	2534	0.8
73120	PA	JOHNSTOWN	6	34	1000	386	65822	402217	785856	24699	1984	3
53930	PA	LANCASTER	8	8	13.4	393	74678	400204	763708	23701	3313	2.5
23338	PA	LANCASTER	15	23	500	381	41227	401545	762751	25174	3340	1.1
8616	PA	PHILADELPHIA	6	6	2.55	332	75063	400239	751426	27704	9114	0.1
73879	PA	PHILADELPHIA	17	17	237	354	74615	400230	751411	24810	8188	0
25453	PA	PHILADELPHIA	3	26	770	375	.....	400233	751433	31614	10075	1.6
12499	PA	PHILADELPHIA	57	32	250	400	44229	400230	751411	22460	7852	3.7
63153	PA	PHILADELPHIA	10	34	325	377	71122	400230	751411	27178	8934	1.6
28480	PA	PHILADELPHIA	35	35	358	377	71123	400230	751411	25390	8573	4.3
51568	PA	PHILADELPHIA	29	42	273	347	74917	400226	751420	22025	7599	8.5
41315	PA	PITTSBURGH	13	13	6.42	210	74536	402646	795751	19434	2824	0.9
25454	PA	PITTSBURGH	2	25	1000	311	.....	402938	800109	29482	3587	0.1
41314	PA	PITTSBURGH	16	38	64.1	215	74997	402646	795751	14493	2602	0.2
73907	PA	PITTSBURGH	22	42	1000	315	43259	402943	800017	22392	3001	3.8
73875	PA	PITTSBURGH	53	43	1000	303	45946	402943	800018	23931	3093	0
73910	PA	PITTSBURGH	11	48	1000	289	.....	402748	800016	24887	3241	0.6
65681	PA	PITTSBURGH	4	51	1000	273	40377	401649	794811	20794	2868	0.6
55305	PA	READING	51	25	900	395	67694	401952	754141	20953	5183	35.3
55350	PA	RED LION	49	30	50	177	74918	395418	763500	11549	1960	17.1
17010	PA	SCRANTON	22	13	30	471	.....	411058	755226	32173	2482	5.9
64690	PA	SCRANTON	64	32	528	354	59210	412606	754335	20233	1050	5.2
73374	PA	SCRANTON	38	38	57.6	385	75018	412609	754345	15550	899	3.7
47929	PA	SCRANTON	44	41	200	487	.....	411055	755217	23373	1886	3.3
73318	PA	SCRANTON	16	49	100	506	.....	411100	755210	21416	1732	0.5
71225	PA	WILKES-BARRE	28	11	30	471	.....	411058	755226	32674	2527	5.1
52075	PA	WILLIAMSPORT	53	29	50	222	74919	411157	770738	11458	308	2.1
10213	PA	YORK	43	47	933	385	45937	400138	763600	22757	3271	27.5
50063	RI	BLOCK ISLAND	69	17	1000	228	67093	412941	714706	21896	2966	4
73311	RI	PROVIDENCE	64	12	11.5	295	74616	415214	711745	21856	5901	0.8
47404	RI	PROVIDENCE	12	13	18	305	.....	415236	711657	27993	6535	0.9
56092	RI	PROVIDENCE	36	21	50	268	65226	415154	711715	11209	2916	34.3
50780	RI	PROVIDENCE	10	51	1000	305	74926	415154	711715	27224	6489	0.4
61003	SC	ALLENDALE	14	33	427	241	67765	331115	812350	15210	603	0
56548	SC	ANDERSON	40	14	310	311	30073	343851	821613	22074	1365	0
61007	SC	BEAUFORT	16	44	468	385	67764	324242	804054	19988	938	0
61005	SC	CHARLESTON	7	7	12	562	70358	325528	794158	31487	849	0
416	SC	CHARLESTON	24	24	283	583	74554	325624	794145	30857	818	0
21536	SC	CHARLESTON	4	34	630	522	43263	325528	794158	32715	848	0
9015	SC	CHARLESTON	36	36	50	583	74514	325624	794145	21692	657	0
71297	SC	CHARLESTON	5	47	1000	521	45846	325528	794158	33547	866	0.3
10587	SC	CHARLESTON	2	50	1000	581	66300	325624	794145	35154	925	0
60963	SC	COLUMBIA	25	8	43.7	529	34078	340658	804551	40798	1724	9.5
13990	SC	COLUMBIA	10	10	18.1	462	74559	340729	804523	32006	1450	1.8
37176	SC	COLUMBIA	19	17	1000	500	43474	340549	804551	33236	1341	6.5
61013	SC	COLUMBIA	35	32	65	314	.....	340706	805613	18885	967	0.2
136750	SC	COLUMBIA	47	47	50	192	74780	340238	805951	5835	584	16.7
19199	SC	COLUMBIA	57	48	520	464	43955	340658	804551	27312	1158	1.4
61004	SC	CONWAY	23	9	20	230	.....	335658	790631	27745	778	0
66407	SC	FLORENCE	13	13	18.3	541	74650	342204	791921	40668	1577	1
17012	SC	FLORENCE	15	16	421	602	.....	342153	791949	42129	1611	1.2
3133	SC	FLORENCE	21	21	384	581	74438	342153	791949	32643	1311	0.1
61008	SC	FLORENCE	33	45	50	238	.....	341647	794435	14851	502	0.7
82494	SC	GEORGETOWN	.....	38	500	171	66448	335012	785111	14797	379	2

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61010	SC	GREENVILLE	29	9	65	378	64722	345629	822438	30492	1754	0.1
9064	SC	GREENVILLE	16	16	98.4	337	74515	345626	822441	20685	1507	0.5
72300	SC	GREENVILLE	21	21	496	744	70350	351056	824056	32127	1918	0.9
53905	SC	GREENVILLE	4	36	664	577	74692	350643	823624	35642	2008	0.2
60931	SC	GREENWOOD	38	18	50	231	.....	342219	821004	15830	1013	0.8
27245	SC	HARDEEVILLE	28	28	1000	455	75003	320245	812027	34454	819	0
9054	SC	MYRTLE BEACH	43	18	1000	459	39594	341119	791100	36913	1343	0.9
83969	SC	MYRTLE BEACH	32	32	204	299	75066	333937	790335	19240	418	0
61009	SC	ROCK HILL	30	15	403	212	67767	345023	810107	15304	1610	0.2
20624	SC	ROCK HILL	55	39	200	595	.....	352144	810919	30125	2793	2.7
66391	SC	SPARTANBURG	7	7	20.5	657	74611	351012	821727	40648	2745	0.4
61011	SC	SPARTANBURG	49	43	50	302	.....	345310	814916	16653	1264	4.1
61012	SC	SUMTER	27	28	98.4	364	.....	335251	801615	22690	1018	0.4
40902	SC	SUMTER	63	39	500	391	66995	340658	804551	23915	1157	7.1
48659	SD	ABERDEEN	9	9	19.4	427	74475	450632	975330	32920	127	2.8
61064	SD	ABERDEEN	16	17	50	357	74927	452955	974035	21097	80	0
61067	SD	BROOKINGS	8	8	9.16	230	70586	442016	971342	19513	123	4.1
61071	SD	EAGLE BUTTE	13	13	21.9	518	74989	450320	1021540	37160	18	3
41975	SD	FLORENCE	3	3	3.7	241	74334	445753	973450	25730	122	0
28501	SD	HURON	12	12	11.8	217	74456	441139	981905	19995	64	1.5
17686	SD	LEAD	11	10	34.8	576	.....	441936	1035012	43992	162	0
34348	SD	LEAD	5	29	1000	564	74928	441930	1035014	39408	160	1.3
61063	SD	LOWRY	11	11	10.6	317	74386	451634	995903	27187	27	0.7
61062	SD	MARTIN	8	8	12.9	265	74461	432606	1013314	24933	28	0
55375	SD	MITCHELL	5	26	1000	315	.....	434533	982444	31314	100	0
61066	SD	PIERRE	10	10	21.4	488	74447	435755	993556	37734	62	1.3
48660	SD	PIERRE	4	19	1000	378	74929	440307	1000503	35365	51	0
17688	SD	RAPID CITY	3	2	7.1	185	39981	440407	1031503	21008	131	0
41969	SD	RAPID CITY	15	16	150	154	68112	440413	1031501	14080	118	0
34347	SD	RAPID CITY	7	18	946	204	74930	440400	1031501	21030	133	0
81464	SD	RAPID CITY	21	21	50	211	74748	440533	1031453	14030	121	0
61068	SD	RAPID CITY	9	26	76.3	202	74931	440307	1031436	13945	117	0
41964	SD	RELIANCE	6	13	40	318	45870	435757	993611	27299	49	6.6
28521	SD	SIOUX FALLS	17	7	65	126	29257	432920	964540	21044	318	2.5
41983	SD	SIOUX FALLS	11	11	24.1	589	74495	433107	963205	41072	530	2
48658	SD	SIOUX FALLS	13	13	22.7	610	75012	433107	963205	41131	542	6.5
60728	SD	SIOUX FALLS	23	24	50	54	74932	433207	964434	8702	210	0
29121	SD	SIOUX FALLS	36	36	152	209	75051	433019	963419	16927	287	0
55379	SD	SIOUX FALLS	46	47	1000	608	.....	433018	963322	43736	577	0
61072	SD	VERMILLION	2	34	1000	232	74933	430300	964712	23159	447	0
22590	TN	CHATTANOOGA	9	9	10.7	317	74516	350941	851903	21458	1022	4.4
54385	TN	CHATTANOOGA	12	12	20.3	376	74582	350806	851925	25744	1171	1.8
59137	TN	CHATTANOOGA	3	13	34.8	335	39987	350940	851851	22387	1068	3.3
65667	TN	CHATTANOOGA	45	29	200	336	.....	351226	851652	20169	974	1.1
71353	TN	CHATTANOOGA	61	40	127	370	74934	351234	851639	14557	851	0.1
72060	TN	CLEVELAND	53	42	500	333	67273	351234	851639	21132	1017	0.3
69479	TN	COOKEVILLE	22	22	50	425	74600	361026	852037	20631	418	4.5
28468	TN	COOKEVILLE	28	36	733	429	64292	361604	864744	28989	1833	0.5
72971	TN	CROSSVILLE	20	20	189	719	75046	360633	842017	33281	1435	0.8
40761	TN	GREENEVILLE	39	38	1000	795	59933	360124	824256	33197	1840	0.2
60820	TN	HENDERSONVILLE	50	51	264	417	62261	361603	864744	23496	1687	1.5
68519	TN	JACKSON	16	39	392	296	.....	354722	890614	23937	609	0
65204	TN	JACKSON	7	43	920	323	74935	353815	884132	29064	630	0.5
52628	TN	JELLICO	54	23	18	608	29572	361153	841351	18076	1024	0.6
57826	TN	JOHNSON CITY	11	11	23	692	74679	362555	820815	33619	1273	5.9
27504	TN	KINGSPORT	19	19	167	699	75004	362552	820817	19914	813	2.5
83931	TN	KNOXVILLE	.....	7	55	382	66337	360036	835557	27701	1276	2.6
46984	TN	KNOXVILLE	10	10	24.7	530	75019	360013	835635	32961	1395	3.2
18267	TN	KNOXVILLE	15	17	100	551	.....	355944	835723	25539	1228	0.5
71082	TN	KNOXVILLE	6	26	930	529	.....	360013	835635	34112	1440	1.6
35908	TN	KNOXVILLE	8	30	398	551	.....	355944	835723	29936	1352	0.8
19200	TN	KNOXVILLE	43	34	460	529	.....	360013	835634	29596	1344	0.2
7651	TN	LEBANON	66	44	50	161	74936	360913	862246	9894	1179	0
71645	TN	LEXINGTON	11	47	1000	195	74937	354212	883610	20726	465	0
19184	TN	MEMPHIS	5	5	1.46	338	74601	351633	894638	25236	1416	0.3
85102	TN	MEMPHIS	.....	10	3.2	306	74651	350916	894920	18964	1299	0.2
12521	TN	MEMPHIS	13	13	12.9	308	75055	351028	895041	26715	1453	0.6
81692	TN	MEMPHIS	14	14	205	379	74732	352803	901127	19928	1414	0.1
11907	TN	MEMPHIS	24	25	1000	340	.....	351633	894638	32105	1643	1.3
66174	TN	MEMPHIS	3	28	1000	305	74938	351052	894956	30162	1518	0.3
42061	TN	MEMPHIS	10	29	835	320	.....	350916	894920	30623	1534	0
68518	TN	MEMPHIS	30	31	871	340	.....	351633	894638	31598	1615	0.2
21726	TN	MEMPHIS	50	51	1000	298	.....	351241	894854	27410	1452	0.1
11117	TN	MURFREESBORO	39	38	1000	250	32815	360458	862552	20770	1547	0.1
36504	TN	NASHVILLE	5	5	4.28	425	74652	361605	864716	33893	1929	0.1
41398	TN	NASHVILLE	8	8	17.6	411	74578	360250	864949	31980	1855	1.7
41232	TN	NASHVILLE	4	10	39.7	434	74939	360827	865156	37842	2019	0.7
418	TN	NASHVILLE	17	15	1000	411	39931	361550	864739	31670	1874	3
9971	TN	NASHVILLE	30	21	1000	413	39919	361550	864739	31591	1916	0.9
73310	TN	NASHVILLE	58	23	350	367	65623	361550	864739	25202	1708	0.1

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73188	TN	NASHVILLE	2	27	946	411	360250	864949	36057	2007	0.1	
18252	TN	SNEEDVILLE	2	41	445	567	.....	362252	831049	30546	1678	1.1
81750	TN	TAZEWELL	48	48	193	431	74781	361530	833743	16166	1003	0.3
62293	TX	ABILENE	15	15	165	298	74734	321631	993523	18616	214	2.9
59988	TX	ABILENE	32	24	1000	255	.....	321638	993551	27043	267	0
306	TX	ABILENE	9	29	1000	268	.....	321706	994423	27325	239	0
60537	TX	ALVIN	67	36	1000	579	43470	293415	953037	41745	4843	0
40446	TX	AMARILLO	7	7	21.9	518	74462	352229	1015258	39378	350	0
1236	TX	AMARILLO	2	8	5	519	.....	352230	1015256	29273	314	5.6
51466	TX	AMARILLO	10	10	20.8	466	74355	351734	1015042	37002	347	0.1
33722	TX	AMARILLO	14	15	925	464	.....	352033	1014921	40775	356	0.1
8523	TX	AMARILLO	4	19	1000	403	.....	351852	1015047	38007	350	0
68834	TX	ARLINGTON	68	42	1000	368	60704	323525	965823	26621	5223	0.9
35649	TX	AUSTIN	7	7	15.9	384	74653	301836	974733	31188	1835	0
35920	TX	AUSTIN	36	21	700	396	.....	301933	974758	34075	1894	1.9
8564	TX	AUSTIN	18	22	700	358	.....	301919	974812	33104	1897	0.1
35867	TX	AUSTIN	24	33	1000	376	.....	301918	974811	33409	1874	3
33691	TX	AUSTIN	42	43	1000	395	60307	301918	974811	31315	1837	2.1
144	TX	AUSTIN	54	49	500	396	28952	301933	974758	26233	1589	3.2
70492	TX	BAYTOWN	57	41	1000	596	38691	293415	953037	40536	4831	0
10150	TX	BEAUMONT	12	12	12.9	292	75047	301124	935315	27424	707	0
22589	TX	BEAUMONT	6	21	50	254	44573	300824	935844	14995	489	0
12896	TX	BEAUMONT	34	33	500	312	29808	301041	935426	23659	661	0
9754	TX	BELTON	46	46	232	360	74537	305908	973751	22126	1398	5.6
42008	TX	BIG SPRING	4	33	174	83	66027	321655	1012934	10867	96	0
125710	TX	BLANCO	17	18	224	204	75128	294148	983045	16790	1769	0
83715	TX	BORGER	.....	31	700	306	66220	352033	1014920	23168	314	0
12523	TX	BROWNSVILLE	23	24	1000	445	39305	260601	975020	35542	959	0
60384	TX	BRYAN	28	28	50	220	75013	304118	962535	12801	270	0
6669	TX	BRYAN	3	50	1000	477	43579	303316	960151	36945	2953	0
65301	TX	COLLEGE STATION	15	12	3.2	119	74940	303748	962033	13045	278	4.9
58835	TX	CONROE	49	32	1000	555	74342	293415	953037	38783	4814	0
28324	TX	CONROE	55	42	1000	597	43288	293344	953035	39190	4840	0
10188	TX	CORPUS CHRISTI	3	8	160	269	65123	273930	973604	36835	541	0.1
33079	TX	CORPUS CHRISTI	10	10	14.3	287	74423	274650	973803	27676	539	0
25559	TX	CORPUS CHRISTI	6	13	160	291	.....	274428	973608	33940	547	1.3
58408	TX	CORPUS CHRISTI	16	23	200	273	31667	273920	973355	18472	500	0
64877	TX	CORPUS CHRISTI	28	27	1000	287	38420	274227	973759	26335	536	0
82910	TX	CORPUS CHRISTI	38	38	50	280	74770	274522	973625	12804	476	0
72054	TX	DALLAS	8	8	21.5	512	74356	323506	965841	39164	5431	0.5
49324	TX	DALLAS	13	14	475	500	.....	323443	965712	39475	5462	0
22201	TX	DALLAS	33	32	780	537	36873	323235	965732	36512	5404	0
33770	TX	DALLAS	4	35	1000	511	74941	323506	965841	41095	5492	0
17037	TX	DALLAS	27	36	1000	495	29430	323236	965732	37393	5405	0.1
35994	TX	DALLAS	39	40	1000	494	.....	323507	965806	40034	5463	0.1
67910	TX	DALLAS	58	45	1000	494	65026	323236	965732	33987	5352	0
73701	TX	DECATUR	29	30	1000	544	65411	323519	965805	37279	5435	0
55762	TX	DEL RIO	10	28	1000	100	.....	292039	1005139	17248	56	0
49326	TX	DENTON	2	43	1000	494	64993	323235	965732	33538	5346	0
32621	TX	EAGLE PASS	16	18	50	85	36900	284332	1002835	17853	68	0
49832	TX	EL PASO	7	7	38.1	574	74410	314818	1062858	43030	854	0
67760	TX	EL PASO	9	9	24	582	74401	314818	1062857	39562	854	0
19117	TX	EL PASO	13	13	24.4	265	74485	314715	1062847	22908	849	0
33716	TX	EL PASO	14	15	1000	602	68879	314855	1062920	39112	857	0
33764	TX	EL PASO	4	18	1000	475	74942	314746	1062857	35035	851	0
51708	TX	EL PASO	26	25	1000	439	36510	314746	1062857	28858	851	0
10202	TX	EL PASO	38	39	50	557	74943	314855	1062917	18504	851	0
68753	TX	EL PASO	65	51	70	525	29633	314818	1062859	16890	846	0
81445	TX	FARWELL	18	18	50	112	74740	342621	1031222	9122	77	0
29015	TX	FORT WORTH	52	9	6.87	545	75052	323519	965805	25183	5229	1.5
23422	TX	FORT WORTH	11	11	26.3	500	74431	323443	965712	38000	5412	1.3
51517	TX	FORT WORTH	21	18	220	535	19052	323235	965732	28958	5279	0.4
49330	TX	FORT WORTH	5	41	1000	514	74944	323515	965759	40533	5475	0
24316	TX	FREDERICKSBURG	2	5	10.2	413	74707	300813	983635	38961	2966	0
24436	TX	GALVESTON	22	23	247	566	.....	291756	951411	35208	4479	2.3
64984	TX	GALVESTON	47	48	1000	597	43454	293415	953037	39815	4836	0
35841	TX	GARLAND	23	23	186	518	74983	323521	965812	33002	5332	0
42359	TX	GREENVILLE	47	46	600	496	60867	323236	965732	30628	5313	0.1
34457	TX	HARLINGEN	4	31	1000	368	44581	260856	974918	26278	949	0
12913	TX	HARLINGEN	44	34	200	283	65860	261300	974648	18751	925	0
56079	TX	HARLINGEN	60	38	1000	346	46306	260714	974918	25290	944	0
69269	TX	HOUSTON	8	8	8.4	564	74357	293428	952937	33022	4777	0
34529	TX	HOUSTON	11	11	17	570	.....	293340	953004	38950	4822	0.5
35675	TX	HOUSTON	13	13	22.2	588	70860	293427	952937	41752	4829	0.4
51569	TX	HOUSTON	20	19	421	596	33045	293344	953035	36222	4827	0
12895	TX	HOUSTON	14	24	900	579	59136	293415	953037	42319	4848	0
22204	TX	HOUSTON	26	26	234	594	75005	293428	952937	31274	4768	0.1
53117	TX	HOUSTON	2	35	1000	585	.....	293406	952957	45364	4862	0
23394	TX	HOUSTON	39	38	1000	582	33161	293406	952957	35952	4818	0
69531	TX	HOUSTON	61	44	1000	461	68030	293344	953035	32739	4777	0

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60534	TX	IRVING	49	48	225	535	39591	323235	965732	27401	5245	0
55643	TX	JACKSONVILLE	56	22	1000	459	33098	320340	951850	35608	924	0.8
31870	TX	KATY	51	47	1000	597	69142	293415	953037	40037	4838	0
51518	TX	KERRVILLE	35	32	1000	531	46137	293638	985333	33391	1818	0.2
148	TX	KILLEEN	62	13	45	484	.....	304334	975923	41034	1819	1.8
17433	TX	LAKE DALLAS	55	39	57.3	494	74617	323236	965732	18912	5077	0.9
10061	TX	LAREDO	8	8	33.3	285	74387	274021	993951	27256	199	5.9
33078	TX	LAREDO	13	13	3.2	280	74376	273114	993119	17261	194	5.1
51479	TX	LAREDO	27	19	200	49	36711	273004	993037	8202	193	0
35909	TX	LLANO	14	27	660	249	.....	304036	983359	22137	903	9.7
70917	TX	LONGVIEW	51	31	1000	361	29517	321535	945702	29711	821	0.5
83913	TX	LONGVIEW	38	38	191	268	74771	321536	945702	15446	554	0.3
27507	TX	LUBBOCK	11	11	15	232	74358	333232	1015014	24165	371	0.6
53544	TX	LUBBOCK	16	16	50	83	74990	333312	1014913	9323	283	0
40820	TX	LUBBOCK	28	27	1000	253	.....	333057	1015054	26380	374	0
55031	TX	LUBBOCK	34	35	323	603	.....	332412	1020648	38408	404	0
65355	TX	LUBBOCK	5	39	890	143	32592	333455	1015325	14383	340	2
3660	TX	LUBBOCK	13	40	1000	268	74945	333133	1015207	23286	358	0
68541	TX	LUFKIN	9	9	10	204	74363	312509	944803	20490	309	4.7
69692	TX	MCALLEN	48	49	1000	286	39111	260518	980344	23860	956	0
86263	TX	MIDLAND	18	18	240	284	74741	315019	1023159	16457	276	0
35131	TX	MIDLAND	2	26	1000	323	.....	320511	1021710	32226	345	0
55644	TX	NACOGDOCHES	19	18	640	457	.....	315420	950505	35050	829	8.3
6865	TX	ODESSA	7	7	7.53	226	75020	315150	1023441	23101	281	0
42007	TX	ODESSA	9	9	25.7	391	74368	315917	1025241	34523	341	0
12524	TX	ODESSA	24	23	600	333	39998	320551	1021721	26889	324	0
84410	TX	ODESSA	30	30	50	212	74764	320551	1021721	11292	254	0
50044	TX	ODESSA	36	38	500	82	.....	315158	1022248	14075	267	0
53541	TX	ODESSA	42	42	50	142	75023	320254	1021804	9745	254	0
61214	TX	PORT ARTHUR	4	40	1000	360	.....	300920	935910	32745	776	0
62354	TX	RIO GRANDE CITY	40	20	50	113	74946	262547	984925	12057	225	0
53847	TX	ROSENBERG	45	45	356	578	74579	293344	953035	33056	4793	0
31114	TX	SAN ANGELO	8	11	18.8	442	74947	312201	1000248	33312	164	1.5
307	TX	SAN ANGELO	3	16	1000	186	.....	313722	1002614	23191	131	0
58560	TX	SAN ANGELO	6	19	1000	277	74948	313521	1003100	27865	132	0.3
749	TX	SAN ANTONIO	9	9	8.3	259	74347	291938	982117	21643	1787	0.4
53118	TX	SAN ANTONIO	12	12	18.4	427	70242	291611	981531	32962	1888	0.7
27300	TX	SAN ANTONIO	23	16	500	307	45032	291724	981520	24967	1830	0.2
56528	TX	SAN ANTONIO	29	30	1000	441	28869	291728	981612	34435	1982	0
64969	TX	SAN ANTONIO	60	38	1000	414	41078	291738	981530	29713	1891	0.2
26304	TX	SAN ANTONIO	5	39	751	424	74634	291607	981555	34215	1903	0.1
35881	TX	SAN ANTONIO	41	41	416	414	74547	291738	981530	25480	1848	0.2
69618	TX	SAN ANTONIO	4	48	844	451	74680	291610	981555	34527	1894	1.3
35954	TX	SHERMAN	12	12	14.4	543	74439	340158	964800	38337	946	13
77452	TX	SNYDER	17	17	184	138	74359	324652	1005352	8618	45	0
308	TX	SWEETWATER	12	20	561	427	74949	322448	1000625	31596	242	3
10245	TX	TEMPLE	6	9	25	527	41595	311624	971314	34738	1265	6.8
35648	TX	TEXARKANA	6	15	1000	543	.....	325411	940020	46235	1101	0.2
68540	TX	TYLER	7	7	15	302	74360	323223	951312	25525	762	0.4
61173	TX	UVALDE	26	26	235	560	74761	293711	990257	31324	1771	1.6
35846	TX	VICTORIA	19	11	18	290	.....	285042	970733	24235	256	13.4
73101	TX	VICTORIA	25	15	900	312	59285	285042	970733	29932	310	1.8
35903	TX	WACO	10	10	13.8	552	75056	311919	971858	38053	1164	1.1
6673	TX	WACO	34	20	1000	319	43597	311917	972040	27208	690	2.3
9781	TX	WACO	25	26	1000	561	58939	312016	971836	38287	1343	2.2
12522	TX	WACO	44	44	160	552	74667	311852	971937	22371	743	10
43328	TX	WESLACO	5	13	57	445	38452	260602	975021	30650	948	1.5
7675	TX	WICHITA FALLS	18	15	1000	325	39767	341205	984345	24386	379	3
6864	TX	WICHITA FALLS	6	22	1000	311	74950	335404	983221	31667	399	0.1
65370	TX	WICHITA FALLS	3	28	1000	305	.....	335323	983330	30705	388	0
77719	TX	WOLFFORTH	22	22	50	228	74751	333008	1015220	15411	312	0
59494	UT	CEDAR CITY	4	14	1000	819	.....	373229	1130404	45405	141	0
69694	UT	LOGAN	12	12	22.3	690	74725	414703	1121355	32939	792	5.9
77512	UT	OGDEN	24	24	450	1229	59860	403933	1121207	37197	1798	0
69582	UT	OGDEN	9	36	200	1256	38687	403933	1121207	29628	1781	0
1136	UT	OGDEN	30	48	200	1257	41318	403933	1121207	27529	1768	0
84277	UT	PRICE	3	11	51.1	658	74335	394522	1105922	39854	210	0
57884	UT	PROVO	16	29	530	1171	18846	403912	1121206	27532	1785	0
81451	UT	PROVO	32	32	138	812	75067	401645	1115600	17405	1617	0
6823	UT	PROVO	11	44	403	1257	.....	403933	1121207	36321	1791	0
82576	UT	RICHFIELD	.....	19	0.33	441	46081	383804	1120333	4806	22	0
22215	UT	SALT LAKE CITY	13	13	43.4	1234	74476	403932	1121208	38745	1812	0.4
10177	UT	SALT LAKE CITY	20	20	73.3	1171	74746	403912	1121206	24439	1734	0
35823	UT	SALT LAKE CITY	2	34	423	1267	39866	403933	1121207	34886	1796	0
6359	UT	SALT LAKE CITY	5	38	546	1267	19903	403933	1121207	34973	1791	0
68889	UT	SALT LAKE CITY	4	40	476	1256	27794	403933	1121207	33954	1790	0
69396	UT	SALT LAKE CITY	7	42	239	1266	30673	403933	1121207	30198	1785	0
36607	UT	SALT LAKE CITY	14	46	123	1181	75006	403912	1121206	27341	1761	0
35822	UT	ST. GEORGE	12	9	3.2	43	44874	370348	1133423	4214	85	0.4
82585	UT	ST. GEORGE	.....	18	1.62	67	43602	370350	1133420	3637	81	0

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83729	UT	VERNAL	6	16	1000	676	74714	402122	1090841	36214	44	0
69532	VA	ARLINGTON	14	15	900	173	29445	385624	770454	19793	6911	0.2
10897	VA	ASHLAND	65	47	1000	249	28058	374431	771515	20211	1398	0.3
2455	VA	BRISTOL	5	5	6.78	680	74477	362657	820631	44361	1840	0.3
363	VA	CHARLOTTESVILLE	19	19	50	326	74743	375903	782852	14121	381	1.2
70309	VA	CHARLOTTESVILLE	29	32	1000	368	67231	375902	782853	28649	1511	1.8
9990	VA	CHARLOTTESVILLE	41	46	340	332	41219	375859	782902	16356	439	7.4
15507	VA	DANVILLE	24	24	141	332	74560	370210	793230	21206	917	0
9999	VA	FAIRFAX	56	24	50	215	74668	385228	771324	14900	5838	0.1
66378	VA	FRONT ROYAL	42	21	50	400	32594	385736	781952	13538	714	16.9
10019	VA	GOLDVEIN	.....	30	160	229	.....	383743	772621	17545	4650	0.5
37808	VA	GRUNDY	68	49	1000	662	.....	364947	820445	35033	1179	0.8
74167	VA	HAMPTON	13	13	19.1	344	74561	364900	762806	31544	1937	1.1
25932	VA	HAMPTON-NORFOLK	15	16	950	361	33525	364831	763013	33081	2003	0
4688	VA	HARRISONBURG	3	49	65	638	.....	383605	783757	15337	468	1.2
73988	VA	LYNCHBURG	13	13	19.6	568	74507	371854	793806	34556	1169	1.1
24812	VA	LYNCHBURG	21	20	400	500	39495	371914	793758	27157	971	3.5
74091	VA	MANASSAS	66	34	1000	254	72356	385701	770447	10458	3141	34.3
5982	VA	MARION	52	42	100	448	.....	365407	813232	17079	494	1.1
40759	VA	NORFOLK	33	33	905	361	74538	364831	763013	26943	1894	0
47401	VA	NORFOLK	3	40	950	377	.....	364831	763013	33295	2003	0
67077	VA	NORFOLK	49	46	1000	360	19107	364831	763013	27594	1786	0.2
5985	VA	NORTON	47	32	100	591	.....	365353	823721	27184	974	0.1
74416	VA	PETERSBURG	8	22	450	328	.....	373045	773605	28598	1526	0
71127	VA	PORTSMOUTH	10	31	1000	280	.....	364914	763041	28778	1917	0
9762	VA	PORTSMOUTH	27	50	800	264	.....	364843	762745	23806	1762	0
30833	VA	RICHMOND	12	12	5.41	241	74618	373023	773012	21454	1278	2.3
57832	VA	RICHMOND	6	25	410	347	.....	373045	773605	28828	1531	0
412	VA	RICHMOND	35	26	800	328	.....	373045	773605	30742	1594	1.4
9987	VA	RICHMOND	23	42	160	346	.....	373045	773604	22009	1323	2.3
9989	VA	RICHMOND	57	44	100	328	.....	373045	773605	20348	1242	0
5981	VA	ROANOKE	15	3	7.25	618	39733	371146	800917	41928	1430	2.6
24813	VA	ROANOKE	27	17	400	594	29905	371146	800916	28254	1105	5.2
71329	VA	ROANOKE	7	18	605	610	74951	371142	800922	37968	1316	1.3
57840	VA	ROANOKE	10	30	774	610	74952	371202	800855	34047	1227	3.5
70251	VA	ROANOKE	38	36	700	623	27852	371137	800925	28663	1055	1.3
60111	VA	STAUNTON	51	11	3.2	680	31834	380954	791851	19643	552	5.6
82574	VA	VIRGINIA BEACH	21	7	4.86	310	75265	364831	763012	19356	1714	0.1
65387	VA	VIRGINIA BEACH	43	29	1000	241	30040	364914	763041	21875	1737	0
11259	VT	BURLINGTON	22	13	10	852	60531	443133	724858	32376	586	0.4
46728	VT	BURLINGTON	3	22	435	839	75057	443132	724858	41959	619	0.4
69944	VT	BURLINGTON	33	32	200	826	.....	443132	724851	34750	567	0
10132	VT	BURLINGTON	44	43	50	840	74954	443132	724854	25229	485	0.9
73344	VT	HARTFORD	31	25	117	651	43680	432615	722708	21854	616	0.3
69946	VT	RUTLAND	28	9	15	385	67939	433931	730625	21748	544	2.8
69940	VT	ST. JOHNSBURY	20	18	200	592	.....	443416	715339	26170	300	1.2
69943	VT	WINDSOR	41	24	200	693	.....	432614	722707	30196	1185	0.3
56852	WA	BELLEVUE	33	33	179	717	74496	473017	1215806	26632	3571	0.1
4624	WA	BELLEVUE	51	50	240	719	17552	473017	1215804	28362	3664	0
53586	WA	BELLINGHAM	24	19	165	757	43180	484046	1225031	33673	982	7.4
35862	WA	BELLINGHAM	12	35	612	722	74955	484040	1224948	43278	1644	0
62468	WA	CENTRALIA	15	19	43.7	334	.....	463316	1230326	13904	489	22.8
35396	WA	EVERETT	16	31	700	218	44001	473755	1222059	18375	3525	0
2495	WA	KENNEWICK	42	44	160	390	.....	460611	1190754	23073	373	0
56029	WA	PASCO	19	18	50	366	74956	460551	1191130	20149	362	0
71024	WA	PULLMAN	10	10	6.2	408	74411	465143	1171026	25722	259	0
78921	WA	PULLMAN	24	24	1000	569	66879	473444	1171746	32886	657	0
12427	WA	RICHLAND	25	26	200	411	.....	460612	1190749	26245	384	0
71023	WA	RICHLAND	31	38	47.6	361	60199	460612	1190740	11914	290	0
33749	WA	SEATTLE	9	9	7.49	252	74562	473658	1221828	21801	3579	0
69571	WA	SEATTLE	22	25	1000	290	.....	473657	1221826	27243	3646	0
21656	WA	SEATTLE	4	38	1000	247	74957	473755	1222109	22159	3592	0.1
66781	WA	SEATTLE	7	39	1000	230	65845	473801	1222120	19081	3534	0.1
49264	WA	SEATTLE	45	44	240	714	38740	473017	1215806	25492	3632	0
34847	WA	SEATTLE	5	48	960	239	18954	473755	1222059	18736	3562	0
34537	WA	SPOKANE	6	7	45.1	653	74388	473452	1171747	45047	684	0.1
61956	WA	SPOKANE	7	8	21.6	558	.....	473434	1171758	36062	666	0.2
61978	WA	SPOKANE	4	13	23.3	936	.....	475518	1170648	46003	654	0.3
34868	WA	SPOKANE	2	20	893	641	64696	473541	1171753	37651	663	0
58684	WA	SPOKANE	28	28	91.4	601	74486	473444	1171746	26401	586	0
81694	WA	SPOKANE	34	34	104	450	74766	473604	1171753	17181	537	0
35606	WA	SPOKANE	22	36	250	622	64693	473541	1171753	20760	538	0
23428	WA	TACOMA	11	11	12.6	276	74526	473655	1221828	20515	3560	0
33894	WA	TACOMA	13	13	22.7	585	74424	473253	1224822	32350	3783	0
67950	WA	TACOMA	20	14	90	473	39524	473250	1224740	22129	3629	0
62469	WA	TACOMA	28	27	47.2	224	.....	471641	1223042	13991	3136	0
35419	WA	TACOMA	56	42	144	695	.....	473017	1215806	29896	3638	0
35460	WA	VANCOUVER	49	30	741	528	.....	453119	1224453	29877	2443	1.4
84238	WA	WALLA WALLA	9	9	45	432	.....	460558	1190740	38298	459	0.1
2506	WA	YAKIMA	35	14	160	293	.....	463157	1203037	15036	248	0.1

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12395	WA	YAKIMA	23	16	200	266	.....	463159	1203026	14954	247	0
33752	WA	YAKIMA	47	21	50	280	.....	463158	1203033	11735	236	0
56033	WA	YAKIMA	29	33	50	296	74958	463158	1203033	10953	235	0
86496	WI	ANTIGO	.....	46	50	286	38603	450322	892754	11094	243	0.1
361	WI	APPLETON	32	27	50	336	74693	442130	875848	19462	961	0
2709	WI	CHIPPEWA FALLS	48	49	1000	203	.....	445724	914003	20780	395	0
81503	WI	CRANDON	4	12	3.2	119	74710	453423	885257	11762	86	0.4
77789	WI	EAGLE RIVER	34	28	70	144	67695	454630	891455	12379	92	0.2
7893	WI	EAU CLAIRE	13	13	22.9	607	74548	443951	905741	43063	860	1.7
64550	WI	EAU CLAIRE	18	15	200	280	67697	444800	912757	19543	336	0.2
60571	WI	FOND DU LAC	68	44	700	195	66227	432620	883129	18054	2137	0.1
4150	WI	GREEN BAY	11	11	17.2	384	75053	442431	875929	31619	1089	2.6
74417	WI	GREEN BAY	2	23	1000	372	.....	442435	880005	35477	1151	0.7
9635	WI	GREEN BAY	5	39	738	364	74654	442001	875856	27692	1085	1
2708	WI	GREEN BAY	26	41	1000	321	27828	442130	875848	26965	1084	0.8
18798	WI	GREEN BAY	38	42	200	375	.....	442434	880006	25059	1041	0.5
26025	WI	JANESVILLE	57	32	200	387	65253	430303	892913	25102	1265	0.3
37104	WI	KENOSHA	55	40	830	358	43896	430544	875417	26779	2949	0.3
74424	WI	LA CROSSE	8	8	20.3	462	74563	440528	912016	35258	713	2.5
64549	WI	LA CROSSE	19	14	250	327	.....	434823	912202	25195	419	0.8
2710	WI	LA CROSSE	25	17	450	349	29449	434815	912220	25884	487	0.7
18780	WI	LA CROSSE	31	30	308	351	.....	434817	912206	25909	420	0
10221	WI	MADISON	47	11	15	471	30020	430321	893206	28968	1508	6
6870	WI	MADISON	15	19	56	387	.....	430303	892913	21196	1026	3.9
6096	WI	MADISON	21	20	100	453	.....	430321	893206	26579	1250	1.2
64545	WI	MADISON	27	26	400	455	33126	430321	893206	30128	1450	1.3
65143	WI	MADISON	3	50	603	466	.....	430321	893206	32793	1639	2.5
68547	WI	MAYVILLE	52	43	300	186	.....	432611	883134	16768	1878	7.9
18793	WI	MENOMONIE	28	27	291	350	.....	450249	915147	26276	743	13.7
42663	WI	MILWAUKEE	10	8	25	354	67092	430546	875415	29509	3035	1.4
74174	WI	MILWAUKEE	18	18	368	302	74698	430544	875417	22781	2496	3.6
72342	WI	MILWAUKEE	30	22	196	297	42943	430544	875417	19180	2440	1.3
71278	WI	MILWAUKEE	24	25	625	340	41342	430544	875417	26207	2873	1.1
74098	WI	MILWAUKEE	4	28	1000	305	74959	430529	875407	30594	2856	4.5
73107	WI	MILWAUKEE	6	33	1000	305	74960	430524	875347	30009	2916	0.6
65680	WI	MILWAUKEE	12	34	863	263	59757	430642	875542	23265	2660	0
42665	WI	MILWAUKEE	36	35	500	355	66933	430546	875415	25395	2769	0.1
71427	WI	MILWAUKEE	58	46	1000	322	32644	430642	875550	27046	2827	1.9
63046	WI	PARK FALLS	36	36	50	445	74583	455643	901628	22223	139	0
68545	WI	RACINE	49	48	176	303	74961	430515	875401	17104	2279	0.1
49699	WI	RHINELANDER	12	16	538	489	28605	454003	891229	38587	375	0
33658	WI	SUPERIOR	6	19	433	315	.....	464721	920651	45444	386	0
73042	WI	SURING	14	21	450	332	43297	442001	875856	20367	938	0.2
6867	WI	WAUSAU	7	7	16.9	369	74555	445514	894131	31741	531	0.1
64546	WI	WAUSAU	9	9	17	369	75014	445514	894131	31158	526	0.8
73036	WI	WAUSAU	20	24	200	387	.....	445514	894128	27234	487	0.3
86204	WI	WITTENBERG	55	50	160	327	74788	450322	892754	18272	378	1.2
37806	WV	BLUEFIELD	40	40	1000	386	74377	371308	811539	24131	705	1.2
74176	WV	BLUEFIELD	6	46	1000	361	.....	371521	811055	24972	695	0.3
417	WV	CHARLESTON	11	19	475	514	.....	382428	815413	37278	1306	0.6
73189	WV	CHARLESTON	29	39	1000	350	40580	382812	814635	25868	924	2
71280	WV	CHARLESTON	8	41	475	514	.....	382428	815413	33607	1168	3.1
10976	WV	CLARKSBURG	46	10	30	235	44599	391802	802037	22787	589	0.9
71220	WV	CLARKSBURG	12	12	6.55	262	74602	391706	801946	20742	524	1
71680	WV	GRANDVIEW	9	10	2.5	314	74706	375346	805921	16544	435	7.6
23342	WV	HUNTINGTON	13	13	16	396	70338	383021	821233	27898	1025	4.7
36912	WV	HUNTINGTON	3	23	724	402	.....	383036	821310	33731	1182	0.6
71657	WV	HUNTINGTON	33	34	63.1	379	74962	382941	821203	16566	734	1.4
74169	WV	LEWISBURG	59	8	3.68	577	.....	374622	804225	26153	590	1.7
23264	WV	MARTINSBURG	60	12	23	314	.....	392727	780352	24965	2481	6.2
71676	WV	MORGANTOWN	24	33	145	457	74963	394145	794545	20788	1370	0.5
66804	WV	OAK HILL	4	4	2.73	236	75048	375726	810903	20811	580	3
4685	WV	PARKERSBURG	15	49	47.4	193	.....	392059	813356	12809	348	2.1
70592	WV	WESTON	5	5	9.96	253	74344	390429	802528	27488	569	0.4
6869	WV	WHEELING	7	7	15.5	293	74497	400341	804508	25673	2373	0.1
82575	WY	CASPER	6	6	1	536	74715	424426	1062134	20136	70	0
68713	WY	CASPER	13	12	3.2	534	74727	424426	1062134	18050	70	0
63177	WY	CASPER	14	14	53.3	573	74389	424426	1062134	25030	70	0
18286	WY	CASPER	2	17	741	588	.....	424403	1062000	40682	80	0.1
74256	WY	CASPER	20	20	52.4	582	74425	424437	1061831	21652	70	0
18287	WY	CHEYENNE	33	11	16	650	67257	403247	1051150	28369	2763	0
40250	WY	CHEYENNE	27	27	169	232	74478	410255	1045328	13499	438	0
63166	WY	CHEYENNE	5	30	630	189	.....	410601	1050023	18799	415	2.9
1283	WY	JACKSON	2	2	1	293	74378	432742	1104510	17622	31	0
35103	WY	JACKSON	11	11	3.2	327	74724	432742	1104510	10697	22	0
63162	WY	LANDER	5	7	31.7	82	74964	425343	1084334	15754	32	2.8
10036	WY	LANDER	4	8	60	463	74965	423459	1084236	36626	35	0.6
10032	WY	LARAMIE	8	8	3.2	318	74718	411717	1052642	12970	109	0.1
21612	WY	RAWLINS	11	9	3.2	70	74966	414615	1071425	9432	11	0
21613	WY	RIVERTON	10	10	13.9	526	74402	432726	1081202	26119	49	0.2

Facility ID	State	City	NTSC	DTV								
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDDMMSS)	Area (sq km)	Population (thousand)	Percent interference received
63170	WY	ROCK SPRINGS	13	13	14.2	495	74448	412621	1090642	33006	43	0
81191	WY	SHERIDAN	7	7	3.2	349	74717	443720	1070657	12316	28	0
17680	WY	SHERIDAN	12	13	50	372	.....	443720	1070657	32735	52	0
51233	GU	AGANA	8	8	3.2	282	.....	132553	−1444236	.....	.....	.....
25511	GU	AGANA	12	12	38.9	75	.....	132613	−1444817	.....	.....	.....
29232	GU	TAMUNING	14	14	50	1	.....	133009	−1444817	.....	.....	.....
3255	PR	AGUADA	50	50	50	343	74700	181906	671049	13067	853	2.3
71725	PR	AGUADILLA	12	12	7.31	665	74705	180900	665900	35964	1570	1.9
61573	PR	AGUADILLA	44	17	50	372	74920	181906	671042	17140	918	2.5
26602	PR	AGUADILLA	32	34	250	605	.....	180906	665923	35001	1383	7.2
26676	PR	ARECIBO	60	14	50	242	74697	182721	665259	15109	1162	14.4
3001	PR	ARECIBO	54	46	50	600	74610	181406	664536	16621	2420	5.7
4110	PR	BAYAMON	36	30	50	329	74691	181640	660638	14518	2514	0.5
19777	PR	CAGUAS	11	11	3.2	357	74649	181654	660646	16753	2655	0.1
8156	PR	CAGUAS	58	48	50	329	74666	181640	660638	13039	2404	2.3
54443	PR	CAROLINA	52	51	450	585	32803	181644	655112	30994	2770	0.1
73901	PR	FAJARDO	13	13	2.8	863	.....	181836	654741	34770	2702	0.1
2174	PR	FAJARDO	40	16	150	839	58931	181836	654741	30040	2720	3.9
15320	PR	FAJARDO	34	33	50	848	74765	181836	654741	24903	2589	0.2
18410	PR	GUAYAMA	46	45	50	642	74921	181648	655108	23740	2490	0.9
67190	PR	HUMACAO	68	49	50	594	74922	181644	655112	19555	2503	0.7
60357	PR	MAYAGUEZ	16	22	50	338	74738	181851	671124	16336	808	14.3
73336	PR	MAYAGUEZ	22	23	400	693	65201	180900	665900	37898	1376	0.9
64865	PR	MAYAGUEZ	5	29	1000	607	.....	180902	665920	45696	1574	14.2
53863	PR	MAYAGUEZ	3	35	1000	691	74923	180900	665900	45118	1962	0.1
19561	PR	NARANJITO	64	18	50	142	74703	181734	661602	12482	2515	0.1
60341	PR	PONCE	7	7	49	88	74346	180252	663916	19142	1154	0
19776	PR	PONCE	9	9	3.2	825	74569	181009	663436	28603	3473	0
26681	PR	PONCE	14	15	380	839	67269	181010	663436	41328	3364	5.6
58341	PR	PONCE	20	19	700	269	65948	180449	664453	24888	1701	0.1
2175	PR	PONCE	26	25	200	310	41622	180448	664456	19187	1516	0
29000	PR	PONCE	48	47	50	247	74924	180450	664450	11769	1118	0.3
58340	PR	SAN JUAN	24	21	1000	564	.....	181645	655114	44300	3102	0.4
52073	PR	SAN JUAN	4	27	1000	794	.....	180642	660305	53151	3389	0.5
64983	PR	SAN JUAN	2	28	871	861	74925	180654	660310	52474	3313	4
4077	PR	SAN JUAN	30	31	75.9	287	.....	181630	660536	15347	2490	0.6
28954	PR	SAN JUAN	18	32	3.9	290	65128	181630	660536	7747	2088	6.4
53859	PR	SAN JUAN	6	43	791	825	74633	180642	660305	48283	3343	0
58342	PR	SAN SEBASTIAN	38	39	700	627	65242	180900	665900	34738	1692	0
39887	PR	YAUCO	42	41	185	832	.....	181010	663436	39318	3448	0
3113	VI	CHARLOTTE AMALIE	17	17	50	455	75035	182126	645650	24537	104	0.1
83270	VI	CHARLOTTE AMALIE	.....	43	1.4	28	.....	182043	645545	1687	0	0
70287	VI	CHARLOTTE AMALIE	12	44	50	458	64810	182126	645650	18987	14	0.2
84407	VI	CHRISTIANSTED	15	15	50	296	74735	174521	644756	14545	0	0
2370	VI	CHRISTIANSTED	8	20	501	292	74953	174521	644756	17484	7	0
83304	VI	CHRISTIANSTED	39	23	0.85	130	.....	174440	644340	5461	0	0

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Federal Register

Wednesday,
November 15, 2006

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, and 135
Filtered Flight Data; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, and 135

[Docket No. FAA–2006–26135; Notice No. 06–16]

RIN 2120–AI79

Filtered Flight Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to amend the digital flight data recorder (DFDR) regulations by prohibiting the filtering of some original parameter sensor signals. This proposed rule is based on recommendations issued by the National Transportation Safety Board, and is intended to improve the accuracy and quality of the data recorded on DFDRs and used during accident and incident investigations.

DATES: Send your comments on or before February 13, 2007.

ADDRESSES: You may send comments [identified by Docket Number FAA–2006–26135] 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: For technical questions: Timothy W. Shaver, Avionics Systems Branch, Aircraft Certification Service, AIR–130, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–4686; facsimile (202) 385–4651; e-mail *tim.shaver@faa.gov.* For legal questions: Karen L. Petronis, Regulations Division, Office of Chief Council, AGC–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3073; facsimile (202) 267–7971; e-mail *karen.petronis@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 requests under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code.

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.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart III, section 44701. Under that section, the FAA is charged with prescribing regulations providing minimum standards for other practices, methods and procedures necessary for safety in air commerce. This regulation is within the scope of that authority since flight data recorders are the only means available to account for aircraft movement and flight crew actions critical to finding the probable cause of incidents or accidents, including data that could prevent future incidents or accidents.

Background

Statement of the Problem

During several aircraft accident investigations, the National Transportation Safety Board (NTSB or Board) found that some flight data recorder (FDR) systems were filtering flight recorder parameter signals before they were recorded. As a result, the data being recorded did not accurately reflect the aircraft's performance or the movements of the flight control systems prior to and during the accident/incident being investigated. This signal filtering both hampered and delayed the investigations. In addition, the NTSB expended significant resources and time attempting to recreate the performance and movements of the flight control systems of the affected aircraft.

Designers of the information sources that provide input to the DFDR system have their own reasons for filtering data, such as making it more aesthetically appealing for display in the cockpit. During the design of DFDR systems, it appears that convenience and a desire to reduce cost and complexity by eliminating multiple data paths have led to the DFDR recording filtered data rather than raw data from the sensors. The FAA understands that, in some cases, it may have been an error in the choice of data selection sources that resulted in filtered data being recorded. We have no reason to believe that filtering is being used to disguise data that are central to accident/incident investigations.

After its most recent experience with signal filtering, the NTSB issued three recommendations (NTSB Recommendations A–03–48/A–03–49/A–03–50, November 6, 2003). The NTSB recommended that the FAA require all aircraft have installed a DFDR system ''capable of recording values that meet the accuracy requirements through the full dynamic range of each parameter at a frequency sufficient to determine a complete, accurate, and unambiguous time history of parameter activity, with emphasis on capturing each parameter's dynamic motion at the maximum rate possible, including reversals of direction at the maximum rate possible.''

The FAA agrees with these NTSB recommendations and is proposing to prohibit signal filtering for specified recorded parameters.

History

First Encounter With Filtered Data

The NTSB's first encounter with filtered data that impeded an investigation occurred during its investigation of three similar Boeing 767 accidents. Two of these accidents occurred in 1992 and one in 1993 when, during landing, the nose gear contacted the runway with excessive force after normal touchdown on the main landing gear. In each case, the airplane fuselage structure and nose wheel wells were damaged, but there were no injuries or fatalities. During its investigation, the NTSB found that the Engine Instrument Crew Alert System (EICAS) was filtering flight control position data before it was sent to and recorded by the DFDR. A low sample rate (once per second) rendered the filtered data even less usable, making it impossible for the NTSB to determine the pilots' actions with precision.

At the same time the NTSB was investigating these three accidents, it was also investigating several alleged uncommanded rudder movements on Boeing 767s. In these cases, the NTSB found that the EICAS was also filtering rudder position data before being recorded by the DFDRs. An investigation disclosed that the discrepancy between the recorded rudder position and the actual rudder position could be greater than 20 degrees in some dynamic situations.

As a result of these findings, in June 1994 the NTSB recommended that the FAA:

(1) Require design modification to the Boeing 757 [1] and 767 models so that flight control position data sent to the DFDR is accurate and not filtered by the EICAS (NTSB Recommendation A–94–120); and

(2) Review other airplane designs to ensure that flight control position data to the DFDR are accurately recorded and that flight control position data filtered by systems such as EICAS are not substituted for accurate data (NTSB Recommendation A–94–121).

FAA Action: Recommendation A–94–120

The FAA addressed NTSB Recommendation A–94–120 in two ways. First, in 1997, the FAA revised the DFDR regulations to require that certain aircraft be equipped to accommodate additional DFDR parameters (Revisions to Digital Flight Data Recorder Rules; Final Rule (62 FR 38362, July 17, 1997)). The revised DFDR regulations prescribe that up to 88 data parameters be recorded on DFDRs, with the exact number of parameters determined by the date of airplane manufacture. The number of parameters that must be recorded range from 18 for a transport category airplane manufactured on or before October 11, 1991, to 88 for airplanes manufactured after August 19, 2002. The revised rule applies to certain turbine-engine-powered airplanes and rotorcraft having 10 or more passenger seats.

The purpose of the 1997 revision was to provide additional information to enable the investigative authority—the NTSB in the United States—to conduct more thorough investigations of accidents and incidents. Although the 1997 rule language did not specifically prohibit filtering, we believed that the technical accuracy required by the specifications in Appendix M of part 121 would preclude filtering as a design option. In addition, the preamble to the final rule included our reply to an NTSB comment in which we stated that including the ''dynamic condition'' language in Appendix M reflected our position that filtered data was not acceptable.

The FAA further addressed NTSB Recommendation A–94–120 by issuing Advisory Circular (AC) 20–141, Airworthiness and Operational Approval of Flight Data Recorder Systems, on August 4, 1998. This AC provided detailed guidance on recording filtered data. Section 7 of AC 20–141, titled ''Type Certification,'' states:

> ''(1) The applicant must identify any parameters that are filtered before they are recorded. For these parameters, the applicant must show, by test, that there is no significant difference between the recorded parameter data under both static and dynamic conditions.''

Based on the FAA's actions in response to NTSB Recommendation A–

[1] The Boeing 757 was included in the recommendation because it carried the same EICAS system as the 767. The filtering issue was resolved by modifications to the EICAS that were mandated in a rulemaking unrelated to data filtering.

94–120, the NTSB classified NTSB Recommendation A–94–120 ''Closed-Acceptable Action'' on May 11, 2000.

FAA Action: Recommendation A–94–121

In response to NTSB Recommendation A–94–121, the FAA first reviewed the flight control position data sent to the FDR on the McDonnell Douglas MD–80/90 and MD–11 model airplanes. In an August 29, 1994 letter to the NTSB, we indicated that the flight control positions were recorded in accordance with the regulations in effect at the time.

We next reviewed the flight control position data sent to the FDR for aircraft manufactured by Aerospatiale, CASA, Cessna, Grumann, Gulfstream, Israel Aircraft Industries, Lockheed and SAAB. In a November 1996 letter to the NTSB, we indicated that we had concluded that the flight control position data being recorded was accurate. We also indicated our intent to conduct similar reviews for aircraft manufactured by several specified manufacturers.

In May 1997, the NTSB indicated that the language of then-proposed Appendix M to part 121 ''appear(s) to preclude the use of data filters,'' and agreed that ''EICAS-filtered data parameters, would not meet this proposed requirement * * *. The Board supports the FAA's proposal to eliminate filtered FDR data * * *.''

In February 1998, following the issuance of the 1997 regulatory revisions and the publication of AC 20–141, we informed the NTSB that we believed no further reviews of aircraft systems were necessary because the rule would ensure that accurate data were being recorded. The Board left its recommendation classified ''open-acceptable'' pending notification from the FAA on the reviews of other airplane designs.

In April 2000, we informed the NTSB that our review of Embraer and Dassualt (Falcon) aircraft indicated that the data were recorded accurately on these aircraft and representative of control surface positions. We stated that we considered our response to the recommendation complete and that no further action was planned.

In August 2000, the NTSB expressed disappointment that the FAA did not complete a review of all aircraft designs, but stated that it was pleased overall with the FAA's response to NTSB Recommendation A–94–121, and classified it as ''Closed-Acceptable Action.'' [2]

American Airlines Flight 587

On November 12, 2001, American Airlines Flight 587, an Airbus A300–600, crashed shortly after takeoff from John F. Kennedy Airport, Jamaica, New York. Flight 587 experienced an in-flight separation of the vertical fin and rudder assembly. During its investigation, the NTSB discovered a discrepancy between the recorded inputs to the rudder pedal position and the recorded rudder surface movement. The Board sought Airbus's input to explain the apparent discrepancies. Following further analysis, Airbus explained that the system data analog converter (SDAC), which supplies the flight control surface position data, digitized and then filtered the analog signals from the flight control surface position sensors before outputting the signals to the FDR system. Subsequent aircraft performance evaluations conducted independently by the NTSB and Airbus confirmed that the filtered data recorded by the FDR did not reflect an accurate flight control surface position time history during the critical final seconds of Flight 587.

As a result of this discovery, NTSB investigators had to evaluate and validate the filtered flight control surface position data from the Flight 587 FDR against other A300 FDR and flight simulator data before they could analyze the critical performance parameters central to the investigation of the Flight 587 accident. The lack of unfiltered data delayed the analysis of the flight recorder data needed to determine the probable cause of the accident and to quickly identify necessary corrective actions.

NTSB Recommendations A–03–48/49/50

Following its investigation of Flight 587, on November 6, 2003, the NTSB recommended that the FAA:

(1) Require that all newly manufactured transport-category aircraft that are required to carry a flight data recorder be fitted with a flight data recorder system capable of recording values that meet the accuracy requirements through the full dynamic range of each parameter at a frequency sufficient to determine a complete, accurate, and unambiguous time history of parameter activity, with emphasis on capturing each parameter's dynamic motion at the maximum rate possible, including reversals of direction at the maximum rate possible. (NTSB Recommendation A–03–48).

(2) Require that all existing transport aircraft that are required to carry a flight data recorder be retrofitted with a flight data recorder system capable of recording values that meet the accuracy requirements through the full dynamic range of each parameter at a frequency sufficient to determine a complete, accurate, and unambiguous time history of parameter activity, with emphasis on capturing each parameter's dynamic motion at the maximum rate possible, including reversals of direction at the maximum rate expected. (NTSB Recommendation A–03–49).

(3) Require that, within 2 years, all Airbus A300–600/A310 and Boeing 747–400 [3] airplanes and any other aircraft that may be identified as recording filtered data be retrofitted with a flight data recorder system capable of recording values that meet the accuracy requirements through the full dynamic range of each parameter at a frequency sufficient to determine a complete, accurate, and unambiguous time history of parameter activity, with emphasis on capturing each parameter's dynamic motion at the maximum rate possible, including reversals of direction at the maximum rate possible. (NTSB Recommendation A–03–50).

Public Meeting

On July 7, 2004, the FAA hosted a public meeting to discuss NTSB Safety Recommendation A–03–50 and the issue of filtering flight data before it is recorded. The meeting was intended to gather information from industry about current practices of processing data before they are recorded. We specifically sought answers to the following:

- What if any data gets filtered before they are recorded, and how is the filtering accomplished?
- How do individual manufacturers comply with the required ''method for readily retrieving'' the recorded data?
- What equipment and procedures would need to be changed, and the costs involved, if the FAA were to adopt the NTSB recommendation (A–03–50) as written?

Representatives from the NTSB, Airbus, Boeing, the Allied Pilots Association, and the Air Line Pilots Association each made a presentation at the public meeting. During this meeting, Airbus confirmed that data filtering was also occurring on the rudder parameter

[2] In 2002, the FAA did an informal survey of several manufacturers regarding data filtering, but it did not yield any meaningful results.

[3] The Boeing 747–400 was included based on early data from Boeing that the airplane was filtering flight data.

for the A320 model airplane. In its presentation, Boeing noted that its original assessment was incorrect, as subsequent investigation revealed that no flight control parameter data were being filtered before being recorded on Boeing 747–400 aircraft.

Based on information received during the meeting, the FAA determined that the language of the existing regulations governing DFDRs needed to specifically address flight data filtering. While we recognize that some types of filtering are necessary (*e.g.*, dampening noise to obtain a clear signal), data filtering that may obscure raw data to the extent it hampers an NTSB investigation has always been considered unacceptable. Accordingly, we are proposing this rule to amend the DFDR regulations by defining filtering in the regulation and prohibiting signal filtering for certain specified recorded parameters.

Alternatives Considered

Before deciding to promulgate this proposed rule, the FAA considered the following alternatives concerning data filtering:

(1) *Take no action:* In its recommendations following the Boeing 767 and Flight 587 accidents, and again at the 2004 public meeting, the NTSB described in great detail how its investigations were hampered by filtered data. When it finds filtered data, the NTSB must analyze it in an effort to approximate the actual control surface movement (in essence, unfilter the data), such as in the investigation of Flight 587. This processing requires detailed analysis and testing, which are time-consuming, costly, and for which techniques are not always readily available. Even after processing, the results retain a degree of uncertainty, as evidenced in the findings from Flight 587. As a result, the NTSB may be unable to determine the performance or flight control surface movements of an aircraft precisely enough to determine the probable cause of an incident or accident.

If the FAA decided to take no action on this issue, the NTSB would likely continue to encounter filtered data and have difficulty analyzing airplane incident and accident data. Thus, questions would remain over the industry's interpretation of regulatory requirements, thereby allowing filtering to continue or even increase as those interpretations expand. Our conclusion that the recording of unfiltered data is necessary for aircraft incident and accident investigations leads to our rejecting this option.

(2) *Address newly manufactured aircraft only:* A regulatory alternative that is limited to future-manufactured aircraft is always less costly. It would fail, however, to address all of the aircraft in the U.S. airline fleet, and would allow filtering to continue on these airplanes or even increase as a result of future system modifications. Information we have gathered thus far indicates that flight data are being filtered on two models of Airbus aircraft currently in use. Filtering, as it is defined here, may be occurring on other aircraft in the fleet as well, despite the 1997 regulatory revisions. Experience with the Boeing 767 and the Airbus A300 has already demonstrated that filtering has occurred in the existing fleet, causing problems during investigations. Failing to address this problem on in-service aircraft is not an acceptable alternative.

(3) *Enforce the current regulation on operators of individual aircraft that we know filter data before it is recorded:* This option places the burden on the FAA to identify the specific aircraft affected with a problem we presumed was resolved by regulation in 1997, and take action through enforcement channels. It would bring into question each cited operator's interpretation of compliance with the regulation, and do nothing to resolve the issue for all manufacturers and operators. It could lead to selective, inconsistent enforcement and result in inconsistent regulatory compliance. We do not consider this an effective solution to a continuing issue.

Need for Regulatory Action

Our experience with Flight 587 and the NTSB's investigation of the accident all but demand that a more detailed regulatory solution be implemented. Following the loss of Flight 587, the FAA was intent on determining, as quickly as possible, whether there was anything wrong with the airplane that could be prevented from happening on other aircraft of that type. We expected that information needed to make that decision would be immediately available from the flight data recorder.

The initial analysis of Flight 587 DFDR data indicated that the airplane experienced an in-flight separation of the vertical stabilizer and rudder assembly. The first analysis of the *recorded* rudder motion indicated that the failure may have occurred at 1.24 times the prescribed limit load, well below the certification requirement that it be able to withstand 1.50 times the prescribed limit load (§ 25.303). If we had presumed the initial flight recorder information to be correct, we most likely would have taken more dramatic action to ensure the safety of the other A300s still operating, including grounding the rest of the fleet while an investigation into its airworthiness took place.

Once the NTSB discovered the inconsistent data, and learned that the rudder position signal had been filtered for display in the cockpit, however, NTSB staff began work to discern the actual motion of the rudder. The Board compared Flight 587 data with the data recorded by other A300 airplanes, and data from the A300 simulator. The NTSB's eventual conclusion was that Flight 587's vertical stabilizer separated at almost 2 times the prescribed limit load. Although several analyses were performed, including an ''inverse filtering'' exercise with the manufacturer, and the FAA was satisfied with the underlying airworthiness of the A300–600 airplane, the NTSB has never been able to produce conclusive evidence of the actual motion and failure of the airplane's vertical stabilizer and rudder. This is exactly the kind of information we had intended be available under the 1997 requirements for digital flight data recorders.

When the FAA promulgated the 1997 regulatory revision, we had every expectation that the upgrades to the equipment and the more significant requirements for data sampling and accuracy would result in more reliable, usable data. What we have discovered is that some flight data systems are recording data that we know is inaccurate, and therefore not meeting the intent of the 1997 regulations. For these reasons, we have concluded that we must take action to clarify the regulations, specifically that filtering must be addressed as a defined term with a specific prohibition for certain critical parameters of flight data.

General Discussion of the Proposal

Proposed Rule Language

This section describes the rule language that would appear in part 121 and Appendix M. The same language is being proposed for parts 125 and 135 and the associated appendices, though the discussion has been abbreviated to reference only part 121 and Appendix M. We note that the language in part 135 has a more limited scope based on the applicability of portions of § 135.152. We also note that operators of aircraft subject to § 91.1045 may be affected by the changes to the other sections that are referenced in that operating rule.

Section 121.344(n)

Proposed new § 121.344(n) has four parts. Paragraph (n) prohibits filtering of all parameters except those listed in

paragraph (2). Paragraph (n)(1) defines filtering, including what does not constitute filtering. Paragraph (n)(2) lists those parameters that may be filtered. Paragraph (n)(3) presents the compliance times.

Proposed paragraph (n) states that no flight data sensor signal that is required to be recorded may be filtered, except for those parameters listed in proposed paragraph (n)(2). This regulation is designed to be prohibitive for all parameters unless specifically excepted in the regulation.

Proposed paragraph (n)(1) defines a filtered signal as one that is changed in any way, except that filtering does not include analog to digital conversion, reformatting for compatibility with a DFDR format, or elimination of a high frequency component that is outside the bandwidth of the sensor. All signals may, as necessary, receive any of these treatments and not be considered filtered.

Proposed paragraph (n)(2) contains the list of parameters that may be filtered beyond the limits of paragraph (n), as long as the recorded signal still complies with the specifications of the applicable appendix.

Proposed paragraph (n)(3) presents the proposed compliance times. Aircraft that are manufactured up to 18 months after the effective date of the rule have 4 years from the date of the rule to comply. For aircraft manufactured on or after 18 months after the effective date of the rule, compliance is required at manufacture.

This compliance period is designed to permit operators to accomplish any required modifications during a regularly scheduled heavy maintenance visit, reducing potential impact on scheduled operations or additional out-of-service time. The four year compliance time is consistent with FAA actions in previous flight recorder regulations and has been supported by the industry as an adequate time for retrofit and for introducing new system design into aircraft being manufactured.

Our review of the 88 parameters listed in § 121.344(a) resulted in a determination that some parameters are too critical to allow any filtering beyond the allowable stated signal conditioning. Those parameters include flight control surface position, control column position, control forces, and others that reflect sensitive system information.

We are also including discretes in the list of parameters that are not to be filtered. By definition, discretes show something is on or off; we know of no need for these data to be filtered.

The parameters listed in proposed § 121.344(n)(2), the ones that may be filtered, are those from which a loss of raw information would not be critical. We do not, however, encourage the filtering of any original sensor signal, and the recorded signals for the parameters listed in proposed paragraph (n)(2) must continue to meet the range, resolution, rate, and accuracy requirements of the applicable appendices under all conditions. If a parameter proposed for inclusion in proposed paragraph (n)(2) is later found to be inappropriate for filtering because it impedes an investigation, it will be removed from that paragraph.

We request specific comment on the propriety of the items included in proposed paragraph (n)(2). As previously stated, the FAA acknowledges that some conditioning of data is necessary (*e.g.*, dampening noise) and that recognized signal conditioning does not alter, change or manipulate the data in such a way as to affect the accuracy of the data recorded. We request specific comment on any parameter for which commenters have reason to include or exclude from the filtering prohibition.

Additional Language on Dynamic Condition

At the beginning of current Appendix M, the following language appears:

> ''The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to one second.''

When we proposed this language in 1996, the NTSB commented that it thought the FAA needed to include more explanation of what the testing language entailed. We responded that further explanation would appear in the Advisory Circular that was being developed in conjunction with the rule.

More notably, we also included the following in the final rule preamble, in response to the NTSB:

> ''The FAA added the requirement for a dynamic test condition to ensure accurate dynamic recording of aircraft performance. This requirement *was necessary to preclude the presumption that information * * * may be obtained from filtered or modified signals.*''
>
> (62 FR 38371, July 17, 1997, emphasis added)

We maintain that this language should have been sufficient to stop the recording of filtered flight data, even before the advisory circular material was published. Since we are aware of at least one instance in which the meaning of ''dynamic and static conditions'' was not recognized, we are proposing an addition to that language in this rulemaking to further clarify what has been required.

''Static condition'' is generally understood to mean the part being tested is at rest or in a balanced, steady state. The term ''dynamic condition'' causes more debate, however, concerning the rate of change that is required for the test. In the case of control surfaces, for example, we mean the limits of motion and at what rate the surface must be traveling while meeting the operational performance requirements and accuracy required by Appendix M.

While most operators have interpreted the dynamic condition phrase as we do, Flight 587 served as notice that the understanding is not universal. While it appeared that the rudder surface parameter on Flight 587 was recorded correctly and reflected the airplane's movements within operational performance requirements, the final NTSB accident report revealed that the estimated actual surface movement was greater than the recorded movement (from filtered SDAC data) by more than 5 degrees. This margin of difference between actual and recorded rudder movement does not meet the requirement in Appendix M.

To further clarify the regulation regarding test conditions, we are proposing to add a phrase to the Appendix M language to include maximum rate of change. We are also expanding the discussion of dynamic testing in the next version of the advisory circular.

Effect of the Proposed Regulation

There are currently only two known aircraft models in the U.S. fleet that have flight data systems that filter data before they are recorded—the Airbus A300 and A310 series airplanes, and the Airbus A320 ''family'' of airplanes that includes the A318, A319, A320, and A321.

We asked Airbus for proposed solutions for each series of airplanes that would eliminate the filtering of flight data before the data are recorded.

The modification proposed by Airbus for the A300 and A310 airplanes includes a modification of the System Digital Analog Converter (SDAC) and the Symbol Generator Unit (SGU). Simply stated, the modification would change what the digitized signals would be named by the SGU, allowing one set of signals to reach the recorder in an unfiltered state. The modification can be made regardless of how many other changes may have been made to the DFDR systems on these airplanes because it does not include modification of the flight data acquisition unit or the

recorder itself, the equipment most often affected by changes to regulatory requirements or general system upgrades. The FAA's initial reaction to the proposed modification is that it is simple and effective. Our analysis indicates that the modification would cost approximately $16,025 per airplane.

The modification proposed by Airbus for the A320 family of airplanes, however, is neither straightforward nor inexpensive. Instead of a simple change to the SDAC and the SGU, Airbus is incorporating the change for filtering in the Electronic Instrument System (known as EIS2) master change modification. The EIS2 modification is an extensive system modification that includes new software in the SDAC and a complete replacement of the flight deck indication systems, including an upgrade from cathode ray tubes to liquid crystal displays and associated rewiring. This modification is designed to correct a variety of other issues with the existing flight deck instrumentation system on the A320 family of airplanes. Airbus's addition to the existing EIS2 modification will eliminate rudder data filtering by leaving the output data the same and changing the indication system that recognizes it. This differs from the A300/A310 solution, which captures the data before it is filtered and creates a new name for it when it is recorded.

In response to our inquiries why the rudder data filtering issue cannot be addressed alone in a manner similar to the A300/A310, Airbus indicated it would not provide another solution. In addition, Airbus did not break out the cost of the filtering solution from the rest of the EIS2 modification.

The proposed comprehensive EIS2 solution for the A320 family is far more expensive—$800,000 per airplane according to the Airbus service bulletin—than the A300/A310 solution. The FAA does not accept the implication that the only means of correcting the rudder filtering problem on the A320 family is the costly EIS2 modification, and we do not accept the EIS2 modification cost estimate in estimating costs to correct the problem.

In fact, we believe that this rule does not propose any known modification costs for which we have not accounted previously. When we wrote and analyzed the 1997 regulatory changes for flight recorders, we included the cost of equipment needed to meet the requirements of Appendix M (and its equivalent in other operating parts). As stated previously, we understood that compliance with Appendix M essentially eliminated filtering as an option, since filtered data would not meet the considerable technical specifications of the Appendix nor the requirement for dynamic testing. We replied to the NTSB's comment indicating that the inclusion of the dynamic testing requirement was meant to preclude the use of filtered data.

To argue that filtered data is somehow acceptable under Appendix M is to argue that the FAA spent three years and imposed high costs in order to allow inaccurate (and unusable) data to be recorded. While we understand that the language of the 1997 regulation does not specifically define and prohibit filtering, we also know that the regulation had that intent, as was expressed in the preamble, and was written to be as performance-based as possible. We stated the data requirements in Appendix M but did not specify any exact equipment requirements as long as the qualitative data goals were met. We will not now accept an argument that we intended the regulation to permit the recordation of inaccurate or incomplete data, as Flight 587 demonstrated, when the sole purpose of flight recorder data is to collect accurate data to assist investigations of accidents and incidents. The experience of the NTSB and FAA during the investigation of Flight 587 has shown that the regulation needs clarification. But the regulatory goal of the 1997 revision remains unchanged—the recordation of accurate, usable flight data, described in Appendix M, and accounted for in the economic evaluation of the 1997 final rule. Data that do not accurately reflect the movement of an aircraft cannot be said to meet Appendix M or the goal of the flight recorder regulations overall. To the extent work is required to modify aircraft DFDR systems to provide accurate data, the costs of modifications or design changes were already accounted for in the 1997 final rule, even though they may have yet to be accomplished.

There are costs associated with this rule, but they are limited to operators confirming that the DFDR systems on their aircraft do not filter any parameter on the prohibited list. We are not aware of any aircraft that filters the prohibited parameters other than the Airbus airplanes already discussed. The estimated costs for confirming compliance are related to engineering evaluation of the systems installed on various models of airplanes, and are discussed in the regulatory evaluation for this rulemaking. The regulatory evaluation also includes a detailed estimate of the costs to retrofit the Airbus airplanes that we know are filtering the rudder movement data. As stated, we do not consider those to be a cost of this rule, but of ultimate compliance with the 1997 regulations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $128.1 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory

evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined this proposed rule has benefits that justify its costs, and is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866. The rulemaking is also not ''significant'' as defined in DOT's Regulatory Policies and Procedures. The proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities, will not create unnecessary obstacles to international trade and will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the draft regulatory evaluation supporting this NPRM, are summarized below.

Total Costs and Benefits of This Rule

The estimated cost of this proposed rule would be $675,000 ($571,592 in present value terms). This proposed rule would clarify the regulations to define and prohibit data filtering, which would ensure more accurate data for accident investigations. More detailed benefits and cost information will be provided below. The FAA seeks comments on these estimates.

Who Is Potentially Affected by This Rule

This proposed rule would affect all part 121 and part 125 aircraft, and would also affect those part 135 aircraft having 10–30 passenger seats that are manufactured after August 2000 (in accordance with 14 CFR 135.152 (i) and (j)). Operators subject to § 91.1045 may be affected if their aircraft are subject to one of the listed requirements.

Assumptions

- Discount rate—7%. Sensitivity analysis was performed on 3% and 7%.
- Period of Analysis—2007 through 2010.
- Burdened labor rate for engineers and quality professionals—$75/hour.
- Final rule will become effective 4 years after publication.

Benefits of This Rule

In 1994, the National Transportation Safety Board (NTSB) recommended a review of airplane designs to ensure flight control data to the DFDR are accurate and that filtered data are not substituted for accurate data. Beginning in 1994, the FAA conducted a review of several different aircraft and did not discover any filtered data being sent to the DFDR. In 1997, the Revisions to Digital Flight Data Recorder Regulations was published. Based on these FAA actions, NTSB classified that recommendation as ''Closed—Acceptable Action.'' Although the 1997 revision did not specifically define and prohibit filtering, the regulation had that intent as was expressed in the final rule preamble. The American Airlines Flight 587 accident involving an Airbus A300–600 demonstrated that this problem of filtered data still existed, and hampered the investigation. Filtered data has slowed and reduced the certainty of the Airbus A300–600 accident investigation. Unfortunately, some data filtering continues and has obscured key causal factors of an accident. (The FAA intends with this rule to specifically define and prohibit filtered data for NTSB accident investigations.)

Costs of This Rule

The costs of the proposed rule from 2007 through 2010 would be $571,592 in present value terms. Refer to the tables below for a more detailed breakdown of the costs. The FAA requests comments on the costs.

Relevant US fleet category	# Aircraft	Cost
Part 121	6,573	$492,975
Part 125	628	47,100
Part 135 (overestimate)	1,799	134,925
Total affected aircraft (overestimate)	9,000	675,000

Sources: ACAS database by Flight, Federal Aviation Administration.

TOTAL COSTS

(Undiscounted and Discounted)

	2007	2008	2009	2010	Total
Number of Planes	2,250	2,250	2,250	2,250	9,000
Undiscounted Costs	168,750	168,750	168,750	168,750	675,000
Costs Discounted at 7%	157,710	147,393	137,750	128,739	571,592
Costs Discounted at 3%	163,835	159,063	154,430	149,932	627,260

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to consider flexible regulatory proposals, to explain the rationale for their actions, and to solicit comments. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposal would not have a significant impact on a substantial number of entities for the following reason: the individual airplane cost of $75 would not represent a significant economic burden on airplane operators. Therefore, the FAA certifies that this proposal would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this finding.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would respond to a domestic safety objective and would not be considered an unnecessary barrier to trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312f, and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Parts 121, 125, and 135

Air carriers, Aircraft, Aviation safety, Safety, Transportation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 121 of Chapter I of Title 14, Code of Federal Regulations as follows:

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, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

2. Amend § 121.344 by adding a new paragraph (n) to read as follows:

§ 121.344 Digital flight data recorders for transport category airplanes.

* * * * *

(n) For any parameter required by this section to be recorded, no flight data sensor signal may be filtered, except as provided in paragraph (n)(2) of this section.

(1) A signal is filtered when an original sensor signal has been changed in any way, other than changes necessary to:

(i) Accomplish analog to digital conversion of the signal;

(ii) reformat a digital signal into a DFDR-compatible format; or

(iii) eliminate a high frequency component of a signal that is outside the operational bandwidth of the sensor.

(2) The original sensor signals for the following parameters described in paragraph (a) of this section may be filtered, provided that each recorded signal continues to meet the requirements of Appendix M of this part: 1–7, 9, 11, 18, 20, 21, 24, 26–28, 32, 34, 37–39, 43, 45–54, 58, 59, 68, 70, 73, 77, and 82–85.

(3) Compliance with this paragraph is required as follows:

(i) For aircraft manufactured before [date 18 months from effective date of the final rule], compliance is required by [date 4 years from effective date of the final rule].

(ii) For aircraft manufactured on and after [date 18 months from effective date of the final rule], compliance is required at manufacture.

3. Amend § 121.344a by adding a new paragraph (g) to read as follows:

§ 121.344a Digital flight data recorders for 10–19 seat airplanes.

* * * * *

(g) Compliance with the requirements of § 121.344(n) of this part is required for all airplanes covered by this section.

4. Amend appendix M to part 121 by revising the introductory text immediately following the appendix title to read as follows:

Appendix M to Part 121—Airplane Flight Recorder Specifications

The recorded values must meet the designated range, resolution and accuracy requirements during static and dynamic conditions. Dynamic condition means the parameter is experiencing change at the maximum rate available, including the maximum rate of reversal. All data recorded must be correlated in time to within one second.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

6. Amend § 125.226 to add a new paragraph (m) to read as follows:

§ 125.226 Digital flight data recorders.

* * * * *

(m) For any parameter required by this section to be recorded, no flight data sensor signal may be filtered, except as provided in paragraph (m)(2) of this section.

(1) A signal is filtered when an original sensor signal has been changed in any way, other than changes necessary to:

(i) Accomplish analog to digital conversion of the signal;

(ii) reformat a digital signal into a DFDR-compatible format; or

(iii) eliminate a high frequency component of a signal that is outside the operational bandwidth of the sensor.

(2) The original sensor signals for the following parameters described in paragraph (a) of this section may be filtered, provided that each recorded signal continues to meet the requirements of Appendix E of this part: 1–7, 9, 11, 18, 20, 21, 24, 26–28, 32, 34, 37–39, 43, 45–54, 58, 59, 68, 70, 73, 77, and 82–85.

(3) Compliance with this paragraph is required as follows:

(i) For aircraft manufactured before [date 18 months from effective date of the final rule], compliance is required by [date 4 years from effective date of the final rule].

(ii) For aircraft manufactured on and after [date 18 months from effective date of the final rule], compliance is required at manufacture.

7. Amend appendix E to part 125 by revising the introductory text immediately following the appendix title to read as follows:

Appendix E to Part 125—Airplane Flight Recorder Specifications

The recorded values must meet the designated range, resolution and accuracy requirements during static and dynamic conditions. Dynamic condition means the parameter is experiencing change at the maximum rate available, including the maximum rate of reversal. All data recorded must be correlated in time to within one second.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

8. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

9. Amend § 135.152 by adding a new paragraph (l) to read as follows:

§ 135.152 Flight recorders.

* * * * *

(l) For aircraft subject to paragraph (i) or (j) of this section:

(1) For any parameter required by this section to be recorded, no flight data sensor signal may be filtered, except as provided by paragraph (l)(3) of this section.

(2) A signal is filtered when an original sensor signal has been changed in any way, other than changes necessary to:

(i) Accomplish analog to digital conversion of the signal;

(ii) reformat a digital signal into a DFDR-compatible format; or

(iii) eliminate a high frequency component of a signal that is outside the operational bandwidth of the sensor.

(3) The following original sensor signals for the parameters described in paragraph (h) of this section may be filtered, provided that each recorded signal continues to meet the requirements of Appendix F of this part: 1–7, 9, 11, 18, 20, 21, 24, 26–28, 32, 34, 37–39, 43, 45–54, 58, 59, 68, 70, 73, 77, and 82–85.

(4) Compliance with this section is required as follows:

(i) For aircraft manufactured before [date 18 months from effective date of the final rule], compliance is required by [date 4 years from effective date of the final rule].

(ii) For aircraft manufactured on and after [date 18 months from effective], compliance is required at manufacture.

10. Amend appendix F to part 135 by revising the introductory text immediately following the appendix title to read as follows:

Appendix F to Part 135—Airplane Flight Recorder Specifications

The recorded values must meet the designated range, resolution and accuracy requirements during static and dynamic conditions. Dynamic condition means the parameter is experiencing change at the maximum rate available, including the maximum rate of reversal. All data recorded must be correlated in time to within one second.

* * * * *

Issued in Washington, DC, on November 1, 2006.

Dorenda D. Baker,

Acting Director, Aircraft Certification Service.

[FR Doc. E6–19205 Filed 11–14–06; 8:45 am]

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