AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

12–4–06 Monday
Vol. 71 No. 232 Dec. 4, 2006

Pages 70275–70456

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, December 12, 2006
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 71, No. 232

Monday, December 4, 2006

Agriculture Department
See Animal and Plant Health Inspection Service
See Rural Utilities Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70360

Animal and Plant Health Inspection Service
PROPOSED RULES
Plant-related quarantine, foreign:
Unshu oranges from Korea, 70330–70335
NOTICES
Environmental statements; availability, etc.:
Nonregulated status determinations—
Bayer CropScience; rice genetically engineered for glufosinate herbicide tolerance, 70360–70362

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70394–70396

Centers for Medicare & Medicaid Services
NOTICES
Privacy Act; systems of records, 70396–70407

Children and Families Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70407–70409

Coast Guard
RULES
Drawbridge operations:
Supplemental changes and clarifications; amendment, 70305–70312

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Copyright Office, Library of Congress
NOTICES
Meetings:
Section 108 Study Group; public roundtables, 70434–70440

Defense Department
See Navy Department

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70368–70369
Grants and cooperative agreements; availability, etc.:
Safe and drug-free schools program—
Discretionary grant programs; eligibility requirements, 70369–70371

Employee Benefits Security Administration
NOTICES
Employee Retirement Income Security Act:
Individual retirement and similar plans; prohibited transaction exemption for provision of investment advice, 70427–70429
Participants in individual account plans; prohibited transaction exemption for provision of investment advice, 70429–70431

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Reports and guidance documents; availability, etc.:
Western Greenbrier co-production demonstration project, WV, 70371–70372

Energy Efficiency and Renewable Energy Office
RULES
Consumer products; energy conservation program:
Energy conservation standards—
New Federal commercial and multi-family high rise buildings and new Federal low-rise residential buildings, 70275–70284

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Missouri, 70312–70318
Superfund program:
National oil and hazardous substances contingency plan priorities list, 70318–70319
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Missouri, 70338–70339
NOTICES
Reports and guidance documents; availability, etc.:
New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, and Stratospheric Ozone Protection Program; standards of performance, 70383–70392

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Air Tractor, Inc., 70286–70294
International Aero Engines AG, 70294–70297
Pratt & Whitney Canada, 70284–70286
PZL Bielsko, 70300–70302
Raytheon Aircraft Co., 70297–70300
Class E airspace, 70302

Federal Deposit Insurance Corporation
PROPOSED RULES
Preserving Independence of Financial Institution Examinations Act of 2003; implementation:
Supplemental standards of ethical conduct for employees, 70325–70330

Federal Emergency Management Agency
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70416–70417

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation combined filings, 70375–70376
Environmental statements; availability, etc.:
Gulf LNG Energy, LLC, 70376
Hydroelectric applications, 70376–70379
Applications, hearings, determinations, etc.:
Brazos Electric Power Cooperative, Inc., 70372
Dauphin Island Gathering Partners, 70372–70373
East Tennessee Natural Gas, LLC, 70373
Enbridge Pipelines (Alabama Intrastate), L.L.C., 70374
Horizon Power and Light, LLC, 70374
Tennessee Gas Pipeline Co., 70374–70375

Federal Reserve System
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70392–70393
Banks and bank holding companies:
Change in bank control, 70393
Formations, acquisitions, and mergers, 70393
Permissible nonbanking activities, 70393–70394

Federal Transit Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Over-the-Road Bus Accessibility Program, 70447–70449
Public transportation projects; claims limitation, 70449–70450

Fish and Wildlife Service
NOTICES
Comprehensive conservation plans; availability, etc.:
Okefenokee National Wildlife Refuge, FL, 70421–70422

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Florfenicol, 70304–70305
Sulfamethazine soluble powder, 70302–70304
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70409–70412
Animal drugs, feeds, and related products:
Pyrantel pamoate; suspension, 70412–70413

Foreign Claims Settlement Commission
NOTICES
Privacy Act; systems of records, 70426–70427

General Services Administration
NOTICES
Federal travel:
Per diem—
Various States; maximum rates, 70394

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Organization, functions, and authority delegations:
Primary Health Care Bureau; correction, 70452

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
NOTICES
Meetings:
National Security Telecommunications Advisory Committee, 70413
Privacy Act; systems of records, 70413–70416

Housing and Urban Development Department
NOTICES
Grant and cooperative agreement awards:
Section 811 Supportive Housing For Persons With Disabilities Program (FY 2006), 70417–70421

Indian Affairs Bureau
PROPOSED RULES
Economic enterprises:
Gaming on trust lands acquired after October 1988; determination procedures
Correction, 70335

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service

Internal Revenue Service
PROPOSED RULES
Procedure and administration:
Reportable transactions; disclosure by material advisors; American Jobs Creation Act modifications
Correction, 70335–70336

International Trade Administration
NOTICES
Antidumping:
Frozen warmwater shrimp from—
China, 70362–70363
Individually quick frozen red raspberries from—
Chile, 70363
Stainless steel bar from—
Germany, 70363–70364
Countervailing duties:
Polyethylene terephthalate film from—
India, 70364
Reports and guidance documents; availability, etc.:
Textile and apparel products from Vietnam; import monitoring program; comment request, 70364–70366

Justice Department
See Foreign Claims Settlement Commission

Labor Department
See Employee Benefits Security Administration

See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Montana, 70422
Environmental statements; notice of intent:
National Petroleum Reserve, AK; integrated activity plan for northeastern portion, 70422–70423
Meetings:
Resource Advisory Councils—
Mojave-Southern Great Basin, 70423
Public land orders:
Minnesota, 70423–70424

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70424–70426

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands groundfish; Greenland turbot, 70323–70324
Marine mammals:
Incidental taking—
Atlantic Large Whale Take Reduction Plan, 70319–70323
PROPOSED RULES
Marine mammals:
Commercial fisheries authorizations—
Fisheries categorized according to frequency of incidental takes; 2007 list, 70339–70359
NOTICES
Endangered and threatened species:
Anadromous fish take—
Hagar Environmental Sciences; Central California Coast coho salmon and Central and South-Central California Coast steelhead, 70367
University of California at Santa Barbara; Southern California Coast steelhead, 70366–70367
Scientific research permit applications, determinations, etc., 70367–70368

National Park Service
NOTICES
National Park System:
Voyageurs National Park, MN; recreation fee area, 70426

National Transportation Safety Board
NOTICES
Senior Executive Service Performance Review Board; membership, 70440

Navy Department
NOTICES
Meetings:
Naval Academy, Board of Visitors, 70368

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 70440–70441
Reports and guidance documents; availability, etc.:
Fuel cycle licensees; Integrated Safety Analysis summary submission requirement; maximum 40-year licensing term, 70441

Occupational Safety and Health Administration
NOTICES
Nationally recognized testing laboratories, etc.:
NSF International, 70431–70433
TUV Rheinland of North America, Inc., 70433–70434

Personnel Management Office
NOTICES
Federal antidiscrimination, whistleblower protection, and retaliation laws; No FEAR Act notice, 70441–70442

Presidential Documents
PROCLAMATIONS
Special observances:
World Aids Day (Proc. 8087), 70453–70456

Rural Utilities Service
RULES
Seismic safety, 70275

Saint Lawrence Seaway Development Corporation
PROPOSED RULES
Seaway regulations and rules:
Miscellaneous amendments, 70336–70338

Securities and Exchange Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70442–70445

Small Business Administration
NOTICES
Disaster loan areas:
Louisiana, 70445–70446
Mississippi, 70446
Washington, 70446

State Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 70446–70447

Surface Transportation Board
NOTICES
Railroad services abandonment:
Union Pacific Railroad Co., 70450–70451

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
See Saint Lawrence Seaway Development Corporation
See Surface Transportation Board

Treasury Department
See Internal Revenue Service

Western Area Power Administration
NOTICES
Power rates:
Parker-Davis Project, 70380–70383

Separate Parts In This Issue

Part II
Executive Office of the President, Presidential Documents, 70453–70456

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

8087 70455

5 CFR

Proposed Rules:

3201 70325

7 CFR

1792 70275

Proposed Rules:

319 70330

10 CFR

433 70275
434 70275
435 70275

14 CFR

39 (5 documents) 70284, 70286, 70294, 70297, 70300
71 (2 documents) 70302

21 CFR

520 70304
558 70335

25 CFR

Proposed Rules:

292 70335

26 CFR

Proposed Rules:

301 70335

33 CFR

117 70305

Proposed Rules:

401 70336

40 CFR

52 (2 documents) 70312, 70315
300 70318

Proposed Rules:

52 (2 documents) 70338, 70339

50 CFR

229 (2 documents) 70319, 70321
679 70323

Proposed Rules:

229 70339

Rules and Regulations

Federal Register
Vol. 71, No. 232
Monday, December 4, 2006

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

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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1792

RIN 0572–AC01

Seismic Safety

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of confirmation of direct final rule.

SUMMARY: The Rural Utilities Service, an agency which administers the U.S. Department of Agriculture's Rural Development Utilities Programs (hereinafter ''USDA Rural Development'' or the ''Agency,'') gives notice that no adverse comments were received regarding the direct final rule amending its regulations to update the seismic safety requirements of the Agency, and confirms the effective date of the direct final rule.

DATES: The direct final rule published in the **Federal Register** on October 16, 2006 (71 FR 60657), and will be effective on November 30, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Heald, Structural Engineer, Transmission Branch, Electric Staff Division, USDA Rural Development, 1400 Independence Avenue, SW., STOP 1569, Washington, DC 20250–1569. Telephone: (202) 720–9102. Fax: (202) 720–7491.

SUPPLEMENTARY INFORMATION:

Background

In the mid eighties, the Federal Emergency Management Agency (FEMA) contracted the Building Seismic Safety Council (BSSC) to develop the National Earthquake Hazards Reduction Program (NEHRP) Provisions for new buildings. One of the primary goals of the program is to reduce or mitigate losses from earthquakes. The NEHRP *Recommended Provisions for Seismic Regulations for New Buildings and Other Structures* are recommended provisions that have been adopted in recent times by model codes and standards. The first edition of the NEHRP Provisions was dated 1985. The document is updated on a 3-year cycle. The 2000 edition of the NEHRP provisions is the fifth update of the document.

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that all new federally owned, leased, assisted, and other regulated buildings be designed and constructed in accordance with the appropriate seismic standards. The Interagency Committee on Seismic Safety in Construction (ICSSC) has recommended the use of building codes which are substantially equivalent to the *2000 National Earthquake Hazards Reduction Program Provisions for the Development of Seismic Regulations for New Buildings* (commonly called the NEHRP Provisions).

The National Institute of Standards and Technology (NTIS) had previously contracted to evaluate the equivalency of the latest edition of the NEHRP Provisions available at the time and the latest editions of national building codes and standards. The four previous comparisons involved the *BOCA National Building Code* (BOCA/NBC), the *Standard Building Code* (SBC), the *Uniform Building Code* (UBC), ASCE 7, *Minimum Design Loads for Buildings and Other Structures* (ASCE 7) and CABO *One- and Two-family Dwelling Code* (OTFDC), the *International Building Code* (IBC), and the *International Residential Code* (IRC).

NTIS contracted to determine whether or not the seismic and material design provisions of the *International Building Code* (IBC), 2003 edition; the *NFPA 5000 Building Construction and Safety Code*, 2003 edition; the *International Residential Code for One- and Two-Family Dwellings*, 2003 edition, and ASCE 7–02, *Minimum Design Loads for Buildings and Other Structures*, are substantially equivalent to, or exceed, the 2000 NEHRP Provisions.

For purposes of USDA Rural Development, the following documents have been found to be substantially equivalent to the 2000 NEHRP: *International Building Code* (IBC), 2003 edition; the *NFPA 5000 Building Construction and Safety Code*, 2003 edition, and ASCE 7–02, *Minimum Design Loads for Buildings and Other Structures.* Although these documents were found to be equivalent in intent and equivalent in design values, there were some exceptions within each document. Because of the structure of our agency requirements, it is recommended that the above documents be accepted as substantially equivalent.

Confirmation of Effective Date

This is to confirm the effective date of November 30, 2006, for the direct final rule 7 CFR 1792, Seismic Safety, published in the **Federal Register** on October 16, 2006.

Dated: November 28, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E6–20482 Filed 12–1–06; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Parts 433, 434, and 435

[Docket No. EE–RM/STD–02–112]

RIN 1904–AB13

Energy Conservation Standards for New Federal Commercial and Multi-Family High-Rise Residential Buildings and New Federal Low-Rise Residential Buildings

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Interim final rule; request for comments.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this interim final rule to implement provisions in the Energy Policy Act of 2005 that require DOE to establish revised energy efficiency performance standards for the construction of all new Federal buildings, including both commercial and multi-family high-rise residential buildings and low-rise residential buildings.

DATES: The amendment made by this interim final rule is effective January 3, 2007. The incorporation by reference of certain publications in the interim final

rule is approved by the Director of the Federal Register as of January 3, 2007.

Comment Date: Comments must be received by DOE no later than February 2, 2007. If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information regulations at 10 CFR 1004.11.

ADDRESSES: You may submit comments, identified by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: cyrus.nasseri@ee.doe.gov.* Include EE–RM/STD–02–112 and/or RIN 1904–AB13 in the subject line of the message.
- *Postal Mail:* Mr. Cyrus Nasseri, U.S. Department of Energy, Federal Energy Management Program, Mailstop EE–2L, Energy Standard for New Federal Commercial and Multi-Family High-Rise Residential Buildings and Energy Standards for New Federal Low-Rise Residential Buildings, EE–RM/STD–02–112 and/or RIN 1904–AB13, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9138. Please submit one signed paper original.
- *Hand Delivery/Courier:* Mr. Cyrus Nasseri, U.S. Department of Energy, Federal Energy Management Program, Room 1M–048, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking.

Docket: For access to the docket to read background documents or comments received by DOE, go to the U.S. Department of Energy, Forrestal Building, Room 1M–048 (Resource Room of the Federal Energy Management Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Mr. Cyrus Nasseri at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Cyrus Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program, EE–2L, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9138, e-mail: *cyrus.nasseri@ee.doe.gov,* or Stephen P. Walder, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program, EE–2L, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9209, e-mail: *stephen.walder@ee.doe.gov,* or Chris Calamita, Esq., U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507, e-mail: *Christopher.Calamita@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In this rule, DOE incorporates by reference into Title 10, Code of Federal Regulations (CFR), Parts 433 and 435, *ANSI/ASHRAE/IESNA Standard 90.1–2004, Energy Standard for Buildings Except Low-Rise Residential Buildings,* January 2004, American Society of Heating Refrigerating and Air-Conditioning Engineers, Inc., ISSN 1041–2336, and *ICC International Energy Conservation Code (IECC), 2004 Supplement Edition,* January 2005, International Code Council, ISBN 7801S04.

You can view copies of these standards in the resource room of the Building Technologies Program, Room IJ–018 at the U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards-Jones at (202) 586–2945 for additional information regarding visiting the resource room.

You can purchase copies of ASHRAE Standard 90.1–2004 from ASHRAE Publication Sales, 1791Tullie Circle, NE, Atlanta, GA 30329, *http://resourcecenter.ashrae.org/store/ashrae/;* and copies of the 2004 International Energy Conservation Code, chapters 1–4 from the International Code Council, Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478–5795, *http://www.iccsafe.org/e/category.html.*

I. Introduction
II. Discussion of Today's Action
III. Section 109 of the Energy Policy Act of 2005 Requirements Not Addressed in Today's Rule
IV. Reference Resources
V. Procedural Requirements
VI. Congressional Notification
VII. Approval of the Office of the Secretary

I. Introduction

Section 305 of the Energy Conservation and Production Act (Pub. L. 94–385, ECPA) was amended by Title I of the Energy Policy Act of 1992 (Pub. L. 102–486). Section 305(a)(1) of ECPA requires DOE to establish building energy efficiency standards for all new Federal buildings. (42 U.S.C. 6834(a)(1).) Section 305(a)(1) requires standards for Federal buildings that contain energy efficiency measures that are technologically feasible and economically justified but, at a minimum, require the subject buildings to meet the energy saving and renewable energy specifications in the applicable voluntary consensus energy code specified in section 305(a)(2). (42 U.S.C. 6834(a)(1) and (2).) Until amended by the Energy Policy Act of 2005 (Pub. L. 109–58), section 305(a)(2) set the minimum or baseline standards as the CABO (Council of American Building Officials) Model Energy Code, 1992 (for residential buildings) and ASHRAE (American Society of Heating, Refrigerating, and Air-Conditioning Engineers) Standard 90.1–1989 (for commercial and multi-family high rise residential buildings). Section 305(a)(2)(C) of ECPA requires that DOE consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate, measures regarding radon and other indoor air pollutants.

Section 306(a)(1) of ECPA provides that each Federal agency must adopt procedures to ensure that new Federal buildings will meet or exceed the Federal building energy efficiency standards established under section 305. (42 U.S.C. 6835(a)(1).) Additionally, section 306(a)(2) extends the requirements for new Federal buildings established under section 305 to buildings under the jurisdiction of the Architect of the Capitol. (42 U.S.C. 6835(a)(2).) Section 306(b) bars the head of a Federal agency from expending Federal funds for the construction of a new Federal building unless the building meets or exceeds the applicable Federal building energy standards established under section 305. (42 U.S.C. 6835(b).)

DOE established Federal building standards under ECPA and initially placed both the commercial and residential standards in Part 435 of Title 10 of the CFR. In a final rule published on October 6, 2000, DOE established new energy efficiency standards for new Federal commercial and multi-family high-rise residential buildings (65 FR 59999). DOE placed the revised Federal commercial and multi-family high-rise

residential building standards in a new 10 CFR Part 434, entitled ''Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings.'' The standards for Federal low-rise residential buildings remain in 10 CFR Part 435.

Section 109 of the Energy Policy Act of 2005 amended section 305 of ECPA. (42 U.S.C. 6835.) Section 109 replaced the minimum standards referenced in section 305(a)(2)(A) with references to updated building codes that are widely used today. For residential buildings, CABO Model Energy Code, 1992, was replaced with the 2004 International Energy Conservation Code (IECC). For commercial and multi-family high rise buildings, ASHRAE Standard 90.1–1989 was replaced with ASHRAE Standard 90.1–2004.

Section 109 of the Energy Policy Act of 2005 also added a new section 305(a)(3)(A) that requires DOE to, by rule, establish revised Federal building energy efficiency performance standards not later than August 8, 2006. (42 U.S.C. 6834(a)(3)(A).) Under the revised standards, new Federal buildings must be designed to achieve energy consumption levels that are at least 30 percent below the updated minimum standards referenced in section 305(a)(2), if life-cycle cost-effective. (42 U.S.C. 6834(a)(3)(A)(i)(I).) Additionally, Federal agencies must apply, if life-cycle cost-effective, sustainable design principles to the siting, design, and construction of all new and replacement buildings. (42 U.S.C. 6834(a)(3)(A)(i)(II).) If water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that such technologies are life-cycle cost-effective. (42 U.S.C. 6834 (a)(3)(A)(ii).)

II. Discussion of Today's Action

DOE is issuing today's action as an interim final rule. Today's final rule deals solely with the energy efficiency of new Federal buildings, which are public property. Matters that relate to public property are excepted from prior notice and comment requirements. (5 U.S.C. 553(a)(2).) Additionally, the explicitness of the direction provided to DOE for this rule in Section 109 of the Energy Policy Act of 2005 supports issuance of an interim final rule, as a matter of policy. The interim final rule incorporates updated versions of ANSI/ASHRAE/IESNA Standard 90.1–2004, and the IECC standard as directed by statute. The interim final rule also establishes a requirement for new Federal buildings to achieve a level of energy efficiency 30 percent greater than that of the ANSI/ASHRAE/IESNA or IECC levels, as appropriate, when life-cycle cost-effective, again as directed by the statute. DOE also decided that the interim final rule approach offered the best opportunity to achieve the goals of Section 109 of the Energy Policy Act of 2005 as soon as possible.

This interim final rule incorporates by reference ANSI/ASHRAE/IESNA Standard 90.1–2004, *Energy Standard for Buildings Except Low-Rise Residential Buildings,* and the 2004 *International Energy Conservation* Code as prescribed by Congress in section 109 of the Energy Policy Act of 2005, into 10 CFR Parts 433 and 435, respectively. Under today's interim final rule, new Federal commercial and multi-family high-rise residential buildings, for which design for construction begins on or after the effective date of today's interim final rule, must be designed to comply with the ASHRAE standard. New Federal low-rise residential buildings, for which design for construction begins on or after the effective date of today's interim final rule, must be designed to comply with the IECC standard.

In addition to complying with the appropriate incorporated standard, a new Federal building must also be designed to achieve an energy consumption level that is at least 30 percent below the level achieved under that standard, if life-cycle cost-effective. Congress expressly specified a minimum performance requirement of a 30 percent improvement, if life-cycle cost effective. Although the statute requires DOE to establish performance standards that are ''at least'' 30 percent below the levels in the incorporated ASHRAE and IECC standards, the standards that DOE establishes today do not require Federal agencies to consider the life-cycle cost effectiveness of improvements beyond the 30 percent level.

It is DOE's view that had Congress sought to require improvements at a maximum level of life-cycle cost effectiveness, it would have mandated designs to achieve that level and would not have specified the 30 percent minimum. Moreover, absent some direction in the statute, DOE is unable to specify in today's rule an energy consumption level that is greater than 30 percent below the levels achieved under the incorporated standards, but less than the maximum level that would be cost effective. However, as indicated by the words ''at least,'' Federal agencies are not precluded from designing buildings to achieve greater improvements, and DOE encourages agencies to design new Federal buildings to achieve lower energy consumption levels if life-cycle cost effective.

Further, the experiences of ASHRAE (with the development of their Advanced Energy Design Guides for small office and small retail buildings) and the New Buildings Institute's (NBI) Advanced Buildings program indicate that a savings 30 percent beyond that achieved through the incorporated standards is achievable in most building types with measures that are relatively ''standard;'' i.e., with measures that are widely available and with which the general industry is familiar. The 30-percent requirement should not necessitate consideration of measures that are limited in availability or with which the general industry is unfamiliar.

If the additional 30 percent savings is not life-cycle cost-effective, an agency must evaluate the cost-effectiveness of alternative designs at successive decrements below 30 percent (e.g., 25 percent, 20 percent, etc.) in order to identify the most energy-efficient design that is life-cycle cost-effective for that building. However, the building must remain compliant with the ANSI/ASHRAE/IESNA Standard 90.1–2004, or IECC standard, as applicable. By requiring consideration of the life-cycle cost effectiveness of improvements if a 30 percent improvement is not life-cycle cost effective, today's final rule ensures that all readily available energy saving measures are considered.

Today's rule also specifies that the methodology defined in 10 CFR part 436, subpart A, be used to establish the life-cycle cost-effectiveness of design measures used to achieve energy consumption levels below the criteria found in the minimum level standards described above. This is done to be consistent with Executive Order 13123, which requires Federal agencies to use this methodology in the design of new Federal buildings, and to respond to the requirements in the Energy Policy Act of 2005 that requirements of the new standards be life-cycle cost-effective. Federal agencies may choose to use one of four methods listed in 10 CFR part 436 to demonstrate life-cycle cost-effectiveness. These methods include lower life-cycle costs, positive net savings, savings-to-investment ratio that is estimated to be greater than one, and an adjusted internal rate of return that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.''

In applying this methodology to analysis of new Federal buildings, agencies must estimate the life-cycle

costs and energy consumption of the planned building as designed and an otherwise identical building just meeting the minimum criteria set forth in the applicable baseline ASHRAE or IECC standard. The agencies must try to find a design that reduces energy consumption by a total of 30 percent or more without increasing the planned building's expected life-cycle cost. DOE intends to provide additional guidance and tools to assist Federal agencies in meeting these new building design requirements.

Today's rule does not take a prescriptive approach as to how the 30 percent reduction is to be obtained. The baseline standards contain a limited set of mandatory requirements, such as sealing leaks in the building envelope and air duct systems. Beyond this, there are no restrictions on how the Federal agency achieves cost-effective energy savings. DOE believes that Federal agencies should be given the flexibility necessary to determine the most effective ways to achieve energy savings above that of the incorporated standards, rather than relying on prescriptive requirements that may not be appropriate in all cases.

Today's interim final rule is effective beginning 30 days following **Federal Register** publication. All new Federal buildings for which design for construction begins on or after that date must comply with the requirements established in this rule. All new Federal buildings for which design for construction has begun prior to that date must comply with the requirements in 10 CFR part 434 or subpart C of part 435, as applicable.

DOE is accepting comments on this interim final rule. The interim final rule will take effect on the date listed above in the **DATES** heading, and will become part of the CFR. Following close of the comment period, DOE will issue a notice of final rulemaking. If no comments are received, the notice of final rulemaking will adopt as final the interim final rule without change. If comments are received, DOE will respond to issues raised by the comments in the notice of final rulemaking, and either adopt as final the interim final rule without change, or adopt the final rule with change in response to comments.

III. Section 109 of the Energy Policy Act of 2005 Requirements Not Addressed in Today's Rule

Today's rule does not address the requirement that, if life-cycle cost-effective for new Federal buildings, agencies must apply sustainable design principles to the siting, design, and construction of all new and replacement buildings. Today's rule also does not address the requirement that ''if water is used to achieve energy efficiency, the revised standards also must require water conservation technologies to be applied to the extent that such technologies are life-cycle cost-effective.'' Finally, today's rule does not consider measures with regard to radon and other indoor air pollutants. (42 U.S.C. 6834 (a)(3)(A)(ii)) The developmental process for addressing these complicated issues will take more time and DOE will issue a rulemaking notice containing provisions on these subjects at a later date. DOE is proceeding with the implementation of only the energy efficiency element from the directives of section 305(a) of the Energy Policy Act of 2005 in this interim final rule so that energy efficiency in Federal buildings can be improved as soon as possible.

IV. Reference Resources

The Department has prepared a list of resources to help Federal agencies achieve building energy efficiency levels of at least 30 percent below that of ASHRAE Standard 90.1–2004 or the 2004 IECC. These resources come in many forms—design guidance, case studies and in a variety of media—in printed document or on Web site. Resources are provided in three categories—for all buildings, specifically for commercial and high-rise multi-family residential buildings, and specifically for low-rise residential buildings.

Resources for All Buildings

Energy Efficient Products—U.S. DOE Federal Energy Management Program and U.S. Environmental Protection Agency (EPA) ENERGY STAR Program

http://www.eere.energy.gov/femp/procurement/ and *http://www.energystar.gov/products*

Federal agencies are required by the Energy Policy Act of 2005 to specify FEMP-designated or ENERGY STAR equipment, including building mechanical and lighting equipment and builder-supplied appliances, for purchase and installation in all new construction. This equipment is generally more efficient than the corresponding requirements of ASHRAE Standard 90.1–2004 and the 2004 IECC, and may be used to achieve part of the savings required of Federal building designs. (Today's rule does not specifically address the use of this equipment, but the Web site is listed for the convenience of the agencies and to point out that this is a very useful resource for achieving part of the energy savings required by the rule.)

Life-Cycle Cost Analysis—U.S. DOE Federal Energy Management Program

http://www.access.gpo.gov/nara/cfr/waisidx_04/10cfr436_04.html

The life-cycle cost analysis rules promulgated in 10 CFR Part 436 Subpart A, *Methodology and Procedures for Life Cycle Cost Analysis,* conform to requirements in the Federal Energy Management Improvement Act of 1988 and subsequent energy conservation legislation, as well as Executive Order 13123, *Greening the Government through Efficient Energy Management.* The life-cycle cost guidance and required discount rates and energy price projections are determined annually by FEMP and the Energy Information Administration, and published in the Annual Supplement to The National Institute of Science and Technology Handbook 135: ''Energy Price Indices and Discount Factors for Life-Cycle Cost Analysis.''

http://www.eere.energy.gov/femp/pdfs/ashb06.pdf. FEMP also provides guidance on the LCC requirements of Executive Order 13123 at

http://www1.eere.energy.gov/femp/program/lifecycle.html and *http://www1.eere.energy.gov/femp/information/download_blcc.html.*

ENERGY STAR Buildings—The U.S. Environmental Protection Agency and U.S. Department of Energy

https://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.homes_guidelns09 (homes) and *https://www.energystar.gov/index.cfm?c=new_bldg_design.bus_target_finder* (non-residential buildings)

ENERGY STAR is a Government-backed program helping businesses and individuals protect the environment through superior energy efficiency. The EPA specifications for ENERGY STAR-labeled homes, effective as of the date of this rule, provide a useful prescriptive guide for meeting the Federal energy efficiency standard for low-rise residential buildings. The benchmarking tool and other information at the ENERGY STAR TargetFinder Web site can be useful in determining an annual energy target for the building design and computer simulations, evaluating cost-effectiveness of efficiency measures, and tracking the building's actual energy performance after construction.

High Performance Buildings—U.S. DOE Building Technologies Program

http://www.eere.energy.gov/buildings/highperformance/

A collection of design approaches, tools, technologies and case studies focused on high performance buildings that achieve savings of 30 percent to 50 percent better than generally accepted good practice.

Building Energy Software Tools—U.S. DOE Building Technologies Program

http://www.eere.energy.gov/buildings/tools_directory/

This directory provides information on building software tools for evaluation energy efficiency, renewable energy, and sustainability in buildings.

Resources for Commercial and High-Rise Multi-Family Residential Buildings

ASHRAE Standard 90.1–2004—ASHRAE

http://www.ashrae.org (search for Standard 90.1–2004) or *http://resourcecenter.ashrae.org/store/ashrae/newstore.cgi?itemid=27679&view=item&page=1&loginid=6683225&words=Standard%2090.1–2004&method=and&*

The Minimum Energy Performance Standard for commercial and high-rise multi-family buildings is ANSI/ASHRAE/IESNA Standard 90.1–2004. This link also contains a link to a read-only version of Standard 90.1–2004.

Whole Building Design Guide—National Institute of Building Sciences

http://www.wbdg.org

A portal providing one-stop access to up-to-date information on a wide range of building-related guidance, criteria and technology from a 'whole buildings' perspective.

Advanced Energy Design Guide—ASHRAE

http://www.ashrae.org (search for Advanced Energy Design Guide) or *http://resourcecenter.ashrae.org/store/ashrae/newstore.cgi?itemid=23307&view=item&page=1&loginid=6683251&words=Advanced%20Energy%20Design%20Guide&method=and&*

A set of design guides for users who wish to go beyond Standard 90.1, targeted at 30 percent better than ASHRAE Standard 90.1–1999 (which translates to about 25 percent better than ASHRAE standard 90.1–2004).

Advanced Buildings™ E-Benchmark™—New Buildings Institute

http://www.poweryourdesign.com

A set of guidelines for the design, construction, and operation of new and renovated nonresidential buildings targeted at 30 percent better than ASHRAE Standard 90.1–1999 (which translates to about 25 percent better than ASHRAE Standard 90.1–2004).

Labs for the 21st Century—U.S. EPA and U.S. DOE

http://www.labs21century.gov/

A Web site focused on improving the energy efficiency and environmental performance of laboratory space. This site includes training and educational resources and design tools focused on laboratories.

Leadership in Energy and Environmental Design (LEED)—U.S. Green Building Council (USGBC)

http://www.usgbc.org/DisplayPage.aspx?CategoryID=19

The LEED Green Building Rating System® is a voluntary, consensus-based national standard for developing high-performance, sustainable buildings. USGBC members, representing every sector of the building industry, developed and continue to refine LEED.

Resources for Low-Rise Residential Buildings

2004 Supplement to the 2003 IECC—ICC

http://www.iccsafe.org (search for 2004 IECC) or *http://www.iccsafe.org/dyn/prod/7801S04.html*

The Minimum Energy Performance Standard for low-rise residential buildings is the International Code Council (ICC) 2004 IECC Supplement.

Residential Energy Services Network (RESNET)

http://www.natresnet.org/programs/software/directory.htm

RESNET is responsible for home energy rating systems used for energy efficient mortgages. RESNET activities include adopting standards that set the national procedures for home energy ratings and procedures for certifying raters. Since the home energy ratings utilize the 2004 IECC as the baseline, RESNET accredited software programs may be appropriate for calculating energy consumption to determine compliance with this rule.

Building America—U.S. Department of Energy

http://www.eere.energy.gov/buildings/building_america/

Building America is a private/public partnership that develops energy solutions for new and existing homes. The Building America project combines the knowledge and resources of industry leaders with DOE's technical capabilities. Together, they act as a catalyst for change in the home-building industry.

Energy & Environmental Building Association (EEBA)

http://www.eeba.org/

EEBA's mission is to provide education and resources to transform the residential design, development and construction industries to profitably deliver energy efficient and environmentally responsible buildings and communities.

The Partnership for Advancing Technology in Housing (PATH)—U.S. Department of Housing and Urban Development

http://www.pathnet.org/sp.asp?mc=about_path

PATH is dedicated to accelerating the development and use of technologies that radically improve the quality, durability, energy efficiency, environmental performance, and affordability of America's housing. PATH is a voluntary partnership between leaders of the homebuilding, product manufacturing, insurance, and financial industries and representatives of Federal agencies concerned with housing.

V. Procedural Requirements

A. Review under Executive Order 12866, ''Regulatory Planning and Review''

Today's interim final rule is a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, today's action was subject to review by the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB). OMB has completed its review.

B. Review under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking,* 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19,

2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. The Department has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.*

Today's rule on energy efficiency performance standards for the design and construction of new Federal buildings is not subject to any legal requirement to publish a general notice of proposed rulemaking. Therefore, the Regulatory Flexibility Act does not apply.

C. Review Under the Paperwork Reduction Act of 1995

This rulemaking will impose no new information or record keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

The Department prepared an Environmental Assessment (EA) (DOE/EA–1463) entitled, Draft Environmental Assessment for Interim Final Rule, 10 CFR Part 433, ''Energy Efficiency Standards for New Federal Commercial and Multi-Family High-Rise Residential Buildings,'' and 10 CFR Part 435, ''Energy Efficiency Standards for New Federal Low-Rise Residential Buildings,'' pursuant to the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500–1508), the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and DOE's NEPA Implementing Procedures (10 CFR Part 1021).

The EA addresses the possible environmental effects attributable to the implementation of the interim final rule. The only impact would be a decrease in outdoor air pollutants resulting from decreased fossil fuel burning for energy use in Federal buildings.

To identify the potential environmental impacts that may result from implementing the interim final rule on new Federal commercial buildings, DOE compared the interim final rule with a ''no-action alternative'' of using the current Federal standards—10 CFR Part 434 and 10 CFR Part 435. DOE also compared the interim final rule to the prevailing national voluntary building energy codes, which also are the minimum requirements for the interim final rule. For commercial and high-rise multi-family residential buildings, the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE)/Illuminating Engineering Society of North America (IESNA) ASHRAE/IESNA Standard 90.1–2004 (ASHRAE 2004) is the minimum requirement for the DOE preferred alternative. For low-rise residential buildings, the International Code Council (ICC) International Energy Conservation Code (IECC) 2004 Supplement Edition (ICC 2004) is the minimum requirement for the DOE preferred alternative. For the purpose of this environmental assessment, DOE also investigated the impact of buildings achieving energy consumption below Standard 90.1–2004 or the 2004 IECC in increments of 10 percent, up to 50 percent.

For low-rise residential buildings, the Federal government is estimated to construct about 2000 housing units annually that would be subject to this rule. Avoided carbon dioxide emissions are estimated at 763 metric tons of carbon in the first year the interim final rule is in effect, if 30 percent savings in energy consumption over the 2004 IECC are achieved. Avoided nitrogen oxide and sulfur dioxide emissions are estimated to be each 4 tons in the first year the rule is in effect.

For commercial and high-rise multi-family residential buildings, the Federal government is estimated to construct 28 million square feet of Federal commercial buildings annually. Federal high-rise residential buildings are rare. Assuming a 30 percent savings in energy consumption over 90.1–2004, avoided carbon dioxide emissions (relative to the existing 10 CFR Part 434) are estimated at 35,800 metric tons of carbon in the first year the interim final rule is in effect, with the savings compounding in future years as more and more Federal construction occurs. Avoided nitrogen oxide emissions are estimated to be 317 tons in the first year the rule is in effect, while the avoided sulfur dioxide emissions are estimated at 625 tons.

Copies of the EA are available for review at *http://www.eere.energy.gov/femp/about/legislation.html*, or by contacting Cyrus Nasseri, Office of Federal Energy Management, Mail Station, EE–2L, 1000 Independence Avenue, 20585–0121, (202) 586–9138. Comments on the EA may be submitted to DOE at this address by the comment date noted above under the **DATES** heading. DOE will consider all comments received before approving or modifying the EA, as appropriate.

E. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. (65 FR 13735). DOE examined this rule and determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct, rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to

review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law; this rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a) and (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*). This interim final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements under the Unfunded Mandates Reform Act do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This interim final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

The Department has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's interim final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This interim final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

VI. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's interim final rule.

List of Subjects in 10 CFR Parts 433, 434, and 435

Buildings, Energy conservation, Engineers, Federal buildings and facilities, Housing, Incorporation by reference.

Issued in Washington, DC, on November 22, 2006.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons set forth in the preamble, DOE amends chapter II of title 10 of the Code of Federal Regulations as set forth below:

■ 1. Part 433 is added to read as follows:

PART 433—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH-RISE RESIDENTIAL BUILDINGS

Sec.

433.1 Purpose and scope.
433.2 Definitions.
433.3 Materials incorporated by reference.
433.4 Energy efficiency performance standard.
433.5 Performance level determination.
433.6 Sustainable principles for siting, design and construction. [Reserved]
433.7 Water used to achieve energy efficiency. [Reserved]
433.8 Life-cycle costing.

Authority: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 7101 *et seq.*

§ 433.1 Purpose and scope.

This part establishes an energy efficiency performance standard for the new Federal commercial and multi-family high-rise buildings, for which design for construction began on or after January 3, 2007, as required by section 305(a) of the Energy Conservation and Production Act, as amended (42 U.S.C. 6834(a)).

§ 433.2 Definitions.

For purposes of this part, the following terms, phrases and words are defined as follows:

ANSI means the American National Standards Institute.

ASHRAE means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

Baseline building means a building that is otherwise identical to the proposed building but is designed to meet but not exceed the energy efficiency specifications of *ANSI/ASHRAE/IESNA Standard 90.1–2004, Energy Standard for Buildings Except Low-Rise Residential Buildings*, January 2004 (incorporated by reference, see § 433.3).

Commercial and multi-family high-rise residential building means all buildings other than low-rise residential buildings.

DOE means the U.S. Department of Energy.

Federal agency means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

IESNA means Illuminating Engineering Society of North America.

Life-cycle cost means the total cost related to energy conservation measures of owning, operating and maintaining a building over its useful life as determined in accordance with 10 CFR part 436.

Life-cycle cost-effective means that the proposed building has a lower life-cycle cost than the life-cycle costs of the baseline building, as described by 10 CFR 436.19, or has a positive estimated net savings, as described by 10 CFR 436.20; or has a savings-to-investment ratio estimated to be greater than one, as described by 10 CFR 436.21; or has an adjusted internal rate of return, as described by 10 CFR 436.22, that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 (Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.''

Low-rise residential building means any building three stories or less in height above grade that includes sleeping accommodations where the occupants are primarily permanent in nature (30 days or more).

New Federal building means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

Proposed building means the building design of a new Federal commercial and multi-family high-rise building proposed for construction.

§ 433.3 Materials incorporated by reference.

(a) *General*. DOE incorporates by reference the energy performance standard listed in paragraph (b) of this section into 10 CFR part 433. The Director of the Federal Register has approved the material listed in paragraph (b) of this section for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to this material by the standard-setting organization will not affect the DOE building energy performance standard unless and until DOE amends its building energy performance standards. DOE incorporates the material as it exists on the date specified in the approval and a notice of any change in the material will be published in the **Federal Register**.

(b) *List of standards incorporated by reference. ANSI/ASHRAE/IESNA Standard 90.1–2004, Energy Standard for Buildings Except Low-Rise Residential Buildings*, January 2004, American Society of Heating Refrigerating and Air-Conditioning Engineers, Inc., ISSN 1041–2336.

(c) *Availability of references*. The building energy performance standard incorporated by reference is available for inspection at:

(1) 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*

(2) U.S. Department of Energy, Forrestal Building, Room 1M–048 (Resource Room of the Federal Energy Management Program), 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9138, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

(d) *Obtaining copies of standards*. The building energy performance standard incorporated by reference may be obtained from the American Society of Heating Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, NE., Atlanta, GA, 30329, *http://resourcecenter.ashrae.org/store/ashrae/*.

§ 433.4 Energy efficiency performance standard.

(a) All Federal agencies shall design new Federal commercial and multi-family high-rise residential buildings, for which design for construction began on or after January 3, 2007, to:

(1) Meet *ANSI/ASHRAE/IESNA Standard 90.1–2004, Energy Standard for Buildings Except Low-Rise Residential Buildings*, January 2004 (incorporated by reference, see 433.3); and

(2) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the baseline building.

(b) Energy consumption for the purposes of calculating the 30 percent savings shall include space heating, space cooling, ventilation, service water heating, lighting and all other energy consuming systems normally specified as part of the building design except for receptacle and process loads.

(c) If a 30 percent reduction is not life-cycle cost-effective, the design of the proposed building shall be modified so as to achieve an energy consumption level at the maximum level of energy efficiency that is life-cycle cost-effective, but at a minimum complies with paragraph (a) of this section.

§ 433.5 Performance level determination.

(a) Each Federal agency shall determine energy consumption levels for both the baseline building and proposed building by using the Performance Rating Method found in Appendix G of *ANSI/ASHRAE/IESNA Standard 90.1–2004, Energy Standard for Buildings Except Low-Rise Residential Buildings*, January 2004 (incorporated by reference, see (433.3), except the formula for calculating the Performance Rating in paragraph G1.2 shall read as follows:

Percentage improvement = 100 x (Baseline building consumption—Proposed building consumption)/(Baseline building consumption—Receptacle and process loads).

(b) Each Federal agency shall consider laboratory fume hoods and kitchen ventilation systems as part of the ASHRAE-covered HVAC loads subject to the 30 percent savings requirements, rather than as process loads.

§ 433.6 Sustainable principles for siting, design and construction. [Reserved]

§ 433.7 Water used to achieve energy efficiency. [Reserved]

§ 433.8 Life-cycle costing.

Each Federal agency shall determine life-cycle cost-effectiveness by using the procedures set out in subpart A of part 436. A Federal agency may choose to use any of four methods, including lower life-cycle costs, positive net savings, savings-to-investment ratio that is estimated to be greater than one, and an adjusted internal rate of return that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.''

PART 434—ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

■ 2. Amend part 434 by revising the part heading to read as set forth above.

■ 3. The authority citation for part 434 continues to read as follows:

Authority: 42 U.S.C. 6831–6832, 6834–6836; 42 U.S.C. 8253–54; 42 U.S.C. 7101, *et seq.*

■ 4. Section 434.100 is revised to read as follows:

§ 434.100 Purpose.

The provisions of this part provide minimum standards for energy efficiency for the design of new Federal commercial and multi-family high rise residential buildings, for which design for construction began before January 3, 2007. The performance standards are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of non-depletable sources of energy. This rule is based upon the ASHRAE/IESNA Standard 90.1–1989 and addenda b, c, d, e, f, g, and i. (This document is available from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle NE, Atlanta, GA.) It is not incorporated by reference in this document, but is mentioned for informational purposes only.

■ 5. In § 434.101, revise paragraph 101.1 to read as follows:

§ 434.100 Scope.

101.1 This part provides design requirements for the building envelope, electrical distribution systems and equipment for electric power, lighting, heating, ventilating, air conditioning, service water heating and energy management. It applies to new Federal multi-family high rise residential buildings and new Federal commercial buildings, for which design for construction began before January 3, 2007.

* * * * *

PART 435—ENERGY EFFICIENCY STANDARDS FOR NEW FEDERAL LOW-RISE RESIDENTIAL BUILDINGS

■ 6. The authority citation for part 435 continues to read as follows:

Authority: 42 U.S.C. 6831–6832, 6834–6835; 42 U.S.C. 8253–54; 42 U.S.C. 7101 *et seq.*

■ 7. Amend part 435 to add Subpart A to read as follows:

Subpart A—Mandatory Energy Efficiency Standards for Federal Low-Rise Residential Buildings.

Sec.

435.1 Purpose and scope.
435.2 Definitions.
435.3 Material incorporated by reference.
435.4 Energy efficiency performance standard.
435.5 Performance level determination.
435.6 Sustainable principles for siting, design and construction. [Reserved]
435.7 Water used to achieve energy efficiency. [Reserved]
435.8 Life-cycle costing.

§ 435.1 Purpose and scope.

This part establishes energy efficiency performance standard for the construction of new Federal low-rise residential buildings as required by section 305(a) of the Energy Conservation and Production Act, as amended (42 U.S.C. 6834(a)).

§ 435.2 Definitions.

For purposes of this part, the following terms, phrases and words shall be defined as follows:

Baseline building means a new Federal low-rise residential building that is otherwise identical to the proposed building but is designed to meet but not exceed the energy efficiency specifications in the *ICC International Energy Conservation Code, 2004 Supplement Edition,* January 2005 (incorporated by reference, see § 435.3).

DOE means U.S. Department of Energy.

Federal agency means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

ICC means International Code Council.

IECC means International Energy Conservation Code.

Life-cycle cost means the total cost related to energy conservation measures of owning, operating and maintaining a building over its useful life as determined in accordance with 10 CFR part 436.

Life-cycle cost-effective means that the proposed building has a lower life-cycle cost than the life-cycle costs of the baseline building, as described by 10 CFR 436.19, or has a positive estimated net savings, as described by 10 CFR 436.20, or has a savings-to-investment ratio estimated to be greater than one, as described by 10 CFR 436.21; or has an adjusted internal rate of return, as described by 10 CFR 436.22, that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.''

Low-rise residential building means any building three stories or less in height above grade that includes sleeping accommodations where the occupants are primarily permanent in nature (30 days or more).

New Federal building means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

Proposed building means the building design of a new Federal low-rise residential building proposed for construction.

§ 435.3 Material incorporated by reference.

(a) *General.* DOE incorporates by reference the energy performance standard listed in paragraph (b) of this section into 10 CFR Part 435 subpart A. The Director of the Federal Register has approved the material listed in paragraph (b) of this section for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Any subsequent amendment to this material by the standard-setting organization will not affect the DOE building energy performance standard unless and until DOE amends its building energy performance standards. DOE incorporates the material as it exists on the date specified in the approval and a notice of any change in the material will be published in the **Federal Register**.

(b) *List of standards incorporated by reference. ICC International Energy Conservation Code (IECC), 2004 Supplement Edition,* January 2005,

International Code Council, ISBN 7801S04.

(c) *Availability of references.* The building energy performance standard incorporated by reference is available for inspection at:

(1) 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*

(2) U.S. Department of Energy, Forrestal Building, Room 1M–048 (Resource Room of the Federal Energy Management Program), 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9138, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

(d) *Obtaining copies of standards.* The building energy performance standard incorporated by reference may be obtained from the following source: the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478–5795, *http://www.iccsafe.org/e/category.html*

§ 435.4 Energy efficiency performance standard.

(a) All Federal agencies shall design new Federal low-rise residential buildings, for which design for construction began on or after January 3, 2007, to:

(1) Meet *ICC International Energy Conservation Code, 2004 Supplement Edition,* January 2005 (incorporated by reference, see § 435.3), and

(2) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the baseline building.

(b) Energy consumption for the purposes of calculating the 30 percent savings shall include space heating, space cooling, and domestic water heating.

(c) If a 30 percent reduction is not life-cycle cost-effective, the design of the proposed building shall be modified so as to achieve an energy consumption level at the maximum level of energy efficiency that is life-cycle cost-effective, but at a minimum complies with paragraph (a) of this section.

§ 435.5 Performance level determination.

Each Federal agency shall determine energy consumption levels for both the baseline building and proposed building by using the Simulated Performance Alternative found in section 404 of the *ICC International Energy Conservation Code, 2004 Supplement Edition,* January 2005 (incorporated by reference, see § 435.3).

§ 435.6 Sustainable principles for siting, design and construction. [Reserved]

§ 435.7 Water used to achieve energy efficiency. [Reserved]

§ 435.8 Life-cycle costing.

Each Federal agency shall determine life-cycle cost-effectiveness by using the procedures set out in subpart A of 10 CFR part 436. A Federal agency may choose to use any of four methods, including lower life-cycle costs, positive net savings, savings-to-investment ratio that is estimated to be greater than one, and an adjusted internal rate of return that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.''

Subpart C—Mandatory Energy Efficiency Standards for Federal Residential Buildings.

■ 8. Amend part 435 to revise the heading of Subpart C to read as set forth above.

■ 9. Amend § 435.300 to revise paragraphs (b) and (c) to read as follows:

§ 435.300 Purpose.

* * * * *

(b) Voluntary energy conservation performance standards prescribed under this subpart shall be developed solely as guidelines for the purpose of providing technical assistance for the design of energy conserving buildings, and shall be mandatory only for the Federal buildings for which design for construction began before January 3, 2007.

(c) The energy conservation performance standards will direct Federal policies and practices to ensure that cost-effective energy conservation features will be incorporated into the designs of all new Federal residential buildings for which design for construction began January 3, 2007.

■ 10. Amend § 435.301 to revise paragraph (a) to read as follows:

§ 435.301 Scope.

(a) The energy conservation performance standards in this subpart will apply to all Federal residential buildings for which design of construction began before January 3, 2007 except multifamily buildings more than three stories above grade.

* * * * *

■ 11. Amend § 435.303 to revise the section heading and paragraphs (a) and (b) to read as follows:

§ 435.303 Requirements for the design of a Federal residential building.

(a) The head of each Federal agency responsible for the construction of Federal residential buildings shall establish an energy consumption goal for each residential building to be designed or constructed by or for the agency, for which design for construction began before January 3, 2007.

(b) The energy consumption goal for a Federal residential building for which design for construction began before January 3, 2007, shall be a total point score derived by using the micro-computer program and user manual entitled ''Conservation Optimization Standard for Savings in Federal Residences (COSTSAFR),'' unless the head of the Federal agency shall establish more stringent requirements for that agency.

* * * * *

[FR Doc. E6–20439 Filed 12–1–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26112; Directorate Identifier 2006–NE–35–AD; Amendment 39–14837; AD 2006–24–08]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada (P&WC) PW535A Turbofan Engines

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fuel manifold leakage that could result in engine fire, in-flight shutdown or damage to the airframe. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective December 19, 2006. The Director of the

Federal Register approved the incorporation by reference of P&WC Alert Service Bulletin PW500–72–A30314, dated September 27, 2006, listed in the AD as of December 19, 2006.

ADDRESSES: You may send comments by any of the following methods:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- 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.
- 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: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

Transport Canada, which is the aviation authority for Canada, has issued Airworthiness Directive CF–2006–22, dated October 26, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that there have been three reported incidents of PW535A engines leaking fuel in service. Investigation revealed the manufacturing process of the fuel manifold introduced characteristics that have resulted in a loss of sealing at a crimped joint. PW535A engine fuel manifold leakage that could result in engine fire, in-flight shutdown or damage to the airframe. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Pratt & Whitney Canada has issued Alert Service Bulletin PW500–72–A30314, dated September 27, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all the information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over the actions copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the flight hours per month of some operators exceed the compliance time of 50 hours. The statistical mean operating hours per month is 37.8 hours with a maximum of approximately 110 hours per month for some operators based on a 1,710-engine sample size. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26112; Directorate Identifier 2006–NE–35–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because 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 we receive about this AD.

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

For the reasons discussed above, I certify this AD:

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 AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2006–24–08 Pratt & Whitney Canada: Amendment 39–14837. Docket No. FAA–2006–26319; Directorate Identifier 2006–NE–35–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 19, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney Canada (P&WC) PW535A turbofan engines that have fuel manifold, part number (P/N) 3025267–01, installed. These engines are installed on, but not limited to Cessna Airplane Co. model 560 Citation Ultra Encore airplanes.

Reason

(d) There have been three reported incidents of PW535A engines leaking fuel in service. Investigation revealed the manufacturing process of the fuel manifold introduced characteristics that have resulted in a loss of sealing at a crimped joint. PW535A fuel manifold leakage that could result in engine fire, in-flight shutdown or damage to the airframe.

Actions and Compliance

(e) Accomplish the following, in accordance with the instructions of P&WC Alert Service Bulletin PW500–72–A30314, dated September 27, 2006.

(1) For engines with fuel manifold, part number (P/N) 3052627–01, that has a total time since new (TTSN) of 1500 flight hours or higher: Within 50 flight hours or 60 days after the effective date of this AD, whichever occurs first, replace fuel manifold, P/N 3052627–01, with a serviceable part.

(2) For engines with fuel manifold, part number (P/N) 3052627–01, that has less than a total time since new (TTSN) of 1500 flight hours: Within 150 flight hours or 90 days after the effective date of this AD, whichever occurs first, replace fuel manifold, P/N 3052627–01, with a serviceable part.

Definition

(f) A serviceable part is any replacement part except fuel manifold, P/N 3052627–01.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) This AD is applicable to any engine that has fuel manifold, (P/N) 3052627–01, installed.

(2) This AD allows replacing fuel manifold P/N 3052627–01 with a serviceable part as defined in paragraph (f) of this AD.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Transport Canada Airworthiness Directive CF–2006–22, dated October 26, 2006, and P&WC Alert Service Bulletin PW500–72–A30314, dated September 27, 2006, for related information.

(i) Contact: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA, 01803; telephone (781) 238–7178; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(j) You must use Pratt & Whitney Canada Alert Service Bulletin PW500–72–A30314, dated September 27, 2006 to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Pratt and Whitney Canada Customer Help Desk at 1–800–268–8000.

(3) You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Burlington, Massachusetts, on November 22, 2006.

Peter A. White,

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

[FR Doc. E6–20204 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19961; Directorate Identifier 2004–CE–48–AD; Amendment 39–14839; AD 2006–24–10]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Air Tractor, Inc. Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes, which supersedes AD 2002–

26–05 and AD 2002–11–05 R1. Since we issued AD 2002–26–05 and AD 2002–11–05 R1, we determined that additional airplanes should be added to the applicability section and determined the safe life for new production airplanes and replacement spar caps should be extended. We also developed an alternative method of compliance (AMOC) to the requirements of this AD. This AD retains the actions required in AD 2002–26–05 and AD 2002–11–05 R1, adds additional airplanes to the Applicability section, extends the safe life for new production airplanes and replacement spar caps, and incorporates an AMOC. We are issuing this AD to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap could result in failure of the spar cap and lead to wing separation.

DATES: This AD becomes effective on January 8, 2007.

As of January 8, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: For service information identified in this AD, contact Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893–1420 or (701) 774–0230; facsimile: (701) 572–2602.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2004–19961; Directorate Identifier 2004–CE–48AD.

FOR FURTHER INFORMATION CONTACT: Direct all questions to:

- For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; e-mail: *robert.a.romero@faa.gov*; and
- For airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

On August 3, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Air Tractor, Inc. Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 9, 2006 (71 FR 45457). The NPRM proposed to supersede AD 2002–26–05 and AD 2002–11–05 R1 with a new AD that would:

- retain the actions required in AD 2002–26–05 and AD 2002–11–05 R1;
- add additional airplanes to the Applicability section;
- incorporate an alternative method of compliance (AMOC) to the requirements of this AD; and
- extend the safe life for new production airplanes and replacement spar caps.

The table below summarizes the effects this AD will have on the airplane models affected by this AD:

Model	Proposed Action
AT–501	• Supersede AD 2002–11–05 R1. • Retain the safe lives from AD 2002–11–05 R1. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.
AT–502	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05 and add S/Ns to applicability. AD 2002–26–05 provided safe lives for S/Ns 0003 through 0236. Proposed action applies the same safe life to all S/Ns beginning with 0003. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.
AT–502A	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.
AT–502B	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05 for S/Ns 0187 through 0654, except 0643. • Increase the safe lives beyond those listed in AD 2002–26–05 for S/Ns 0655 and greater, as well as S/N 0643. • Add requirement to cold work outboard wing center splice block bolt holes in the lower spar cap on S/Ns 0643 and 0655 through 0692. • Provide an AMOC that allows extension of the safe life through an inspection and modification program for S/Ns 187 through 654, except 643.
AT–503A	• Supersede AD 2002–26–05. • Retain the safe lives from AD 2002–26–05. • Provide an AMOC that allows extension of the safe life through an inspection and modification program.

Comments

We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 500 airplanes in the U.S. registry.

We estimate the following costs to do each inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
8 work-hours × $80 per hour = $640	No parts required for inspection	$640	$640 × 500 = $320,000

We estimate the following costs to do the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
120 work-hours × $80 per hour = $9,600.	Approximately $3,700	$9,600 + $3,700 = $13,300	$13,300 × 500 = $6,650,000

We estimate the following costs to do the replacement:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
254 work-hours × $80 per hour = $20,320.	Approximately $16,500	$20,320 + $16,500 = $36,820	$36,820 × 500 = $18,410,000

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 AD.

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2004–19961; Directorate Identifier 2004–CE–48–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2002–26–05, Amendment 39–12991 (68 FR 18, January 2, 2003) and AD 2002–11–05 R1, Amendment 39–14564 (71 FR 19628, April 17, 2006), and by adding a new AD to read as follows:

2006–24–10 Air Tractor, Inc.: Amendment 39–14839; Docket No. FAA–2004–19961; Directorate Identifier 2004–CE–48–AD.

Effective Date

(a) This AD becomes effective on January 8, 2007.

Affected ADs

(b) This AD supersedes AD 2002–26–05, Amendment 39–12991, and AD 2002–11–05 R1, Amendment 39–14564.

Applicability

(c) This AD applies to certain Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes. Use Table 1 in paragraph (c)(1) of this AD for airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. (Marburger) winglets. Use Table 2 in paragraph (c)(4) of this AD for certain AT–500 series airplanes that incorporate or have incorporated Marburger winglets.

(1) The following table applies to airplanes (certificated in any category) that do not incorporate and never have incorporated Marburger winglets along with the safe life (presented in hours time-in-service (TIS)) of the wing lower spar cap for all affected airplane models and serial numbers:

TABLE 1.—SAFE LIFE FOR AIRPLANES THAT DO NOT INCORPORATE AND NEVER HAVE INCORPORATED MARBURGER WINGLETS

Model	Serial Nos.	Wing lower spar cap safe life
AT–501	0002 through 0061	4,531 hours TIS.
AT–501	All serial numbers beginning with 0062	7,693 hours TIS.
AT–502	All serial numbers beginning with 0003	1,650 hours TIS.
AT–502A	All serial numbers beginning with 0158	1,650 hours TIS.
AT–502B	0187 through 0654, except 0643	1,650 hours TIS.
AT–502B	0643, and 0655 through 0692	9,000 hours TIS.
AT–502B	0693 through 0701	9,500 hours TIS.
AT–502B	All serial numbers beginning with 0702	9,800 hours TIS.
AT–503A	All serial numbers beginning with 0067	1,650 hours TIS.

(2) If piston-powered airplanes have been converted to turbine power, you must use the limits for the corresponding serial number (S/N) turbine-powered airplanes.

(3) Airplanes that have been modified to install lower spar caps, part numbers (P/N) 21058–1 and 21058–2, should use a safe life of 9,800 hours TIS.

(4) The following table applies to airplanes (certificated in any category) that incorporate or have incorporated Marburger winglets. These winglets are installed following Supplemental Type Certificate (STC) SA00490LA. Use the winglet usage factor in Table 2 of this paragraph, the safe life specified in Table 1 in paragraph (c)(1) of this AD, and the instructions included in Appendix 1 to this AD to determine the new safe life of airplanes that incorporate or have incorporated Marburger winglets:

TABLE 2.—WINGLET USAGE FACTOR TO DETERMINE THE SAFE LIFE FOR AIRPLANES THAT INCORPORATE OR HAVE INCORPORATED MARBURGER WINGLETS INSTALLED FOLLOWING STC SA00490LA

Model	Serial numbers	Winglet usage factor
AT–501	0002 through 0061	1.6
AT–501	All serial numbers beginning with 0062	1.6
AT–502	0003 through 0236	1.6
AT–502A	0158 through 0238	1.6
AT–502A	All serial numbers beginning with 0239	1.2
AT–502B	All serial numbers beginning with 0187	1.2

(5) Model AT–502B airplanes, S/N 0643, all S/Ns beginning with 0655, and all other airplanes that have been modified with replacement spar caps, P/N 21058–1 and P/N 21058–2, are not eligible to have STC SA00490LA installed without additional fatigue data being provided to the FAA at the address in paragraph (f) of this AD.

Unsafe Condition

(d) This AD is the result of service reports and analysis done on wing lower spar caps of Air Tractor, Inc. airplanes. The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in failure of the spar cap and lead to wing separation and loss of control of the airplane.

Compliance

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) *For all affected airplanes:* Modify the applicable airplane records (logbook) as follows to show the reduced safe life for the wing lower spar cap (use the information from Table 1 in paragraph (c)(1), Table 2 in paragraph (c)(4), and Appendix 1 of this AD, as applicable): (i) Incorporate the following into the airplane logbook "In accordance with AD 2006–24–10 (AD 2002–26–05 or AD 2002–11–05, as applicable) the wing lower spar cap is life limited to __." Insert the applicable safe life number from the applicable tables in paragraphs (c)(1) and (c)(4) of this AD and Appendix 1 of this AD. (ii) If, as of the time of the logbook entry requirement of paragraph (e)(1)(i) of this AD, your airplane is over or within 50 hours of the safe life, an additional 50 hours TIS after the effective date of this AD is allowed to do the replacement..	*For airplanes previously affected by AD 2002–26–05:* Do the logbook entry within the next 10 hours TIS after January 15, 2003 (the effective date of AD 2002–26–05). *For airplanes not previously affected by AD 2002–26–05:* Do the logbook entry within the next 10 hours TIS after January 8, 2007 (the effective date of this AD), unless already done. The logbook language for AT–501 airplanes is referenced as AD 2002–11–05 instead of AD 2002–11–05 R1 to maintain continuity and assures no further action is necessary.	*Airplane Records Modification:* The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the airplane records as specified in paragraph (e)(1) of this AD. Make an entry into the airplane records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). *Spar Cap Replacement:* Do the replacement when the safe life is reached following Snow Engineering Drawing Number 21050, Snow Engineering Service Letters #197 or #205, both revised March 26, 2001, as applicable. The owner/operator may not do the spar cap modification/replacement, unless he/she holds the proper mechanic authorization.

Actions	Compliance	Procedures
(2) To extend the safe life of the wing lower spar cap for certain airplanes, you may eddy-current inspect and modify the wing lower spar cap. The inspection schedule, modification procedures, and list of eligible airplanes are included in Appendix 2 to this AD.	Inspection schedule included as part of the alternative method of compliance (AMOC) in Appendix 2 to this AD.	Procedures included as part of the AMOC in Appendix 2 to this AD.
(3) *For all affected airplanes:* Report to the FAA any cracks detected as the result of each inspection required by paragraph (e)(2) of this AD on the form in Figure 1 of this AD. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act and assigned OMB Control Number 2120–0056.	Only if cracks are found, send the report within 10 days after the inspection required in paragraph (e)(2) of this AD.	Send the form (Figure 1 of this AD) to FAA, Fort Worth Airplane Certification Office, Attn: Rob Romero, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.
(4) *For Model AT–502B airplanes, S/Ns 502B–0643 and 502B–0655 through 502B–0692:* Cold work the left-hand and right-hand two outboard wing center splice block bolt holes (4 total) in the lower spar cap.	Before accumulating 2,000 hours TIS or within the next 100 hours TIS after January 8, 2007 (the effective date of this AD), whichever occurs later.	Following Snow Engineering Service Letter #244, dated April 25, 2005.
(5) *For all affected airplanes:* Airplanes that have the two-part modification done following the applicable service bulletins (Snow Engineering Service Letters #197 or #205, both revised March 26, 2001; or Snow Engineering Service Letter #244, dated April 25, 2005), but have over-sized outboard bolt holes at the splice block, must obtain an AMOC from FAA as specified in paragraph (f) of this AD to determine applicable inspection intervals.	Not applicable	Not applicable.

BILLING CODE 4910–13–P

DOCKET NO. FAA-2004-19961 INSPECTION REPORT *(REPORT ONLY IF CRACKS ARE FOUND)*	
1. Inspection Performed By:	2. Phone:
3. Airplane Model:	4. Airplane Serial Number:
5. Engine Model Number:	6. Airplane Total Hours TIS:
7. Wing Total Hours TIS:	8. Lower Spar Cap Hours TIS:
9. Has the lower spar cap been inspected before? (eddy-current, dye penetrant, magnetic particle, ultrasound) ☐ Yes ☐ No	9a. If yes, Date: _____ Inspection Method: _____ Lower Spar Cap Hours TIS: _____ Cracks found? ☐ Yes ☐ No
10. Has there been any major repair or alteration performed to the spar cap? ☐ Yes ☐ No	10a. If yes, specify (Description and Hours TIS)
11. Date of AD inspection: _____	
12. Inspection Results: (Note: Report **only** if cracks are found)	12a. ☐ Left Hand ☐ Right Hand
12b. Crack Length: _____	12c. Does drilling hole to next larger size remove all traces of the crack(s)? ☐ Yes ☐ No
12d. Corrective Action Taken:	

Mail report to: Rob Romero, Fort Worth ACO, ASW-150, 2601 Meacham Blvd., Fort Worth, TX 76193-0150; or fax to (817) 222-5960

Figure 1

BILLING CODE 4910–13–C

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth or Los Angeles Airplane Certification Office (ACO), as applicable (see paragraphs (f)(1)(i) and (f)(2)(ii) of this AD below for specific contacts), has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(1) For information on any already approved AMOCs, contact:

(i) For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth ACO, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; e-mail: *robert.a.romero@faa.gov.*

(ii) For airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles ACO, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

(2) AMOCs approved for AD 2001–10–04 and/or AD 2000–14–51 are not considered approved for this AD.

(3) AMOCs approved for AD 2001–10–04 R1, AD 2002–11–03, AD 2002–11–05, AD 2002–11–05 R1, or AD 2002–26–05 are considered approved for this AD.

Special Flight Permit

(g) Under 14 CFR part 39.23, we are limiting the special flight permits for this AD by the following conditions:

(1) Operate only in day visual flight rules (VFR).

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

Material Incorporated by Reference

(h) You must use the service information specified in Table 3 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 3.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin No.	Page	Revision	Date
Snow Engineering Drawing Number 21050	Sheet 1 and Sheet 3	Not applicable	January 30, 2003.
	Sheet 2	Not applicable	February 1, 2003.
Snow Engineering Service Letter #197	1 and 2	Not applicable	March 26, 2001.
	3	Not applicable	June 13, 2000.
Snow Engineering Service Letters #205	1, 2, and 4	Not applicable	March 26, 2001.
	3	Not applicable	October 25, 2000.
Snow Engineering Service Letter #244	1 through 12	Not applicable	April 25, 2005.

Appendix 1 to AD 2006–24–10

The following provides procedures for determining the safe life for those Models AT–501, AT–502, AT–502A, and AT–502B airplanes that incorporate or have incorporated Marburger Enterprises, Inc. (Marburger) winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) No. SA00490LA.

If you have removed the Marburger winglets before further flight after the effective date of this AD or before the effective date of this AD, do the following:

1. Review your airplane's logbook to determine your airplane's time-in-service (TIS) with winglets installed per Marburger STC No. SA00490LA. This includes all time spent with the winglets currently installed and any previous installations where the winglet was installed and later removed.

Example: A review of your airplane's logbook shows that you have accumulated 350 hours TIS since incorporating the Marburger STC. Further review of the airplane's logbook shows that a previous owner had installed the STC and later removed the winglets after accumulating 150 hours TIS. Therefore, your airplane's TIS with the winglets installed is 500 hours.

If you determine that the winglet STC has never been incorporated on your airplane, then your safe life is presented in Table 1 in paragraph (c)(1) of this AD. Any future winglet installation will be subject to a reduced safe life per these instructions.

2. Determine your airplane's unmodified safe life from Table 1 in paragraph (c)(1) of this AD.

Example: Your airplane is a Model AT–502B, serial number (S/N) 0292. From Table 1 in paragraph (c)(1) of this AD, the unmodified safe-life of your airplane is 1,650 hours TIS.

All examples from hereon will be based on the Model AT–502B, S/N 0292 airplane.

3. Determine the winglet usage factor from Table 2 in paragraph (c)(4) of this AD.

Example: Again, your airplane is a Model AT–502B, S/N 0292. From Table 2 in paragraph (c)(4) of this AD, your winglet usage factor is 1.2.

4. Adjust the winglet TIS to account for the winglet usage factor. Multiply the winglet TIS (result of Step 1 above) by the winglet usage factor (result of Step 3 above).

Example: Winglet TIS is 500 hours X a winglet usage factor of 1.2. The adjusted winglet TIS is 600 hours.

5. Calculate the winglet usage penalty. Subtract the winglet TIS (result of Step 1 above) from the adjusted winglet TIS (result of Step 4 above).

Example:

Adjusted winglet TIS—the winglet TIS = Winglet usage penalty.

(600 hours TIS)—(500 hours TIS) = (100 hours TIS).

6. Adjust the safe life of your airplane to account for winglet usage. Subtract the winglet usage penalty (result of Step 5 above) result from the unmodified safe life from Table 1 in paragraph (c)(1) of this AD (the result of Step 2 above).

Example:

Unmodified safe life—winglet usage penalty = Adjusted safe life.

(1,650 hours TIS)—(100 hours TIS) = (1,550 hours TIS).

7. If you remove the winglets from your airplane before further flight or no longer have the winglets installed on your airplane, the safe life of your airplane is the adjusted safe life (result of Step 6 above). Enter this number in paragraph (e)(1)(i) of this AD and the airplane logbook.

If you have the Marburger winglets installed as of the effective date of this AD and plan to operate your airplane without removing the winglets, do the following:

1. Review your airplane's logbook to determine your airplane's TIS without the winglets installed.

Example: A review of your airplane's logbook shows that you have accumulated 1,500 hours TIS, including 500 hours with the Marburger winglets installed. Therefore, your airplane's TIS without the winglets installed is 1,000 hours.

2. Determine your airplane's unmodified safe life from Table 1 in paragraph (c)(1) of this AD.

Example: Your airplane is a Model AT–502B, S/N 0292. From Table 1 in paragraph (c)(1) of this AD, the unmodified safe life of your airplane is 1,650 hours TIS.

All examples from hereon will be based on the Model AT–502B, S/N 0292 airplane.

3. Determine the winglet usage factor from Table 2 in paragraph (c)(4) of this AD.

Example: Again, your airplane is a Model AT–502B, S/N 0292. From Table 2 in paragraph (c)(4) of this AD, your winglet usage factor is 1.2.

4. Determine the potential winglet TIS. Subtract the TIS without the winglets installed (result of Step 1 above) from the unmodified safe life (result of Step 2 above).

Example:

Unmodified safe life—TIS without winglets = Potential winglet TIS.

(1,650 hours TIS)—(1,000 hours TIS) = (650 hours TIS).

5. Adjust the potential winglet TIS to account for the winglet usage factor. Divide the potential winglet TIS (result of Step 4 above) by the winglet usage factor (result of Step 3 above).

Example:

Potential winglet TIS winglet usage factor = Adjusted potential winglet TIS.

(650 hours TIS) (1.2) = (541 hours TIS).

6. Calculate the winglet usage penalty. Subtract the adjusted potential winglet TIS (result of Step 5 above) from the potential winglet TIS (result of Step 4 above).

Example:

Potential winglet TIS—adjusted potential winglet TIS = Winglet usage penalty.

(650 hours TIS)—(541 hours TIS) = (109 hours TIS).

7. Adjust the safe life of your airplane to account for the winglet installation. Subtract the winglet usage penalty (result of Step 6 above) from the unmodified safe life from Table 1 in paragraph (c)(1) of this AD (the result of Step 2 above).

Example:

Unmodified safe life—winglet usage penalty = Adjusted safe life.

(1,650 hours TIS)—(109 hours TIS) = (1,541 hours TIS).

8. Enter the adjusted safe life (result of Step 7 above) in paragraph (e)(1)(i) of this AD and the airplane logbook.

If you install or remove the Marburger winglets from your airplane in the future, do the following:

If, at anytime in the future, you install or remove the Marburger winglets STC from your airplane, you must repeat the procedures in this Appendix to determine the airplane's safe life.

Appendix 2—Alternative Method of Compliance (AMOC) to AD 2006–24–10; Optional Inspection Program

For all airplanes listed in this AD; except for Model AT–502B airplanes, serial number (S/N) 0643 and all S/Ns beginning with 0655, and those airplanes that have been modified with the replacement spar caps, part number (P/N) 21058–1 and P/N 21058–2; you may begin a repetitive inspection interval program as an alternative to the safe life requirement of this AD with the following provisions:

For the Model AT–501 airplanes affected by this AD, you may elect to follow this AMOC program and continue to operate your airplane up to 8,000 hours TIS, provided you comply with this AMOC in its entirety. If at the time of the effective date of this AD, you are over 1,600 hours TIS (the time required for the first inspection), you must inspect within 50 hours TIS. If at the time of the effective date of this AD, you are over 4,000 hours TIS (the time required for 2-part modification), you must have the modification done within 50 hours TIS. If you choose not to follow this inspection program, then you must replace your lower spar caps and associated hardware at the applicable safe life listed in this AD following the procedures in paragraph (e).

For airplanes that do not and never have had Marburger Enterprise, Inc. winglets installed following Supplemental Type Certificate (STC) SA00490LA:

1. Upon accumulating 1,600 hours time-in-service (TIS) or within the next 50 hours TIS after January 8, 2007 (the effective date of AD 2006–24–10), whichever occurs later, eddy-current inspect the outboard two lower spar cap bolt holes following Snow Engineering Process Specification #197, page 1, revised June 4, 2002; pages 2 through 5, revised May 3, 2002. The inspection must be done by one of the following:

a. A Level 2 or Level 3 inspector that is certified for eddy-current inspection using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410; or

b. A person authorized to do AD work and has completed and passed the Air Tractor, Inc. training course on Eddy Current Inspection on wing lower spar caps.

2. Repeat these inspections at intervals of (as applicable):

a. 800 hours TIS (all S/Ns except as noted in b); or

b. 600 hours TIS (S/Ns 502B–0187 through 502B–0618 that do not have P/N 20998–1/-2 web plate installed).

c. If the outboard two lower spar cap bolt holes have been cold worked following Snow Engineering Service Letter # 233, dated May 18, 2004, then you may double (1,600 hours TIS or 1,200 hours TIS, as applicable) the inspection interval (See Step 8—re: mid cycle cold work).

d. Your logbook entry must include the work done and the inspection intervals that are upcoming, as follows:

''Following AD 2006–24–10, at XXXX {insert hours TIS of the initial pre-modification inspection} hours TIS an eddy-current inspection has been performed. As of now, the safe life listed in the AD no longer applies to this airplane. This airplane must be eddy-current inspected at intervals not to exceed {800/600/1,600/1,200, as applicable} hours TIS. The first of these inspections is due at {insert the total number of hours TIS the first of these inspections is due} hours TIS.''

3. If at any time a crack is found, and:

a. The crack indication goes away by doing the modification following the applicable sheet of Snow Engineering Modification—Wing Centersplice—502, Drawing Number 20989, then you may modify your center splice following Snow Engineering Drawing 20989. After modification, proceed to Step 5.

b. The crack indication does not go away by doing the modification following the applicable sheet of Snow Engineering Modification—Wing Centersplice—502, Drawing Number 20989, you must replace all parts and hardware listed in Step 7.

c. Report to the FAA any cracks found using the form in Figure 1 of this AD.

4. For all S/Ns, upon accumulating 4,000 hours TIS, you must:

a. Modify your center splice connection following the applicable sheet of Snow Engineering Modification—Wing Centersplice—502, Drawing Number 20989, unless already done following Snow Engineering Service Letter #197 or #205, both revised March 26, 2001, as applicable. The owners/operator may not do the spar cap modification unless that person holds the proper mechanic authorization. If, as of January 8, 2007 (the effective date of AD 2006–24–10), your airplane is over or within 50 hours of reaching the 4,000 hour TIS modification requirement, do the modification within the next 50 hours TIS.

b. Before doing the modification, do an eddy-current inspection following Snow Engineering Process Specification #197, page 1, revised June 4, 2002; pages 2 through 5, revised May 3, 2002, unless already done following the applicable Snow Engineering Service Letter #197 or #205, both revised March 26, 2001.

c. Your logbook entry must include the work done and the inspection intervals that are upcoming, as follows:

''Following AD 2006–24–10, at XXXX {insert hours TIS of the modification} hours TIS an eddy-current inspection has been done. As of now, the safe life listed in the AD no longer applies to this airplane. This airplane must be eddy-current inspected at {insert the number of hours TIS at modification plus 1,600 hours TIS} hours TIS.

5. For all S/Ns, upon accumulating 1,600 hours TIS after modification, inspect the left-hand and right-hand outboard two lower spar cap bolt holes following Snow Engineering Process Specification #197, page 1, revised June 4, 2002; pages 2 through 5, revised May 3, 2002.

6. Repeat the inspection at intervals of:

a. 800 hours TIS; or

b. 1,600 hours TIS if the outboard two lower spar cap bolt holes have been cold worked following Snow Engineering Service Letter #234, dated May 18, 2004 (See Step 8).

c. Your logbook entry must include the work done and the post-modification inspection intervals that are upcoming, as follows:

''This airplane must be eddy-current inspected at intervals not to exceed {800/1,600, as applicable} hours TIS. The first of these inspections is due at {insert the total number of hours TIS the first of these inspections is due} hours TIS.''

d. If a crack is found at any time, before further flight you must replace the lower spar caps, splice blocks, and wing attach angles and hardware. You must also notify the FAA using the form in Figure 1 of this AD.

7. Upon accumulating 8,000 hours TIS, before further flight you must replace the lower spar caps, splice blocks, and wing attach angles (P/N 20693–1), and associated hardware. No additional time will be authorized for airplanes that are at or over 8,000 hours TIS (see Step 9).

8. (*Optional*): If you decide to cold work your bolt holes following Snow Engineering Service Letter #233 or #234, both dated May 18, 2002, at a TIS that does not coincide with a scheduled inspection following this AD, then eddy-current inspect at the time of cold working and then begin the 1,600/1,200 hour TIS inspection intervals (2 times the intervals listed in Steps 2.a., 2.b., and 6.a. listed above).

9. (*Optional*): If you have modified your airplane in accordance with Step 4 above before accumulating 4,000 hours TIS, then you may continue to fly your airplane past (modification + 4,000 hours TIS) provided you cut your inspection intervals in half. Make a logbook entry following Step 6.c. above to reflect these reduced inspection intervals. Upon accumulating 8,000 hours TIS, you must comply with Step 7 above.

Example: An AT–502B airplane had the two-part modification installed at 3,000 hours TIS and the bolt holes have not been cold worked.

The first inspection would occur at 4,600 hours TIS. From Step 5, this is modification plus 1,600 hours TIS.

Example (continued): Inspections would follow at 5,400 hours TIS, 6,200 hours TIS, and 7,000 hours TIS. From Step 6.a. above, this is 800-hour TIS inspection intervals.

Regarding the inspection at 7,000 hours TIS (modification plus 4,000 hours TIS), this relates to the 8,000-hour TIS inspection from Step 7 above, which is modification plus 4,000 hours TIS, except in this example the modification took place at 3,000 hours TIS instead of 4,000 hours TIS as specified in Step 4 above.

This airplane may continue to fly if inspected again at 7,400 hours TIS and 7,800 hours TIS, which is 400-hour TIS inspection intervals. This 400-hour TIS inspection interval corresponds to Step 9 where you cut your inspection interval from Step 6.a. in half.

Upon accumulating 8,000 hours TIS (this is the same as Step 7 above), you must replace the parts listed in Step 7.

For airplanes that have or have had Marburger Enterprise, Inc. winglets installed following Supplemental Type Certificate (STC) SA00490LA:

If you have removed the winglets, calculate new, reduced hours for Steps 1, 4, 5, and 7, as applicable, based on the winglet usage factor listed in Table 2 of paragraph (c)(4) and Appendix 2 of this AD.

You may repetitively inspect at the same intervals listed in Step 2 above provided that you do not re-install the winglets.

Example: An AT–502 airplane, S/N 502–0200, had winglets installed at 200 hours TIS and removed at 800 hours TIS.

The winglet usage factor is: 1.6
Calculate equivalent hours: 600 hours TIS with winglets × 1.6 = 960 hours TIS
Winglet usage penalty = 960 − 600 = 360
New Step 1 Pre-Modification Initial Inspection Time = 1,600 − 360 = 1,240 hours TIS
Retained Step 2 Pre-Modification Inspection Interval: Since the winglets are removed, the Pre-Modification Inspection Interval remains 800 hours TIS
New Step 4 Modification time = 4,000 − 360 = 3,640 hours TIS
New Step 5 Post-Modification Initial Inspection time = 3,640 + 1,600 = 5,240 hours TIS
Retained Step 6 Post-Modification Inspection interval: Since the winglets are removed the Post-Modification Inspection interval remains at 800/1,600 hours TIS.
New Step 7 replacement time = 8,000 − 360 = 7,640 hours TIS

Use the Retained Step 2 interval, the New Step 5 time, and the Retained Step 6 interval to make appropriate logbook entries for the pre- and post-modification intervals, using the format presented in Steps 2.d., 4.c., and 6.c.

If you have not removed the winglets, then calculate new, reduced hours for Steps 1, 2, 4, 5, 6, and 7 above, as applicable, based on the winglet usage factor listed in Table 2 of paragraph (c)(4) of this AD and Appendix 2 of this AD.

Repetitively inspect at the appropriate interval listed in the step above divided by the winglet usage factor.

Example: An AT–502B, S/N 502B–0550, that has not had P/N 20998–1/–2 web plate installed and has had winglets on since new.

The winglet usage factor is: 1.2
New Step 1 Pre-modification initial inspection time: 1,600 ÷ 1.2 = 1,333 hours TIS
New Step 2 Pre-modification inspection interval: 600 ÷ 1.2 = 500 hours TIS
New Step 4 Modification time: 4,000 ÷ 1.2 = 3,333 hours TIS
New Step 5 Post-modification initial inspection time: 3,333 + 1,333 (1,600 ÷ 1.2) = 4,666 hours TIS
New Step 6 Post-modification inspection interval: 800 ÷ 1.2 = 667 hours TIS
New Step 7 Replacement time: 8,000 ÷ 1.2 = 6,667 hours TIS

Use the reduced hours you calculate in New Step 2, New Step 5, and New Step 6 to make appropriate logbook entries for the pre- and post-modification inspection intervals, using the format presented in Steps 2.d., 4.c., and 6.c. above.

Issued in Kansas City, Missouri, on November 22, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20324 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26013; Directorate Identifier 2003–NE–21–AD; Amendment 39–14841; AD 2006–25–01]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG (IAE) V2522–A5, V2524–A5, V2527–A5, V2527E–A5, V2527M–A5, V2530–A5, and V2533–A5 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for certain IAE V2522–A5, V2524–A5, V2527–A5, V2527E–A5, V2527M–A5, V2530–A5, and V2533–A5 turbofan engines. That AD currently requires initial and repetitive inspections of the master magnetic chip detector (MCD) or the No. 1, 2, 3 bearing chamber MCD. This AD requires the same MCD inspections. This AD also requires removing certain No. 3 bearings and removing certain high pressure compressure (HPC) stubshaft assemblies as mandatory terminating actions to the repetitive MCD inspections. This AD results from IAE developing a terminating action to the repetitive inspections of the chip detectors, and from expanding the applicability to include additional serial-numbered engines with certain No. 3 bearings installed. We are issuing this AD to prevent failure of the No. 3 bearing, which could result in an in-flight shutdown (IFSD) and smoke in the cockpit and cabin.

DATES: This AD becomes effective January 8, 2007. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 8, 2007.

ADDRESSES: You can get the service information identified in this AD from International Aero Engines AG, 400 Main Street, East Hartford, CT 06108; telephone: (860) 565–5515; fax: (860) 565–5510.

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England

Executive Park, Burlington, MA 01803; telephone (781) 238–7152; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to certain IAE V2522–A5, V2524–A5, V2527–A5, V2527E–A5, V2527M–A5, V2530–A5, and V2533–A5 turbofan engines. We published the proposed AD in the **Federal Register** on September 17, 2003 (69 FR 54400). That action proposed to require initial and repetitive inspections of the master MCD or the No. 1, 2, 3 bearing chamber MCD. That proposal would also have required replacing certain No. 3 bearings and replacing or recoating certain HPC stubshaft assemblies as mandatory terminating actions to the repetitive MCD inspections. We also published a supplemental proposed AD in the **Federal Register** on January 17, 2006 (71 FR 2491). That action revised the proposed AD by expanding its applicability to include additional serial-numbered engines with certain No. 3 bearings installed.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Remove the Requirement To Rework or Replace the HPC Stubshaft on Certain Engines

IAE and three air carriers request that we remove the requirement to rework or replace the stubshafts that have a low-energy plasma coating in engines that did not have No. 3 bearing, part number (P/N) 2A1165, as this is not necessary for safe operation. We agree. We changed the requirement from ''at the next shop visit for any reason, replace the HPC stubshaft that has a low-energy plasma coating with an HPC stubshaft that has a high-energy plasma coating'' to ''at the next shop visit, for engines listed in Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005, with a serial number (SN) from V10601 through V11335 inclusive, remove the HPC stubshaft that has a low-energy plasma coating.'' Table 1 lists engines with a No. 3 bearing, P/N 2A1165.

Another air carrier states that IAE SB No. V2500–ENG–72–0459 is the true, in-shop, root cause corrective action. The commenter further states that the SB compliance requires you to also comply with IAE SB No. V2500–ENG–72–0421, which, while beneficial, does not correct the root cause. SB No. V2500–ENG–72–0421 requires replacing all stubshafts with a low-energy plasma coating, with stubshafts with a high-energy plasma coating, regardless of which No. 3 bearing is installed. The commenter requests that we limit the AD requirement to just replacing the affected No. 3 bearing. We partially agree. The unsafe condition is an HPC stubshaft with a low-energy plasma coating used with a No. 3 bearing, P/N 2A1165, in engines listed in Table 1 of Appendix 1 of SB No. V2500–ENG–72–0452. The supplemental NPRM did not propose to require compliance with SB No. V2500–ENG–72–0421. It expanded the list of affected engines by SN. The table does not refer to any other service document. Furthermore, this final rule requires inspection and removal of hardware from the engines listed in Table 1 of Appendix 1 of SB No. V2500–ENG–72–0452 only.

Request To Reference Revision 3 of IAE SB V2500–ENG–72–0459

IAE requests that we reference the latest revision, which is Revision 3, of IAE SB No. V2500–ENG–72–0459, in the AD. We do not agree. We are only incorporating by reference Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005, in this AD which identifies the SNs of affected engines. We did not incorporate by reference Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0459, in the AD because we discovered that that SB contains SNs of engines that have hybrid No. 3 bearings, and we did not include the hybrid bearings as part of the affected population. We did not change the AD.

Request To More Accurately Describe the Failure Event

IAE requests that we more accurately describe the failure event when the No. 3 bearing fails due to a fracture of the No. 3 bearing race. We agree. We changed the Summary and paragraph (d) from '' We are issuing this AD to prevent failure of the No. 3 bearing, which could result in an IFSD and smoke in the cockpit and cabin'' to ''We are issuing this AD to prevent failure of the No. 3 bearing, which could result in an IFSD and smoke in the cockpit and cabin. The smoke is a result of oil escaping from the bearing compartment due to a fracture of the No. 3 bearing race.''

Request To Change the Costs of Compliance

IAE requests that we change the costs of compliance to reflect inspection costs as well as replacement costs of HPC stubshafts that have a low-energy plasma coating. We agree. We changed the costs of compliance to add 0.3 work-hour for inspection. This changed our estimated total cost in the AD from $5,355,174 to $5,357,511.

Request To Remove the Requirement To Inspect All Chip Detectors

IAE and four air carriers request that we remove the requirement to inspect the master magnetic chip detector and the No. 1, 2, 3, bearing chamber magnetic chip detectors. The commenters state that inspecting all chip detectors does not provide any additional assurance that the No. 3 bearing deterioration will be detected. We partially agree. We agree that safe engine operation does not require inspecting all chip detectors. However, the comment is directed at the original NPRM. The supplemental NPRM and this AD require that you inspect the master MCD or the No. 1, 2, 3 bearing chamber MCD.

Request To Change the AD As to When Parts Are To Be Removed

Jet Blue Airways requests that we change the AD from when the parts are removed at the next shop visit for any reason, to a prescribed event such as the separation of a major flange. As written, the commenter would incur an increased maintenance burden. We do not agree. The existing removal plan is effective at preventing smoke in the cockpit and cabin. We did not change the AD.

Request To Reference A Related AD That Requires Isolation of the Airplane Environmental Air Packs

IAE requests that we reference AD 2003–13–02, which requires isolation of the airplane environmental air packs, in the event of a No. 3 bearing failure. We agree. AD 2003–10–14 also has similar requirements. We changed the AD to include references to related AD 2003–13–02 and AD 2003–10–14, in paragraph (o) of the AD.

Request To Reduce the Inspection Interval From 125 Hours to 50 Hours

Airline Pilots Association, International requests that we reduce the inspection interval from 125 hours to 50 hours to minimize the possibility of an engine that is near failure from returning to service for an additional 125 hours. We do not agree. Our analysis indicates that a 125-hour interval meets safety requirements. Operators may reduce the inspection interval. However, we suggest that operators with approved maintenance programs coordinate any changes with their local FAA Flight Standards District Office. We did not change the AD.

Request To Add Wording That Complying With SB No. V2500–ENG–72–0421 is Considered as Complying With the AD

All Nippon Airways requests that we add wording that complying with SB No. V2500–ENG–72–0421 is considered complying with the AD. The commenter states that the SB provides instructions to rework the stubshaft by applying a high-energy coating. This coating eliminates hard particle contamination caused by stubshafts with a low-energy coating. We partially agree. Incorporating SB No. V2500–ENG–72–0421 would satisfy the AD requirement to remove stubshafts with a low-energy coating from the identified population. However, we require that if the No. 3 bearing, P/N 2A1165, in engines listed in Table 1 of Appendix 1 of SB No. V2500–ENG–72–0452 is installed with a stubshaft with a low-energy coating, the No. 3 bearing must be removed, due to the bearing continuing to be affected from possible residual hard particle contamination or prior damage from contamination before stubshaft change. We did not change the AD.

Request To Allow Installing New No. 3 Bearings, P/N 2A1165

United Airlines requests that we allow installing new No. 3 bearings, P/N 2A1165, as they are not susceptible to the same problem as earlier manufactured bearings of that P/N. We agree. The AD does not prohibit installing new No. 3 bearings, P/N 2A1165. The only bearings that must be removed and not reused, are installed in engines identified in Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005. We did not change the AD.

Request To Add IAE SB V2500–ENG–72–0460 as a Requirement to the AD

IAE requests that we add IAE SB No. V2500–ENG–72–0460 as a requirement to the AD. IAE states that the SB provides instructions on recoating or replacing all stubshafts installed on engines identified as suspect because the engine oil system was not designed to work with low-energy coating debris. We do not agree. Although replacing all stubshafts with a low-energy coating is encouraged, we do not require it in the AD, as it is not necessary to assure safety. We did not change the AD.

Request To Include Engine Model V2533–A5

IAE requests that we include engine model V2533–A5 in the AD. We agree that this AD applies to engine model V2533–A5. However, the engine model was added to the supplemental NPRM and is also listed in this AD. We did not change the AD.

Explanation of More Engine SNs Listed in Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0459

Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0459, which we referenced in the proposed ADs, has more engine SNs listed than in Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005. This is because the larger Table 1 also lists engines with hybrid No. 3 bearings installed, that are not suseptable to deterioration as others were.

Docket Number Change

We are transferring the docket for this AD to the Docket Management System as part of our on-going docket management consolidation efforts. The new Docket No. is FAA–2006–26013. The old Docket No. became the Directorate Identifier, which is 2003–NE–21–AD. This final rule might get logged into the DMS docket, ahead of the proposed AD and comments received, as we are in the process of sending those items to the DMS.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Addition of Inspection Recommendation

Also, since we issued the supplemental NPRM, we determined that we need to add an inspection recommendation in the compliance section. We recommend the inspection of the master MCD or the No. 1, 2, 3 bearing chamber MCD, using paragraphs (f) through (f)(3) of this AD, on all engines installed on the same airplane, not be done by the same individual before the same flight. This is to minimize the chances of maintenance error on multiple engine airplanes.

Costs of Compliance

We estimate that this AD will affect 123 engines installed on airplanes of U.S. registry. We also estimate it will take 150.3 work-hours per engine to perform the actions, and that the average labor rate is $65 per work-hour. Required parts will cost about $33,788 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $5,357,573.

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 Analysis

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

For the reasons discussed above, I certify that this AD:

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in

the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13183 (68 FR 33621, June 5, 2003) and by adding a new airworthiness directive, Amendment 39–14841, to read as follows:

2006–25–01 International Aero Engines AG: Amendment 39–14841; Docket No. FAA–2006–26013; Directorate Identifier 2003–NE–21–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 8, 2007.

Affected ADs

(b) This AD supersedes AD 2003–11–23, Amendment 39–13183.

Applicability

(c) This AD applies to International Aero Engines AG (IAE) V2522–A5, V2524–A5, V2527–A5, V2527E–A5, V2527M–A5, V2530–A5, and V2533–A5 turbofan engines with engine serial numbers V10601 through V11335 inclusive and bearings part number (P/N) 2A1165 installed. These engines are installed on, but not limited to, Airbus Industrie A319, A320, and A321 series airplanes.

Unsafe Condition

(d) This AD results from IAE developing a terminating action to the repetitive inspections of the chip detectors, and from expanding the applicability to include additional serial-numbered engines with certain No. 3 bearings installed. We are issuing this AD to prevent failure of the No. 3 bearing, which could result in an IFSD and smoke in the cockpit and cabin. The smoke is a result of oil escaping from the bearing compartment due to a fracture of the No. 3 bearing race.

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.

Inspection of the Master Magnetic Chip Detector (MCD) or the No. 1, 2, 3 Bearing Chamber MCD

(f) For engines listed in Table 1 of Appendix 1 of IAE Service Bulletin (SB) No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005, and that have a No. 3 bearing, P/N 2A1165, installed at new production build, do the following:

(1) Within 125 hours time-in-service (TIS) after the effective date of this AD, inspect the master MCD or the No. 1, 2, 3 bearing chamber MCD.

(2) Thereafter, within 125 hours time-since-last inspection, inspect the master MCD or the No. 1, 2, 3 bearing chamber MCD.

(3) If you find bearing material on the master MCD or No. 1, 2, 3 bearing chamber MCD, remove the engine from service before further flight.

Inspection Recommendation

(g) We recommend the inspection of the master MCD or the No. 1, 2, 3 bearing chamber MCD, using paragraphs (f) through (f)(3) of this AD, on all engines installed on the same airplane, not be done by the same individual before the same flight. This is to minimize the chances of maintenance error on multiple engine airplanes.

Removal of No. 3 Bearing

(h) At the next shop visit, for engines listed in Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005, that have a serial number (SN) from V10601 through V11335 inclusive, and that have a No. 3 bearing, P/N 2A1165 installed at new production, remove the No. 3 bearing.

(i) After the effective date of this AD, do not install any No. 3 bearing, P/N 2A1165, removed in paragraph (h) of this AD, into any engine.

Removal of High Pressure Compressor (HPC) Stubshaft

(j) At the next shop visit, for engines listed in Table 1 of Appendix 1 of IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005, that have a SN from V10601 through V11335 inclusive, remove the HPC stubshaft that has a low-energy plasma coating.

Terminating Action

(k) Performing the requirements specified in paragraph (h) and (j) of this AD is terminating action to the repetitive MCD inspections specified in paragraphs (f) through (f)(3) of this AD.

Alternative Methods of Compliance

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

Material Incorporated by Reference

(m) For identifying engines within the engine SN range of V10601 to V11335 inclusive, known to have had P/N 2A1165 installed, you must use Table 1 of Appendix 1 of International Aero Engines Service Bulletin No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005. The Director of the Federal Register approved the incorporation by reference of Table 1 of Appendix 1 of International Aero Engines Service Bulletin No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06108; telephone: (860) 565–5515; fax: (860) 565–5510, for a copy of this service information. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Related Information

(n) The following SBs contain additional information and procedures:

(1) You can find information on inspecting the master MCD and the No. 1, 2, 3 bearing chamber MCD in section 79–00–00–601 of the Aircraft Maintenance Manual.

(2) Additional information on inspection procedures is included in IAE SB No. V2500–ENG–72–0452, Revision 4, dated September 30, 2005.

(3) You can find information on replacing the No. 3 bearing in IAE SB No. V2500–ENG–72–0459, Revision 3, dated April 12, 2003.

(4) You can find information on replacing HPC stubshafts that have a low-energy plasma coating, (all engines) in IAE SB No. V2500–ENG–72–0460, Revision 2, dated March 4, 2006.

(o) Airworthiness directive 2003–10–14 and AD 2003–13–02, which revise the Limitation section of the airplane flight manual to incorporate new procedures to follow in the event of smoke in the cockpit and cabin, are related to the subject of this AD.

Issued in Burlington, Massachusetts, on November 27, 2006.

Peter A. White,

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

[FR Doc. E6–20323 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26258; Directorate Identifier 2006–CE–67–AD; Amendment 39–14840; AD 2006–24–11]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Raytheon Aircraft Company (RAC) Models 1900, 1900C, and 1900D airplanes. This AD requires you to repetitively inspect the forward, vertical, and aft flanges of both the left and right wing rear spar lower caps for cracks, repair any cracks found, and report the inspection results to RAC. This AD results from additional fatigue cracks found in this area since inspections were performed to comply with Emergency AD 2006–18–51, which required immediate visual inspections of this area. We are issuing this AD for the purpose of performing a more rigorous inspection requiring cleaning and paint stripping of this section of the wing rear spar to detect and correct cracking in the wing spar lower caps of the affected airplanes before the cracks lead to failure. These wing rear spar cracks may result in wing failure which could result in the wing separating from the airplane with consequent loss of control.

DATES: This AD becomes effective on December 11, 2006.

As of December 11, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

We must receive any comments on this AD by February 2, 2007.

ADDRESSES: Use one of the following addresses to comment on this AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Raytheon Aircraft Company (RAC), Post Office Box 85, Wichita, Kansas 67201–0085, Phone 1–800–429–5372 or 1–316–676–2000, Fax: 1–316–676–8745.

To view the comments to this AD, go to *http://dms.dot.gov*. The docket number is FAA–2006–26258; Directorate Identifier 2006–CE–67–AD.

FOR FURTHER INFORMATION CONTACT: Steven E. Potter, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4124; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

Due to significant cracks found in the wing rear spar of RAC Model 1900D airplanes, we issued Emergency AD 2006–18–51 on August 31, 2006. AD 2006–18–51 required an immediate visual inspection of both the left and right wing rear spars near the outboard edge of the engine nacelle. This AD was then published in the **Federal Register** as Amendment 39–14757 (71 FR 52983, September 8, 2006).

Additional fatigue cracks in the affected area of the wing rear spar have been found since the AD 2006–18–51 inspections were performed. One of the airplanes had accumulated 168 hours time-in-service (TIS) since the visual inspections required by AD 2006–18–51 were done.

The FAA has determined a more rigorous and detailed inspection is necessary to find such fatigue cracks.

Cracking in the wing rear spar lower caps and adjacent structure, if not corrected, could result in wing failure. Such a wing failure could result in the wing separating from the airplane with consequent loss of control.

Relevant Service Information

We reviewed Raytheon Aircraft Company Service Bulletin No. 57–3815, Issued: October, 2006. The service information describes procedures for the left and right rear wing spar lower cap inspection.

FAA's Determination and Requirements of This AD

We are issuing this AD because we have evaluated all known and available information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires a rigorous and detailed inspection of the wing rear spar lower caps to find the fatigue cracks. The preparation and procedural requirements for these inspections are included in RAC Mandatory Service Bulletin 57–3815.

RAC is developing a modification that, if approved by the FAA, would terminate the repetitive inspection requirement of this AD. The FAA may take future rulemaking action on this subject.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number ''FAA–2006–26258; Directorate Identifier 2006–CE–67–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 we receive concerning this AD.

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

For the reasons discussed above, I certify that this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the 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 FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2006–24–11 Raytheon Aircraft Company (RAC): Amendment 39–14840; Docket No. FAA–2006–26258; Directorate Identifier 2006–CE–67–AD.

Effective Date

(a) This AD becomes effective on December 11, 2006.

Affected ADs

(b) AD 2006–18–51, Amendment 39–14757 (71 FR 52983, September 8, 2006), relates to the subject of this AD. However, this AD does not supersede or revise that AD. Both ADs are necessary to address the unsafe condition.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial numbers
(1) 1900	UA–3.
(2) 1900C (C–12J)	UB–1 through UB–74, UC–1 through UC–174, and UD–1 through UD–6.
(3) 1900D	UE–1 through UE–439.

Unsafe Condition

(d) This AD is the result of additional fatigue cracks found in the wing rear spar lower caps on a Raytheon Model 1900 airplane shortly after complying with AD 2006–18–51. We are issuing this AD to require a more rigorous and detailed inspection to find the fatigue cracks which are the unsafe condition. Failure to detect cracking in the wing rear spar lower caps of the affected airplanes could result in a wing failure. Such a wing failure could result in the wing separating from the airplane with consequent loss of control.

Compliance

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Repetitively inspect both the left and right wing rear spar lower caps for cracks and other damage such as loose or missing fasteners.	Initially inspect within 100 hours time-in-service (TIS) or 30 days after December 11, 2006 (the effective date of this AD), whichever occurs first. Repetitively inspect thereafter at intervals not to exceed 200 hours TIS.	Follow the procedures in Raytheon Mandatory Service Bulletin 57–3815, dated Issued: October, 2006.
(2) If cracks are found repair all cracks by obtaining and incorporating an FAA-approved repair scheme from RAC.	Before further flight after any inspection required by paragraph (e)(1) of this AD where cracks are found.	Contact RAC at Post Office Box 85, Wichita, Kansas 67201–0085; phone: 316–676–8366; fax: (316) 676–8745; e-mail: *tom_peay@rac.ray.com.*
(3) Report the inspection results to Raytheon Aircraft Company using the instructions and forms in the service bulletin. Complete all sections of the required forms. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.	Report the initial inspection within 10 days after the inspection or 10 days after the effective date of this AD, whichever occurs later. Report the repetitive inspections within 30 days after the inspection.	Follow the procedures in Raytheon Mandatory Service Bulletin 57–3815, dated Issued: October, 2006.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office, FAA, ATTN: Steven E. Potter, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4124; fax: (316) 946–4107, has the authority to approve AMOCs for this AD, if requested using the procedures in 14 CFR 39.

Material Incorporated by Reference

(g) You must use Raytheon Mandatory Service Bulletin 57–3815, Issued: October, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Raytheon Aircraft Company (RAC), Post Office Box 85, Wichita, Kansas 67201–0085, Phone 1–800–429–5372 or 1–316–676–2000, Fax: 1–316–676–8745.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on November 24, 2006.

Sandra J. Campbell,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20326 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25810; Directorate Identifier 2006–CE–49–AD; Amendment 39–14838; AD 2006–24–09]

RIN 2120–AA64

Airworthiness Directives; PZL-Bielsko Model SZD–50–3 ''Puchacz'' Gliders

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a discrepancy between the design documentation and the Technical Service Manual. In 1981, a castellated nut with cotter pin was introduced to secure the rudder, replacing the self-locking nut through PZL-Bielsko Bulletin No. BE–06/50–3/81. This change has not been introduced to the Technical Service Manual and use of a self-locking nut, in accordance with the Manual, is still possible. We are issuing this AD to require actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective January 8, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 8, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory Davison, Glider Program Manager, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 27, 2006 (71 FR 56416). That NPRM proposed to correct an unsafe condition for the specific products. The MCAI states that a discrepancy between the design documentation and the Technical Service Manual has been identified. In 1981, a castellated nut with cotter pin was introduced to secure the rudder, replacing the self-locking nut through PZL-Bielsko Bulletin No BE–06/50–3/81. This change has not been introduced to the Technical Service Manual and use of a self-locking nut, in accordance with the Manual, is still possible. This was probably the reason of rudder disconnection during flight which occurred recently. If not corrected, loss of the nut could result and allow the rudder to slip out of its hinges, separate from the glider, and lead to loss of control. This AD requires you to inspect and, if necessary, replace the Rudder Attachment parts in accordance with the instruction contained in the Allstar PZL Glider Sp. z o.o. Mandatory Bulletin No. BE–058/SZD–50–3/2006 ''PUCHACZ'', dated August 10, 2006. Concurrently, changes in the Technical Service Manual must be introduced in accordance with the referenced bulletin.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Jack Buster with the Modification and Replacement Parts Association (MARPA) provides comments to the MCAI AD process pertaining to how the FAA addresses publishing manufacturer service information as part of a proposed AD action. Mr. Buster states that the rule, as proposed, attempts to require compliance with a public law by reference to a private writing (as referenced in paragraph (e) of the proposed AD). Mr. Buster would like the FAA to incorporate by reference (IBR) the Allstar PZL Glider Sp. z o.o. Mandatory Bulletin.

We agree with Mr. Buster. However, we do not IBR any document in a proposed AD action, instead we IBR the document in the final rule. Since we are issuing the proposal as a final rule AD action, Allstar PZL Glider Sp. z o.o. Mandatory Bulletin No. BE–058/SZD–50–3/2006 ''PUCHACZ'', dated August 10, 2006, is incorporated by reference.

Mr. Buster requests that IBR documents be made available to the public by publication in the **Federal Register** or in the Docket Management System (DMS).

We are currently reviewing issues surrounding the posting of service bulletins in the Department of Transportation's DMS as part of the AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable in a U.S. court of law. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements, if any, take precedence over the actions copied from the MCAI.

Costs of Compliance

We estimate that this AD will affect about 8 products of U.S. registry. We also estimate that it will take about 1.5 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts will cost about $2 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $976 or $122 per product.

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

For the reasons discussed above, I certify this AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2006–24–09 PZL-Bielsko: Amendment 39–14838; Docket No. FAA–2006–25810; Directorate Identifier 2006–CE–49–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 8, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to PZL-Bielsko Model SZD–50–3 ''Puchacz'' gliders, all serial numbers, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that the aircraft manufacturer has identified a discrepancy between the design documentation and the Technical Service Manual. In 1981, a castellated nut with cotter pin was introduced to secure the rudder, replacing the self-locking nut, through PZL Bielsko Bulletin No. BE–06/50–3/81. This change has not been introduced to the Technical Service Manual and use of a self-locking nut, in accordance with the Manual, is still possible. This was probably the reason for rudder disconnection during flight which occurred recently. If not corrected, loss of the nut could result and allow the rudder to slip out of its hinges, separate from the glider, and lead to loss of control.

Actions and Compliance

(e) Unless already done, do the following actions except as stated in paragraph (f) below: Within 30 days of January 3, 2007 (the effective date of this AD) or before further flight, whichever occurs later, inspect and, if necessary, replace the Rudder Attachment parts in accordance with the instruction contained in Allstar PZL Glider Sp. z o.o. Mandatory Bulletin No. BE–058/SZD–50–3/2006 ''PUCHACZ'', dated August 10, 2006. Concurrently, changes in the Technical Service Manual must be introduced in accordance with the referenced Bulletin.

FAA AD Differences

(f) None.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Staff, FAA, ATTN: Gregory Davison, Glider Program Manager, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Return to Airworthiness: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) This AD is related to EASA EAD No.: 2006–0243–E, which references Allstar PZL Glider Sp. z o.o. Mandatory Bulletin No BE–058/SZD–50–3/2006 ''PUCHACZ'', dated August 10, 2006.

Material Incorporated by Reference

(i) You must use Allstar PZL Glider Sp. z o.o. Mandatory Bulletin No. BE–058/SZD–50–3/2006 ''PUCHACZ'', dated August 10, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact AllStar PZL Glider Sp. z o.o., ul. Cieszynska 325, 43 300 Bielsko-Biala; telephone: +48 (0)33 8125021; fax: +48 (0)33 8123739; e-mail: *office@szd.com.pl.*

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go

to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on November 22, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20325 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25182; Airspace Docket No. 06–AAL–21]

Revision of Class E Airspace; Iliamna, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description contained in a Final Rule that was published in the **Federal Register** on Friday, October 6, 2006 (71 FR 59007). Airspace Docket No. 06–AAL–21.

DATES: *Effective Date:* 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

Federal Register Document E6–16504, Airspace Docket No. 06–AAL–21, published on Friday, October 6, 2006 (71 FR 59007), revised Class E airspace at Iliamna, AK. An error was discovered in the airspace description associated with the directional reference to the 200° bearing from the Iliamna Non-directional Beacon. This action corrects that error by removing it.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the airspace description of the Class E airspace published in the **Federal Register**, Friday, October 6, 2006 (71 FR 59007), (FR doc. E6–16504, page 59007, all references to Iliamna) is corrected as follows:

§ 71.1 [Corrected]

* * * * *

AAL AK E5 Iliamna, AK [Revised]

Iliamna Airport, AK
(Lat. 59°45′16″ N., long. 154°54′39″ W.)
Iliamna NDB
(Lat. 59°44′53″ N., long. 154°54′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Iliamna Airport and that airspace 4 miles west and 8 miles east of the 200° bearing from the Iliamna NDB extending from the 6.7-mile radius to 16 miles; and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat.60°14′00″ N. long. 154°54′00″ W., to lat 59°46′20″ N. long. 153°52′00″ W., to lat. 59°43′00″ N. long 153°00′00″ W., to lat 59°33′00″ N. long. 153°00′00″W., to lat.59°28′00″ N. long. 154°13′00″ W., to lat 59°18′00″ N. long. 154°04′00″ W., to lat. 59°11′00″ N. long. 155°17′00″ W., to lat 59°32′00″ N. long. 155°31′00″ W., to lat. 59°41′00″ N. long. 156°35′00″ W., to the point of beginning.

* * * * *

Issued in Anchorage, AK, on November 16, 2006.

Linda J. Couture,

Acting Director, Alaska Flight Service Information Office.

[FR Doc. 06–9516 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25180; Airspace Docket No. 06–AAL–19]

Establishment of Class E Airspace; Kokhanok, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the location name (Kokhanok) contained in a Final Rule that was published in the **Federal Register** on Tuesday, October 10, 2006 (71 FR 59372). Airspace Docket No. 06–AAL–19.

DATES: *Effective Date:* 0901 UTC, November 23, 2006. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 06–8523, Airspace Docket No. 06–AAL–19, published on Tuesday, October 10, 2006 (71 FR 59372), established Class E airspace at Kokhanok, AK. An error was discovered in the spelling of the airport name, Kokhanok. This action corrects that error.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the airspace description of the Class E airspace published in the **Federal Register,** Tuesday, October 10, 2006 (71 FR 59372), (FR Doc 06–8523, page 59372, all references to Kokhanok) is corrected as follows:

§ 71.1 [Corrected]

* * * * *

AAL AK E5 Kokhanok, AK [New]

Kokhanok Airport, AK
(Lat. 59°26′00″ N., long. 154°48′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Kokhanok Airport, and that airspace 1 mile noth and 1 mile south of the 260° bearing from the Kokhanok Airport extending from the 6.9-mile radius to 8.8 miles west of the Kokhanok Airport, and that airspace extending upward from 1,200 feet above the surface within a 49-mile radius of the Kokhanok Airport.

* * * * *

Issued in Anchorage, AK, on November 16, 2006.

Linda J. Couture,

Acting Director, Alaska Flight Service Information Office.

[FR Doc. 06–9515 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfamethazine Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for use of sulfamethazine soluble powder to create a solution administered as a drench to swine or cattle, or in the drinking water of chickens, turkeys, swine, or cattle for the treatment of coccidiosis or various bacterial diseases.

DATES: This rule is effective December 4, 2006.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–434 that provides for use of SMZ–MED 454 (sulfamethazine sodium) Soluble Powder to create a solution administered as a drench to swine or cattle, or in the drinking water of chickens, turkeys, swine, or cattle for the treatment of coccidiosis or various bacterial diseases. Cross Vetpharm Group Ltd.'s SMZ MED 454 Soluble Powder is approved as a generic copy of Fort Dodge Animal Health, a Division of Wyeth Holdings Corp.'s, SULMET Soluble Powder which was approved under NADA 122–272. The ANADA is approved as of November 3, 2006, and the regulations are amended in 21 CFR 520.2261b to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. Revise § 520.2261b to read as follows:

§ 520.2261b Sulfamethazine powder.

(a) *Specifications.* A soluble powder composed of 100 percent sulfamethazine sodium.

(b) *Sponsors.* See Nos. 053501 and 061623 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.670 of this chapter.

(d) *Conditions of use*—(1) *Chickens*—(i) *Amount.* Administer in drinking water to provide 58 to 85 milligrams (mg) per pound (/lb) of body weight per day.

(ii) *Indications for use.* For control of infectious coryza (*Haemophilus gallinarum*), coccidiosis (*Eimeria tenella*, *E. necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella pullorum*).

(iii) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication 10 days prior to slaughter for food. Do not medicate chickens producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms. Medicated chickens must actually consume enough medicated water which provides the recommended dosages.

(2) *Turkeys*—(i) *Amount.* Administer in drinking water to provide 50 to 124 mg/lb of body weight per day

(ii) *Indications for use.* For control of coccidiosis (*E. meleagrimitis*, *E. adenoeides*).

(iii) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication 10 days prior to slaughter for food. Do not medicate turkeys producing eggs for human consumption. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms. Medicated turkeys must actually consume enough medicated water which provides the recommended dosages.

(3) *Swine*—(i) *Amount.* Administer in drinking water, or as a drench, to provide 108 mg/lb of body weight on the first day and 54 mg/lb of body weight per day on the second, third, and fourth days of administration.

(ii) *Indications for use.* For treatment of porcine colibacillosis (bacterial scours) (*E. coli*), and bacterial pneumonia (*Pasteurella* spp.).

(iii) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication 15 days prior to slaughter for food. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days. Medicated swine must actually consume enough medicated water which provides the recommended dosages.

(4) *Cattle*—(i) *Amount.* Administer in drinking water, or as a drench, to provide 108 mg/lb of body weight on the first day and 54 mg/lb of body weight per day on the second, third, and fourth days of administration.

(ii) *Indications for use in beef and nonlactating dairy cattle.* Treatment of bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*E. coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*F. necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.)

(iii) *Limitations.* Add the required dose to that amount of water that will be consumed in 1 day. Consumption should be carefully checked. Have only medicated water available during treatment. Withdraw medication 10 days prior to slaughter for food. Treatment of all diseases should be instituted early. Treatment should continue 24 to 48 hours beyond the remission of disease symptoms, but not to exceed a total of 5 consecutive days. Medicated cattle must actually consume enough medicated water which provides the recommended dosages.

Dated: November 17, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E6–20404 Filed 12–1–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Florfenicol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The NADA provides for the use of a florfenicol Type A medicated article by veterinary feed directive to formulate swine feed used for the control of respiratory disease.

DATES: This rule is effective December 4, 2006.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571, e-mail: *joan.gotthardt@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 556 Morris Ave., Summit, NJ 07901, filed NADA 141–264 that provides for use of NUFLOR (florfenicol), an antibiotic, a Type A medicated article by veterinary feed directive to formulate Type C medicated feeds used for the control of swine respiratory disease (SRD) associated with *Actinobacillus pleuropneumoniae*, *Pasteurella multocida*, *Streptococcus suis*, and *Bordetella bronchiseptica* in groups of swine in buildings experiencing an outbreak of SRD. The NADA is approved as of November 3, 2006, and the regulations are amended in 21 CFR 558.4 and 558.261 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning November 3, 2006.

The agency has determined under 21 CFR 25.33(d)(5) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

■ 2. In paragraph (d) of § 558.4, in the ''Category II'' table, revise the entry for ''Florfenicol'' to read as follows:

§ 558.4 Requirement of a medicated feed mill license.

* * * * *

(d) * * *

CATEGORY II

Drug	Assay limits percent[1] Type A	Type B maximum (100x)	Assay limits percent[1] Type B/C[2]
*	*	*	*
Florfenicol	90–110	Swine feed: n/a Catfish feed: n/a	Swine feed: 85–115 Catfish feed: 80–110
*	*	*	*

[1]Percent of labeled amount.

[2]Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make Type C medicated feed.

* * * * *

■ 3. In § 558.261, revise paragraphs (a) and (c)(2); redesignate paragraph (e)(1) as paragraph (e)(2); and add new paragraphs (c)(3) and (e)(1) to read as follows:

§ 558.261 Florfenicol.

(a) *Specifications*. Type A medicated articles containing florfenicol in the following concentrations:

(1) 40 grams per kilogram for use as in paragraph (e)(1) of this section.

(2) 500 grams per kilogram for use as in paragraph (e)(2) of this section.

* * * * *

(c) * * *

(2) The expiration date of veterinary feed directives (VFDs) for florfenicol medicated feeds:

(i) For catfish must not exceed 15 days from the date of issuance;

(ii) For swine must not exceed 90 days from the date of issuance.

(3) VFDs for florfenicol shall not be refilled.

* * * * *

(e) * * *

(1) *Swine*—(i) *Amount*. Feed 182 grams per ton of feed (200 parts per million) continuously as the sole ration for 5 days.

(ii) *Indications for use*. For the control of swine respiratory disease (SRD) associated with *Actinobacillus pleuropneumoniae*, *Pasteurella multocida*, *Streptococcus suis*, and *Bordetella bronchiseptica* in groups of swine in buildings experiencing an outbreak of SRD.

(iii) *Limitations*. The safety of florfenicol on swine reproductive performance, pregnancy, and lactation

has not been determined. Feeds containing florfenicol must be withdrawn 13 days prior to slaughter.

* * * * *

Dated: November 17, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E6–20398 Filed 12–1–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2001–10881]

RIN 1625–AA36

Drawbridge Operation Regulations; Amendment

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard revises its drawbridge regulations by lengthening the period for which a deviation from published bridge opening requirements is authorized, and by reorganizing and clarifying some provisions. These changes promote intermodal mobility, safety, and security while balancing the reasonable needs of land and marine traffic.

DATES: This rule is effective January 3, 2007.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–10881 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Chris Jaufmann, Office of Bridge Administration, United States Coast Guard Headquarters, 202–372–1511. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Dockets Operations, Department of Transportation, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 17, 2003, we published a notice of proposed rulemaking (NPRM) for this rulemaking (68 FR 18922). We received 11 letters commenting on the NPRM. All comments were addressed in a supplemental notice of proposed rulemaking (SNPRM) published in the **Federal Register** on May 17, 2006 (71 FR 28629). No comments were received regarding the SNPRM. No public meeting was requested and none was held.

Background and Purpose

The last major update to the drawbridge regulations in 33 CFR Part 117 was in 1984. The Coast Guard determined that updates and clarifications to the present regulations are necessary to meet the competing needs of land and navigational traffic as well as meeting the needs of bridges that have become structurally deficient and functionally obsolete.

Discussion of Changes

The changes made by this final rule are grouped by subject and discussed below.

Deviations

At present, the Coast Guard has two deviations that allow bridge owners to change operating schedules for 60 days for maintenance and repair needs, and up to 90 days to test a new operating schedule. In our final rule, we are consolidating all temporary changes to a drawbridge operating schedule into one of two categories: (1) A deviation, when the temporary change will be for a period of 180 days or less, or; (2) a rulemaking, when the temporary change will be for a period greater then 180 days. This change amends § 117.35 and removes §§ 117.37, 117.43, and 117.45.

This deviation provision would allow the District Commanders the flexibility to maximize waterway use for navigation prior to and during varying weather conditions, repair/maintenance situations, reasons of public health and safety and public events. Any temporary change of an operating schedule lasting greater then 180 days or any permanent change to an operating schedule will require a full rulemaking under the Administrative Procedure Act. This will not affect the bridge owners' responsibility to notify the Coast Guard in a timely manner with their request to change an operating schedule or the discretion of the District Commander to accept the request.

Bridge Owner Responsibility

We are changing the requirements in § 117.7 to clarify the bridge owner's responsibility in maintaining their drawbridges in operable condition.

Appendix A

In the NPRM, the Coast Guard proposed to remove Appendix A to 33 CFR 117 ''Drawbridges Equipped with Radiotelephones''. Appendix A provided information that is already contained in other sources and does not need to be repeated in 33 CFR 117. No comments were received regarding this issue so Appendix A is removed. However, the information formerly contained in Appendix A is available on the Bridge Administration (G–PWB) Web site, *http://www.uscg.mil/hq/g-o/g-opt/g-opt.htm,* and also in the National Oceanographic and Atmospheric Administration's (NOAA) nine volume publication of the ''United States Coast Pilot'' or on NOAA's Web site. We are also removing a note in § 117.15 that referenced Appendix A.

Definitions

The Coast Guard is adding eight definitions in Subpart A to be used throughout part 117. These definitions clarify the terms ''Automated drawbridge'', ''Deviation'', ''Drawbridge'', Drawspan'', ''Public vessel'', ''Remotely operated drawbridge'', ''Removable drawspan bridge'', and ''Untended'' in this part. We also reworded the four definitions currently in § 117.4 for plain language.

Lindsey Slough

The Coast Guard is removing the word ''maintenance'' from § 117.165 thereby requiring any vessel wanting to pass through the removable span bridge, across Lindsey Slough, to give a 72-hour advance notice.

The bridge was constructed in the 1960s and the permit to build the bridge dictated that the drawbridge open for maintenance vessels. A final rule setting a time requirement of 72 hours advance notice for passage was published in the **Federal Register** on April 24, 1984 (49 FR 17452). At the time of publication, the primary focus was on access for maintenance barges and the term maintenance was included in the rule. However, the removable span has never been removed for any vessel and to do so would require a barge with a crane to be brought in to remove the span. Because the bridge has not had a request to open since 1984, the requirement for all vessels to provide 72-hours advance notice will meet the reasonable needs of navigation and will not cause any undue burden on navigation.

Clarifications

The Coast Guard is adding three new sections to clarify existing requirements in part 117. We are adding § 117.8 to explain how to request a permanent

change to the operation of a drawbridge; § 117.36 to more clearly explain the closure requirements of a drawbridge for emergency repair; and § 117.42 to clarify the requirements for remotely operated and automated drawbridges.

The Coast Guard is rewriting the following sections to clarify their requirements: §§ 117.39, 117.41, 117.43, and 117.51.

Consolidations

The Coast Guard is consolidating some sections in part 117 to provide clear guidance of their requirements and to remove redundant language. Sections 117.3 and 117.53 are removed but their substance is reflected in an amended § 117.1. The requirements in § 117.57 are moved to Subpart A and re-designated as § 117.40 since these requirements apply generally to drawbridges operated on advance notice.

Edits

The Coast Guard is making minor corrections and edits, renumbering some sections, and making technical and conforming changes throughout the part. The sections affected are: §§ 117.5, 117.31, 117.55, 117.145, 117.155, and 117.193.

Renumbering

The section headings for §§ 117.486, 117.487, and 117.488 were out of alphabetical order. They have been renumbered under this rule.

Similarly, this rule also redesignates §§ 117.731 and 117.731a as §§ 117.730 and 117.731.

Removals

We are removing ''reserved'' provisions and redesignating material accordingly in §§ 117.271(b), 117.867, 117.881(b), 117.885, 117.891, and 117.1039.

We are removing references to drawbridges that have been removed from the waterway or replaced by a fixed drawbridge in §§ 117.277, 117.535, 117.739(o) and (p)(2), 117.775, 117.783, 117.795(c), and 117.821(a)(1). Reference to the Federal Street Bridge in § 117.713(a) has been removed because the drawbridge has been replaced with a fixed bridge.

Unnecessary distinctions between tugs and tows and commercial and recreational vessels are removed in §§ 117.588(c), and 117.620(c).

References to clearance gauges in § 117.733(a) and § 117.949 are removed because they duplicate the requirements in 33 CFR 118.160. The Coast Guard is removing the reference to clearance gauges from §§ 117.733(a) and 117.949.

References to Federal, State, and local government vessels, emergency vessels or vessels in distress are removed from the following sections because they duplicate the requirements contained in § 117.31: §§ 117.181, 117.187(b), 117.195, 117.219(a), 117.221(a), 117.224(a), 117.225, 117.261(a), 117.269, 117.273(a) and (b), 117.287(a), 117.289, 117.291(a), 117.311, 117.313(a), 117.315(a) and (b), 117.317(a), 117.325(a), 117.353(a), 117.531(a)(1), 117.571(d), 117.573(c), 117.588(a), 117.605(c), 117.620(a), 117.703(a), 117.731(c), 117.736, 117.738(a)(2), 117.745(a)(1), 117.789(a), 117.791(a)(3), 117.797(a), 117.799(a), 117.824(a)(3), 117.843(a)(3), 117.892, 117.911(a), 117.968, 117.977, 117.993(a), 117.1023(b) and a portion of § 117.791(f)(4).

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. There will be no cost to the general public. This rule is to provide a more user-friendly part 117 that will remove redundancies and regulations that are no longer functional, make corrections and amendments, and provide clearer language for the user.

The new deviation would not have a significant effect on the economy. These requests for deviations will be reviewed by the District Commander or his/her delegee, taking waterway users and traffic into consideration.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we considered whether this rulemaking would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will not disproportionately affect small entities since all vessels must be allowed to pass any bridge across the navigable waters of the United States reasonably free and unobstructed.

Also, most bridge owners comprise State governments and Local municipalities, as well as Railroads companies. In order to minimize the impact to small business, the Coast Guard requires a written request of no predefined length or format. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

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

Collection of Information

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Under the provisions of 33 U.S.C. 499, the Secretary of Homeland Security is mandated to prescribe rules and regulations for governing the operation of drawbridges. This authorization was delegated to the Commandant of the Coast Guard under Department of Homeland Security Delegation Number 0170.1 and the drawbridge operating regulations are set out in 33 CFR Part 117.

Need for Information: To change any regulation, 5 U.S.C. 553 requires rulemaking to be published in the **Federal Register**. The information needed to change a drawbridge operating schedule can only be obtained from the bridge owners. The information collection requirements are contained in 33 CFR 33 CFR 117.8, 117.35, 117.36, 117.39, 117.40, and 117.42.

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information and OMB has approved the collection. The part number is 117 of title 33 and the corresponding approval number from OMB is OMB Control

Number 1625–0109 which expires on September 30, 2008.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction from further environmental documentation. Promulgation of changes to drawbridge regulations has been found to not have significant effects on the human environment. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. Revise the authority citation for part 117 to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.1 to read as follows:

§ 117.1 Purpose.

(a) This part prescribes the general and special drawbridge operating regulations that apply to the drawbridges across the navigable waters of the United States and its territories. The authority to regulate drawbridges across the navigable waters of the United States is vested in the Secretary of Homeland Security.

(b) Subpart A contains the general operation requirements that apply to all drawbridges.

(c) Subpart B contains specific requirements for operation of individual drawbridges. These requirements are in addition to or vary from the general requirements in Subpart A. Specific sections in subpart B that vary from a general requirement in Subpart A supersede the general requirement. All other general requirements in Subpart A, that are not at variance, apply to the drawbridges and removable span bridges listed in Subpart B.

§ 117.3 [Removed].

■ 3. Remove § 117.3.

■ 4. Revise § 117.4 to read as follows:

§ 117.4 Definitions.

The following definitions apply to this part:

Appurtenance means an attachment or accessory extending beyond the hull or superstructure that is not an integral part of the vessel and is not needed for a vessel's piloting, propelling, controlling, or collision avoidance capabilities.

Automated drawbridge means a drawbridge that is operated by an automated mechanism, not a drawtender. An automated drawbridge is normally kept in the open to navigation position and closes when the mechanism is activated.

Deviation means a District Commander's action authorizing a drawbridge owner to temporarily not

comply with the drawbridge opening requirements in this part.

Drawbridge means a bridge with an operational span that is intended to be opened for the passage of waterway traffic.

Drawspan means the operational span of a drawbridge.

Lowerable means a non-structural vessel appurtenance that is or can be made flexible, hinged, collapsible, or telescopic so that it can be mechanically or manually lowered.

Nonstructural means that the item is not rigidly fixed to the vessel and can be relocated or altered.

Not essential to navigation means that a nonstructural vessel appurtenance, when in the lowered position, would not adversely affect the vessel's piloting, propulsion, control, or collision-avoidance capabilities.

Public vessel means a vessel that is owned and operated by the United States Government and is not engaged in commercial service, as defined in 46 U.S.C. 2101.

Remotely operated drawbridge means a drawbridge that is operated by remote control from a location away from the drawbridge.

Removable span bridge means a bridge that requires the complete removal of a span by means other than machinery installed on the bridge to open the bridge to navigation.

Untended means that there is no drawtender at the drawbridge.

■ 5. Revise § 117.5 to read as follows:

§ 117.5 When the drawbridge must open.

Except as otherwise authorized or required by this part, drawbridges must open promptly and fully for the passage of vessels when a request or signal to open is given in accordance with this subpart.

■ 6. Revise § 117.7 to read as follows:

§ 117.7 General requirements of drawbridge owners.

Except for drawbridges that have been authorized, before January 3, 2007, to remain closed to navigation or as otherwise specified in subpart B, drawbridge owners must:

(a) Provide the necessary drawtender(s) for the safe and prompt opening of the drawbridge.

(b) Maintain the working machinery of the drawbridge in good operating condition.

(c) Cycle the drawspan(s) periodically to ensure operation of the drawbridge.

(d) Ensure that the drawbridge operates in accordance with the requirements of this part.

(e) Any drawbridge allowed to remain closed to navigation prior to January 3, 2007, when necessary, must be returned to operable condition within the designated time set forth by the District Commander and will become subject to the requirements of this part.

■ 7. Add § 117.8 to read as follows:

§ 117.8 Permanent changes to drawbridge operation.

(a) Anyone may submit a written request to the District Commander for a permanent change to a drawbridge operating requirement. The request must include documentation supporting or justifying the requested change.

(b) If after evaluating the request, the District Commander determines that the requested change is not needed, he or she will respond to the request in writing and provide the reasons for denial of the requested change.

(c) If the District Commander decides that a change may be needed, he or she will begin a rulemaking to implement the change.

§ 117.15 [Amended].

■ 8. In § 117.15 remove the Note following paragraph (d)(1).

■ 9. In § 117.31 revise the section heading and paragraph (a) to read as follows:

§ 117.31 Drawbridge operations for emergency vehicles and emergency vessels.

(a) Upon receiving notification that an emergency vehicle is responding to an emergency situation, a drawtender must make all reasonable efforts to have the drawspan closed at the time the emergency vehicle arrives.

* * * * *

■ 10. Revise § 117.35 to read as follows:

§ 117.35 Temporary change to a drawbridge operating schedule.

(a) For any temporary change to the operating schedule of a drawbridge, lasting less than or equal to 180 days, the District Commander may issue a deviation approval letter to the bridge owner and publish a ''Notice of deviation from drawbridge regulation'' in the **Federal Register**.

(b) If the time period for a temporary change to the operating schedule of a drawbridge will be greater then 180 days, the District Commander will follow appropriate rulemaking procedures and publish a temporary rule in the **Federal Register** prior to the start of the action.

(c) *Request for change.* (1) To temporarily change the drawbridge-operating requirements the bridge owner must submit a written request to the District Commander for approval of the change.

(2) The request must describe the reason for the closure and the dates and times scheduled for the start and end of the change.

(3) Requests should be submitted as early as possible, preferably 90 days before the start of the action. District Commanders have discretion to accept requests submitted less than 90 days before a needed change if those requests can be processed before the date of the needed change.

(d) *Determination.* The District Commander's determination to allow the schedule change is normally forwarded to the bridge owner within ten working days after receipt of the request. If the request is denied, the reasons for the denial will be set out in the District Commander's decision letter.

(e) The drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

(f) If the authorized closure period for an event is broken into separate time periods on the same day or on consecutive days, the drawbridge must provide openings for navigation between the authorized closures.

(g) The District Commander will also announce the change to the operating schedule in the Local Notice to Mariners and other appropriate local media.

■ 11. Add § 117.36 to read as follows:

§ 117.36 Closure of drawbridge for emergency repair.

(a) When a drawbridge unexpectedly becomes inoperable, or should be immediately rendered inoperable because of mechanical failure or structural defect, the drawbridge owner must notify the District Commander of the closure without delay and give the reason for the emergency closure of the drawbridge and an estimated time when the drawbridge will be returned to operating condition.

(b) The District Commander will notify mariners about the drawbridge status through Broadcast Notices to Mariners, Local Notice to Mariners and any other appropriate local media.

(c) Repair work under this section must be performed with all due speed in order to return the drawbridge to operation as soon as possible.

§ 117.37 [Removed]

■ 12. Remove § 117.37.

■ 13. Revise § 117.39 to read as follows:

§ 117.39 Authorized closure of drawbridge due to infrequent requests for openings.

(a) When there have been no requests for drawbridge openings for at least two years, a bridge owner may request in writing that the District Commander

authorize the drawbridge to remain closed to navigation and to be untended.

(b) The District Commander may:

(1) Authorize the closure of the drawbridge;

(2) Set out any conditions in addition to the requirement in paragraph (d): and

(3) Revoke an authorization and order the drawbridge returned to operation when necessary.

(c) All drawbridges authorized to remain closed to navigation, under this section, must be maintained in operable condition.

(d) Authorization under this section does not:

(1) Authorize physical changes to the drawbridge structure, or

(2) Authorize removal of the operating machinery.

(e) Drawbridges authorized under this section to remain closed to navigation and to be untended are identified in subpart B of this part.

■ 14. Add § 117.40 to read as follows:

§ 117.40 Advance notice for drawbridge opening.

(a) Upon written request by the owner of a drawbridge, the District Commander may authorize a drawbridge to operate under an advance notice for opening. The drawbridge tender, after receiving the advance notice, must open the drawbridge at the requested time and allow for a reasonable delay in arrival of the vessel giving the advance notice.

(b) If the request is approved, a description of the advanced notice for the drawbridge will be added to subpart B of this part.

■ 15. Revise § 117.41 to read as follows:

§ 117.41 Maintaining drawbridges in the fully open position.

(a) Drawbridges permanently maintained in the fully open to navigation position may discontinue drawtender service as long as the drawbridge remains fully open to navigation. The drawbridge must remain in the fully open position until drawtender service is restored.

(b) If a drawbridge is normally maintained in the fully open to navigation position, but closes to navigation for the passage of pedestrian, vehicular, rail, or other traffic, the drawbridge must be tended unless:

(1) Special operating requirements are established in subpart B of this part for that drawbridge; or

(2) The drawbridge is remotely operated or automated.

■ 16. Add § 117.42 to read as follows:

§ 117.42 Remotely operated and automated drawbridges.

(a) Upon written request by the owner of a drawbridge, the District Commander may authorize a drawbridge to operate under an automated system or from a remote location.

(b) If the request is approved, a description of the full operation of the remotely operated or automated drawbridge will be added to subpart B of this part.

§§ 117.43 and 117.45 [Removed]

■ 17. Remove §§ 117.43 and 117.45.

■ 18. Revise § 117.51 to read as follows:

Subpart B—Specific Requirements

§ 117.51 General.

The drawbridges in this subpart are listed by the state in which they are located and by the waterway they cross. Waterways are arranged alphabetically by state. The drawbridges listed under a waterway are generally arranged in order from the mouth of the waterway moving upstream. The drawbridges on the Atlantic Intracoastal Waterway are listed from north to south and on the Gulf Intracoastal Waterway from east to west.

§ 117.53 [Removed].

■ 19. Remove § 117.53.

■ 20. In § 117.55 revise paragraph (a) to read as follows:

§ 117.55 Posting of requirements.

(a) The owner of each drawbridge under this subpart, other than removable span bridges, must ensure that a sign summarizing the requirements in this subpart applicable to the drawbridge is posted both upstream and downstream of the drawbridge. The requirements to be posted need not include those in Subpart A or §§ 117.51 through 117.59 of this part.

* * * * *

§ 117.57 [Removed].

■ 21. Remove § 117.57.

■ 22. Revise § 117.145 to read as follows:

§ 117.145 Burns Cutoff.

The drawspan for the Daggett Road Drawbridge, mile 3.0 at Stockton, must open on signal if at least 48 hours notice is given to the Port of Stockton.

■ 23. Revise § 117.155 to read as follows:

§ 117.155 Eureka Slough.

The drawspan for the Northwestern Pacific Railroad Authority Drawbridge, mile 0.3 at Eureka, need not be opened for the passage of vessels. The owner or agency controlling the drawbridge must restore the drawspan to full operation within six months of notification from the District Commander.

■ 24. Revise § 117.165 to read as follows:

§ 117.165 Lindsey Slough.

The center drawspan of the Hastings Farms Highway Bridge, mile 2.0 between Egbert and Lower Hastings Tracts, must be removed for the passage of vessels if at least 72 hours notice is given to the Hastings Island Land Company office at Rio Vista.

§ 117.181 [Amended].

■ 25. In § 117.181 remove the last sentence of the section.

§ 117.187 [Amended].

■ 26. In § 117.187 remove the last sentence in paragraph (b).

■ 27. Revise § 117.193 to read as follows:

§ 117.193 San Leandro Bay.

The drawspans of the California Department of Transportation Highway and Bicycle drawbridges, mile 0.0 and mile 0.1, between Alameda and Bay Farm Island, must open on signal; except that, from 5 a.m. to 8 a.m. and 5 p.m. to 9 p.m., the drawspans must open on signal if at least 12 hours notice is given. Notice must be given to the drawtender of the Bay Farm Island drawbridges from 8 a.m. to 5 p.m. and to the drawtender of the Park Street Drawbridge at Alameda at all other times. The drawspans need not be opened for the passage of vessels from 9 p.m. to 5 a.m.

§ 117.195 [Amended].

■ 28. In § 117.195 remove the last sentence in this section.

■ 29. In § 117.219 revise paragraph (a) to read as follows:

§ 117.219 Pequonnock River.

(a) Public vessels of the United States must be passed through as soon as possible.

* * * * *

■ 30. In § 117.221 revise paragraph (a) to read as follows:

§ 117.221 Saugatuck River.

(a) Public vessels of the United States must be passed through as soon as possible.

* * * * *

■ 31. In § 117.224 revise paragraph (a) to read as follows:

§ 117.224 Thames River.

* * * * *

(a) Immediately on signal for public vessels of the United States and commercial vessels; except, when a train scheduled to cross the drawbridge, without stopping, has passed the Midway, Groton, or New London stations and is in motion toward the drawbridge, the drawspan must not be opened for the passage of any vessel until the train has crossed the drawbridge; and

* * * * *

■ 32. Revise § 117.225 to read as follows:

§ 117.225 Yellow Mill Channel.

The drawspan of the Stratford Avenue Bridge, mile 0.3 at Bridgeport, must open on signal if at least 24-hours notice is given. Public vessels of the United States must pass through as soon as possible.

■ 33. In § 117.255 add paragraph (d) to read as follows:

§ 117.255 Potomac River.

* * * * *

(c) This section is also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 34. In § 117.261 revise paragraph (a) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

(a) *General.* Public vessels of the United States and tugs with tows must be passed through the drawspan of each drawbridge listed in this section at anytime.

* * * * *

■ 35. Revise § 117.269 to read as follows:

§ 117.269 Biscayne Bay.

The east drawspan of the Venetian Causeway Drawbridge, between Miami and Miami Beach, must open on signal; except that, from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and 4:45 p.m. to 6:15 p.m. Monday through Friday, the draw need not be opened. However, the drawspan must open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m. if any vessels are waiting to pass. The drawspan must open on-signal on Thanksgiving Day, Christmas Day, New Year's Day, and Washington's Birthday. The drawspan must open at anytime for public vessels of the United States and tugs with tows.

§ 117.271 [Amended]

■ 36. In § 117.271 remove paragraph (b) and remove the paragraph designator from paragraph (a).

■ 37. Revise § 117.273 to read as follows:

§ 117.273 Canaveral Barge Canal.

(a) The drawspan of the Christa McAuliffe Drawbridge, SR 3, mile 1.0, across the Canaveral Barge Canal need only open daily for vessel traffic on the hour and half-hour from 6 a.m. to 10 p.m.; except that from 6:15 a.m. to 8:15 a.m. and from 3:10 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the drawspan need not open. From 10:01 p.m. to 5:59 a.m., everyday, the drawspan must open on signal if at least 3 hours notice is given to the drawtender. The drawspan must open as soon as possible for the passage of public vessels of the United States and tugs with tows.

(b) The drawspan of the SR401 Drawbridge, mile 5.5 at Port Canaveral, must open on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5:15 p.m. Monday through Friday except Federal holidays, the drawspan need not be opened for the passage of vessels. From 10 p.m. to 6 a.m., the drawspan must open on signal if at least three hours notice is given. The drawspan must open as soon as possible for the passage of pubic vessels of the United States and tugs with tows.

§ 117.277 [Removed]

■ 38. Remove § 117.277.

■ 39. In § 117.287 revise paragraph (a) to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

(a) Public vessels of the United States and tugs with tows must be passed through the drawspan of each drawbridge listed in this section at anytime.

* * * * *

■ 40. Revise § 117.289 to read as follows:

§ 117.289 Hillsboro Inlet.

The drawspans of the SR A–1–A Drawbridge, mile 0.3 at Hillsboro Beach, must open on signal; except that, from 7 a.m. to 6 p.m., the drawspans need be opened only on the hour, quarter hour, half hour, and three quarter hour. Public vessels of the United States and tugs with tows must be passed at anytime.

■ 41. In § 117.291 revise paragraph (a) to read as follows:

§ 117.291 Hillsborough River.

(a) The drawspans for the drawbridges at Platt Street, mile 0.0, Brorein Street, mile 0.16, Kennedy Boulevard, mile 0.4, Cass Street, mile 0.7, Laurel Street, mile 1.0, West Columbus Drive, mile 2.3, and West Hillsborough Avenue, mile 4.8, must open on signal if at least two hours notice is given; except that, the drawspan must open on signal as soon as possible for public vessels of the United States.

* * * * *

■ 42. Revise § 117.311 to read as follows:

§ 117.311 New Pass.

The drawspan for the State Road 789 Drawbridge, mile 0.05, at Sarasota, need only open on the hour, twenty minutes past the hour, and forty minutes past the hour from 7 a.m. to 6 p.m. From 6 p.m. to 7 a.m., the drawspan must open on signal if at least 3 hours notice is given to the drawtender. Public vessels of the United States and tugs with tows must be passed at anytime.

■ 43. In § 117.313 revise paragraph (a) to read as follows:

§ 117.313 New River.

(a) The drawspan for the S.E. Third Avenue Drawbridge, mile 1.4 at Fort Lauderdale, must open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. Monday through Friday, excluding Saturday, Sunday, and all federal, state, and local holidays, the drawspan need not be opened for the passage of vessels. Public vessels of the United States and tugs with tows must be passed at anytime.

* * * * *

■ 44. Revise § 117.315 to read as follows:

§ 117.315 New River, South Fork.

(a) The drawspan for the Southwest 12th Street Drawbridge, mile 0.9 at Fort Lauderdale, must open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. Monday through Friday, excluding Saturday, Sunday, and federal, state, and local holidays, the drawspan need not be opened for the passage of vessels. Public vessels of the United States and tugs with tows must be passed through the draw as soon as possible.

(b) The drawspan for the SR84 Drawbridge, mile 4.4 at Fort Lauderdale, must open on signal if at least 24 hours notice is given. Public vessels of the United States and tugs with tows must be passed through the draw as soon as possible.

■ 45. In § 117.317 revise paragraph (a) to read as follows:

§ 117.317 Okeechobee Waterway.

(a) *Exempt vessels.* This term means public vessels of the United States and tugs with tows.

* * * * *

■ 46. In § 117.325 revise paragraph (a) to read as follows:

§ 117.325 St. Johns River.

(a) The drawspan for the Main Street (US17) drawbridge, mile 24.7, at Jacksonville, must open on signal except that, from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m., Monday through Saturday except Federal holidays, the drawspan need not be opened for the passage of vessels.

* * * * *

■ 47. In § 117.353 revise paragraph (a) to read as follows:

§ 117.353 Atlantic Intracoastal Waterway, Savannah River to St. Marys River.

(a) *General.* Public vessels of the United States and tugs with tows must, upon proper signal, be passed through the drawspan of each drawbridge in this section at anytime.

* * * * *

§§ 117.486 through 117.488 [Redesignated]

■ 48. Redesignate §§ 117.486 through 117.488 as follows:

Old section	New section
117.486	117.487
117.487	117.488
117.488	117.486

■ 49. In § 117.531 revise paragraph (a)(1) to read as follows:

§ 117.531 Piscataqua River.

(a) * * *

(1) Public vessels of the United States, commercial vessels over 100 gross tons, inbound ferry service vessels and inbound commercial fishing vessels must be passed through the drawspan of each drawbridge as soon as possible. The opening signal from these vessels is four or more short blasts of a whistle, horn or a radio request.

* * * * *

§ 117.535 [Removed]

■ 50. Remove § 117.535.

■ 51. In § 117.571 revise paragraph (d) to read as follow:

§ 117.571 Spa Creek.

* * * * *

(d) The drawspan must always open on signal for public vessels of the United States.

■ 52. In § 117.573 revise paragraph (c) to read as follows:

§ 117.573 Stoney Creek.

* * * * *

(c) Public vessels of the United States must be passed as soon as possible.

■ 53. In § 117.588 revise paragraphs (a) and (c) to read as follows:

§ 117.588 Bass River.

* * * * *

(a) Public vessels of the United States must be passed as soon as possible.

* * * * *

(c) That the drawspan for the Hall Whitaker Drawbridge must open on signal if at least 24 hours notice is given.

■ 54. In § 117.605 revise paragraph (c) to read as follows:

§ 117.605 Merrimack River.

* * * * *

(c) The drawspans for the Massachusetts Department of Public Works drawbridges, mile 5.8 at Newburyport and mile 12.6 at Rock Village, and Groveland Drawbridge, mile 16.5 at Groveland, must open on signal if at least two hours notice is given. Public vessels of the United States must be passed through the drawspans as soon as possible.

■ 55. In § 117.620 revise paragraphs (a) and (c) to read as follows:

§ 117.620 Westport River—East Branch.

(a) Public vessels of the United States must be passed as soon as possible.

* * * * *

(c) That the drawspan for the Westport Point Drawbridge, mile 1.2 at Westport, must open on signal if at least 24 hours notice is given.

■ 56. Revise § 117.683 to read as follows:

§ 117.683 Pearl River.

See § 117.486, Pearl River, listed under Louisiana.

■ 57. In § 117.703 revise paragraph (a) to read as follows:

§ 117.703 Bass River.

* * * * *

(a) The drawspan must open on signal if at least six hours notice is given, except that public vessels of the United States must be passed as soon as possible.

* * * * *

■ 58. In § 117.713 revise paragraph (a) to read as follows:

§ 117.713 Cooper River.

(a) The drawspans for the State Street Drawbridge, mile 0.3 and the Conrail Drawbridge at North River Avenue, mile 0.9, must open on signal if at least four hours notice is given.

* * * * *

§ 117.731 [Redesignated as § 117.730].

■ 59. Redesignate § 117.731 as § 117.730.

§ 117.731a [Redesignate as § 117.731 and Amend].

■ 60. Redesignate § 117.731a as § 117.731 and in newly redesignated § 117.731, revise paragraph (c) to read as follows:

§ 117.731 Mullica River.

* * * * *

(c) The drawspan must open as soon as possible for public vessels of the United States during the periods when four hours notice is required.

§ 117.733 [Amended]

■ 61. In § 117.733 remove paragraph (a) and redesignate paragraphs (b) through (j) as paragraphs (a) through (i) respectively.

■ 62. Revise § 117.736 to read as follows:

§ 117.736 Oceanport Creek.

The drawspan for the New Jersey Transit Rail Operations Drawbridge, mile 8.4 near Oceanport, must open on signal from May 15 through September 15 between 5 a.m. and 9 p.m.; except that, the drawspan need not open 6 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m on weekdays, excluding all federal holidays except for Martin Luther King Day. The drawspan must open on signal upon four hours notice from May 15 through September 15 between 9 p.m. and 5 a.m., and from September 16 through May 14; except that, the drawspan need not be opened from 6 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m. on weekdays, excluding all federal holidays except for Martin Luther King Day. Public vessels of the United States must be passed as soon as possible at anytime.

■ 63. In § 117.738 revise paragraph (a)(2) to read as follows:

§ 117.738 Overpeck Creek.

(a)* * *

(2) Public vessels of the United States must be passed through the drawspan of each drawbridge as soon as possible.

* * * * *

§ 117.739 [Amended]

■ 64. In § 117.739 remove paragraphs (o) and (p)(2); redesignate paragraph (p)(3) as (p)(2) and redesignate (p) as (o).

■ 65. In § 117.745 revise paragraphs (a)(1) and (b), introductory text, to read as follows:

§ 117.745 Rancocas River (Creek).

(a) * * *

(1) Public vessels of the United States must be passed through the drawspan of each drawbridge as soon as possible without delay at anytime. The opening signal from these vessels is four or more

short blasts of a whistle or horn, or a radio request.

* * * * *

(b) The drawspans for the SR#543 Drawbridge, mile 1.3 at Riverside and the SR#38 Drawbridge, mile 7.8 at Centerton, must operate as follows:

* * * * *

§ 117.775 [Removed]

■ 66. Remove § 117.775.

§ 117.783 [Removed]

■ 67. Remove § 117.783.

■ 68. In § 117.789, revise paragraph (a) to read as follows:

§ 117.789 Harlem River.

(a) The drawspan of each drawbridge across the Harlem River, except the Spuyten Duyvil Railroad Drawbridge, need not be opened from 5 p.m. to 10 a.m. However, at all times, public vessels of the United States must be passed through the drawspan of each drawbridge, listed in this section, as soon as possible.

* * * * *

■ 69. In § 117.791 remove paragraph (a)(3); redesignate paragraphs (a)(4) and (a)(5) as (a)(3) and (a)(4), respectively, and revise paragraph (f)(4) to read as follows:

§ 117.791 Hudson River.

* * * * *

(f) * * *

(4) During the period that the Federal Lock at Troy is inoperative, the drawspans need not be opened for the passage of vessels.

§ 117.795 [Amended]

■ 70. In § 117.795, remove paragraph (c).

■ 71. In § 117.797 revise paragraph (a) to read as follows:

§ 117.797 Lake Champlain.

(a) The drawspan for each drawbridge listed in this section must open as soon as possible for public vessels of the United States.

* * * * *

■ 72. In § 117.799 revise paragraph (a) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

(a) At all times, public vessels of the United States must be passed through the drawspan of each drawbridge listed in this section as soon as possible.

* * * * *

§ 117.821 [Amended]

■ 73. In § 117.821 remove paragraph (a)(1) and redesignate (a)(2) through (a)(6) as (a)(1) through (a)(5) respectively.

■ 74. In § 117.824 revise paragraph (a)(3) to read as follows:

§ 117.824 Neuse River.

(a) * * *

(3) Must always open on signal for public vessels of the United States.

* * * * *

■ 75. In § 117.843 revise paragraph (a)(3) to read as follows:

§ 117.843 Trent River.

(a) * * *

(3) Must always open on signal for public vessels of the United States.

* * * * *

§ 117.867 [Removed]

■ 76. Remove § 117.867.

§ 117.881 [Amended]

■ 77. In § 117.881 remove paragraph (b) and paragraph designator (a) from the remaining text.

§ 117.885 [Removed]

■ 78. Remove § 117.885.

§ 117.891 [Removed]

■ 79. Remove § 117.891.

■ 80. Revise § 117.892 to read as follows:

§ 117.892 South Slough.

The drawspan for the Oregon State Highway Drawbridge across South Slough at Charleston must open on signal for the passage of vessels, except that between the hours of 7 a.m. and 7 p.m., from June 1 through September 30, the drawspan need be opened only on the hour and half-hour. This exception does not apply to commercial tugs and/or tows or public vessels of the United States.

■ 81. In § 117.911 revise paragraph (a) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

(a) *General.* Public vessels of the United States and tugs with tows, upon proper signal, will be passed through the drawspan of each drawbridge listed in this section at anytime.

* * * * *

§ 117.949 [Amended]

■ 82. In § 117.949 remove the last sentence of the section.

■ 83. Revise § 117.968 to read as follows:

§ 117.968 Gulf Intracoastal Waterway.

The drawspan for the Port Isabel Drawbridge, mile 666.0, must open on signal; except that, from 5 a.m. to 8 p.m. on weekdays only, excluding federal, state, and local holidays, the drawspan need open only on the hour for pleasure craft. The drawspan must open on signal at anytime for commercial vessels. When the drawspan is open for a commercial vessel, waiting pleasure craft must be passed.

■ 84. Revise § 117.977 to read as follows:

§ 117.977 Pelican Island Causeway, Galveston Channel.

The drawspan for the Pelican Island Causeway Drawbridge across Galveston Channel, mile 4.5 of the Galveston Channel, (GIWW mile 356.1) at Galveston, Texas, must open on signal; except that, from 6:40 a.m. to 8:10 a.m., 12 noon to 1 p.m., and 4:15 p.m. to 5:15 p.m. Monday through Friday except Federal holidays, the drawspan need not be opened for passage of vessels. Public vessels of the United States must be passed at anytime.

■ 85. In § 117.993 revise paragraph (a) to read as follows:

§ 117.993 Lake Champlain.

(a) The drawspan for each of the drawbridges listed in this section must open as soon as possible for the passage of public vessels of the United States.

* * * * *

■ 86. In § 117.1023 revise paragraph (b) to read as follows:

§ 117.1023 Pamunkey River.

* * * * *

(b) Public vessels of the United States must pass at anytime.

§ 117.1039 [Removed]

■ 87. Remove § 117.1039.

Appendix A to Part 117 [Removed]

■ 88. Remove Appendix A To Part 117.

Dated: November 13, 2006.

C.E. Bone,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention.

[FR Doc. 06–9517 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0925; FRL–8250–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Missouri. This revision pertains to Grossman Iron and Steel Company's Source Registration Permit, number SR00.045A. This permit, issued by the City of St. Louis, will control particulate matter (PM_{10}) emissions from Grossman Iron and Steel Company. This approval will make the permit Federally enforceable.

DATES: This direct final rule will be effective February 2, 2007, without further notice, unless EPA receives adverse comment by January 3, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0925, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *E-mail: algoe-eakin.amy@epa.gov.*
3. *Mail:* Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier.* Deliver your comments to Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2006–0925. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551–7942, or by e-mail at *algoe-eakin.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a State regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing State regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal approval process for a SIP?

In order for State regulations to be incorporated into the Federally-enforceable SIP, States must formally adopt the regulations and control strategies consistent with State and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a State-authorized rulemaking body.

Once a State rule, regulation, or control strategy is adopted, the State submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the State submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All State regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual State regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given State regulation with a specific effective date.

What does Federal approval of a State regulation mean to me?

Enforcement of the State regulation before and after it is incorporated into the Federally-approved SIP is primarily a State responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What is being addressed in this document?

On October 5, 2006, Missouri requested that EPA approve Grossman

Iron and Steel Company's source registration permit for inclusion into the Missouri SIP. The Grossman Iron and Steel Company (Grossman) revised source registration permit addresses fugitive particulate matter emissions control by incorporating limitations and conditions, operating procedures, and recordkeeping requirements. These emissions controls were also contained in the facility's September 2004 compliance plan.

In 2001, the City of St. Louis, in cooperation with and approval from the Missouri Department of Natural Resources' (MDNR's) Air Pollution Control Program and EPA Region 7, sited a PM_{10} monitor at 3 N. Market Street. Shortly after the placement of this monitor, exceedances of the 24-hour PM_{10} National Ambient Air Quality Standard (NAAQS) were recorded. Because of the number of exceedances at the PM_{10} monitor at 3 N. Market Street, MDNR's Air Pollution Control Program and the City of St. Louis staff worked with Grossman to develop a compliance plan in which Grossman committed to and accomplished the following actions: (1) Initiated communications with scrap suppliers to minimize the amount of nonmetallic waste in scrap; (2) committed to reduce the size of scrap piles; (3) committed to applying polymer modified asphalt to the gravel lot south of N. Market Street; (4) repaired hardscape surfaces; (5) installed additional hardscape surfaces; and (6) installed a new shredder to process scrap which will also minimize the amount of scrap on site. In addition to the implementation of the compliance plan, the City of St. Louis revised Grossman's source registration permit to include operational limits, operating procedures, and recordkeeping requirements. The revisions to the source registration permit provide for the operating procedures and recordkeeping requirements to be permanent and enforceable. Together, the implementation of the compliance plan (which has been completed by Grossman) and the on-going operating restrictions and implementation of the operating procedures outlined in the source registration permit serves as the PM_{10} emissions reduction plan.

In order to demonstrate the effectiveness of Grossman's operating procedures on air quality, MDNR's Air Pollution Control Program developed emission inventory analysis based on Grossman's 2004 production levels. The emission inventory demonstrates an overall reduction in PM_{10} emissions from 17.55 tons per year to 4.46 tons per year (approximately a 75 percent reduction in PM_{10} emissions).

Have the requirements for approval of a SIP revision been met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What action is EPA taking?

We are approving Missouri's request to revise the SIP to include the Grossman Iron and Steel Source Registration Permit, number SR00.045A.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *February 2, 2007.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 24, 2006.

John B. Askew,

Regional Administrator, Region 7.

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320(d) the table is amended by adding entry (23) at the end of the table for Grossman Iron and Steel Company, to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/Permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
(23) Grossman Iron and Steel Company	Permit No. SR00.045A	7/19/06	December 4, 2006 *[insert FR page number where the document begins]*	

* * * * *

[FR Doc. E6–20433 Filed 12–1–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0883; FRL–8251–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri for the inclusion of revisions to the Construction Permit Exemptions rule. The Construction Permit Exemptions rule lists specific construction or modification projects that are not required to obtain permits under the Construction Permits Required rule. Revisions to this rule include updating the insignificance levels, adding a new exemption for manufacturing operations (which produce insignificant emissions), clarifying the grain handling facilities exemption, and restructuring of the record keeping portion of the rule. Missouri developed the revisions to this rule under two separate state rulemaking processes.

DATES: This direct final rule will be effective February 2, 2007, without further notice, unless EPA receives adverse comment by January 3, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR–2006–0883, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *E-mail: algoe-eakin.amy@epa.gov.*
3. *Mail:* Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier:* Deliver your comments to Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2006–0883. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551–7942, or by e-mail at *algoe-eakin.amy@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal approval process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What does Federal approval of a state regulation mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What is being addressed in this document?

On April 6, 2005, and July 24, 2006, Missouri requested that EPA approve revisions to the SIP to include revisions to the Construction Permit Exemptions rule, 10 CSR 10–6.061. The Construction Permit Exemptions rule lists specific construction or modification projects that are not required to obtain permits under the Construction Permits Required rule. The intent of the Construction Permit Exemptions rule is to exempt minor and/or de minimis sources from permitting requirements. Sources which would emit at or above major source levels are not eligible for the exemptions.

Missouri made four revisions to this rule. The revisions to the Construction Permit Exemptions rule include (1) revising subparagraph (3)(A)2.E., (2) adding subparagraph (3)(A)2.DD., (3) revising subsection(3)(A)3., and (4) restructuring section (4) of this rule.

One of the revisions includes revising subparagraph (3)(A)2.E.,the grain handling, storage, and drying facilities exemption. Missouri added the word ''commercial'' into this subsection, which clarifies which grain handling facilities are exempt from construction permits.

Another revision includes Missouri adding subparagraph (3)(A)2.DD. to include a new exemption for ''carving, cutting, routing, turning, drilling, machining, sawing, sanding, planing, buffing, or polishing solid materials, other than materials containing any asbestos, beryllium or lead greater than one percent by weight as determined by Material Safety Data Sheets, vendor material specifications, and/or purchase order specifications with specific operating parameters for equipment.'' Missouri states that the inclusion of this exemption will not have a negative impact on air quality and included this exemption in the technical analysis which demonstrates that the significant revisions to this rule do not negatively impact air quality.

For revisions to subparagraph(3)(A)3., Missouri revised the insignificant emission exemption levels. Missouri regulations exempt installations from the requirement to obtain a construction permit if emissions of criteria pollutants (except lead) from the proposed construction or modification are below a significance level. For the non-lead criteria pollutants, the state retained the 876 pounds per year level, except for volatile organic compounds (VOCs), which was raised to 4,000 pounds per year. The state also increases the short-term limit from 0.5 pounds per hour for all pollutants to 1.0 pound for PM_{10}, 2.75 pounds for sulfur oxides (SO_X), nitrogen oxides (NO_X), and VOCs, and 6.88 pounds for carbon monoxide (CO). Missouri evaluated the significance levels and conducted an analysis which assumed emissions below these de minimis levels and average emission stack parameters collected from Missouri's Emission Inventory Questionnaire data and modeling software. Missouri evaluated the results in light of the ambient air quality standards and concluded that raising existing insignificance levels will not result in a significant negative impact on air quality. Missouri also included the new exemption in subparagraph (3)(A)2.DD. in this analysis. In addition, the construction permit exemption rule specifies that the MDNR Air Pollution Control Program director has the discretion to require review if the construction or modification will

appreciably affect air quality or exceed air quality standards or complaints involving air pollution have been filed in the vicinity of the proposed construction of modification. Missouri can use this authority if a specific source might have air quality impacts of concern.

The final revision to this rule is the addition of language to Section (4), ''Reporting and Record Keeping''. This revision moves the recording keeping provisions from subsection (3)(A)3.E. to Section (4).

Have the requirements for approval of a SIP revision been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What action is EPA taking?

We are approving Missouri's revisions to the Construction Permit Exemptions rule, 10 CSR 10–6.061, with the exception of the livestock markets and livestock operations exemption, Section (3)(A)2.D., which was withdrawn in an October 25, 2005, request by the state of Missouri.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 2, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 17, 2006.

John B. Askew,

Regional Administrator, Region 7.

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for 10–6.061 to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.061	Construction Permit Exemptions	7/30/06	12/4/06 [insert FR page number where the document begins].	Section (3)(A)2.D. is not included in the SIP.
*	*	*	*	*

* * * * *

[FR Doc. E6–20436 Filed 12–1–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–8249–8]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Ellsworth Air Force Base National Priorities List Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency, Region 8 (EPA) announces the deletion of portions of the Ellsworth Air Force Base (AFB) Site located in Meade and Pennington Counties, South Dakota, from the National Priorities List (NPL). All areas originally proposed for deletion under the Notice of Intent to Partially Delete published in the **Federal Register** on June 28, 2006 (71 FR 36736) are being deleted. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA has determined, with the concurrence of the State of South Dakota through the Department of Environment and Natural Resources that the parcels pose no significant threat to public health, welfare or the environment and, therefore, no further response action pursuant to CERCLA is appropriate. This partial deletion pertains to surface soil, unsaturated subsurface soil, surface water, and sediments at Operable Units 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12, and excludes the ground water medium at these parcels. The ground water medium at the Ellsworth AFB Site (OU–11, Basewide Ground Water), and the soil medium (surface and unsaturated subsurface soils) at OU–1, Fire Protection Training Area, will remain on the NPL and response activities will continue for those OUs. Two additional areas not associated with an operable unit, the Gateway Lake Ash Study Area and the Pride Hangar Study Area, are currently under investigation and are also not part of this partial deletion.

DATES: *Effective Date:* This rule is effective on December 4, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Mashburn, P.E., Remedial Project Manager (8EPR-F), U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, CO 80202–2466, Phone: (303) 312–6665.

SUPPLEMENTARY INFORMATION: Ellsworth AFB is a U.S. Air Force Air Combat Command installation located 12 miles east of Rapid City, South Dakota, and adjacent to the small community of Box Elder. The main Air Force Base covers approximately 4,858 acres within Meade and Pennington counties and includes runways, airfield operations, industrial areas, housing, and recreational facilities.

On June 28, 2006 EPA published a Notice of Intent of Partial Deletion in the **Federal Register** (71 FR 36736) and local newspapers which proposed to delete the surface soil, unsaturated subsurface soil, surface water and sediment media at OU–2, OU–3, OU–4, OU–5, OU–6, OU–7, OU–8, OU–9, OU–10 and OU–12 (approximately 542 acres) and the surface soil, unsaturated subsurface soil, surface water and sediment media of an additional 4,300 acres which are not associated with an operable unit and are not identified as posing a risk to human health or the environment. EPA received one comment from the State of South Dakota in support of the partial deletion. EPA agrees that the completion of the remedy requirements and ongoing monitoring programs adequately demonstrate that these parcels do not present a threat to the environment or human health and the deletion from the NPL is appropriate.

EPA identifies sites that appear to present a significant risk to public health, welfare and the environment and maintains the NPL as the list of those sites. Deletion from the NPL does not preclude further remedial action. If a significant release occurs at a facility deleted from the NPL, that facility is restored to the NPL without application of the Hazard Ranking System. Deletion of the site from the NPL does not affect responsible party liability for further remedial actions, in the unlikely event that future conditions warrant such actions.

List of Subjects in 40 CFR Part 300

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

Dated: November 22, 2006.

Kerrigan Clough,

Acting Regional Administrator, Region 8.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

■ 2. Table 2 of Appendix B to part 300 is amended by revising the entry under South Dakota for ''Ellsworth Air Force Base'' to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 2.—FEDERAL FACILITIES SECTION

State	Site name	City/County	Notes (a)
*	*	*	*
SD	Ellsworth Air Force Base	Rapid City	P
*	*	*	*

* * * * *

P = Sites with partial deletion(s).

[FR Doc. E6–20293 Filed 12–1–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–6317–36; I.D. 110806D]

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: Temporary rule; extension of temporary area and gear restrictions.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces the extension of temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These restrictions will continue to apply to lobster trap and anchored gillnet fishermen in an area totaling approximately 1,809 nm² (6,204 km²), east of Portland, ME for an additional 15 days. The purpose of this action is to provide immediate protection to an aggregation of Northern right whales (right whales).

DATES: This notice extends the restricted period from 0001 hours December 3, 2006, through 2400 hours December 17, 2006.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP Web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° 00′ N. lat. to protect right whales. Under the DAM program, NMFS may: (1) Require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm² (139 km²)) such that right whale density is equal to or greater than 0.04 right whales per nm² (1.85 km²). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On November 5, 2006, an aerial survey reported a sighting of 13 right whales in the proximity 43° 29′ N. lat. and 68° 27′ W. long. This position lies east of Portland, ME. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has

received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS will determine whether to impose, in the zone, restrictions on fishing and/or fishing gear. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS reviewed the options and factors noted above and on November 16, 2006, published a temporary rule in the **Federal Register** (71 FR 66688) to announce the establishment of a DAM zone with restrictions on anchored gillnet and lobster trap gear for a 15-day period. On November 26, 2006, a subsequent survey conducted over the DAM zone indicated that 4 whales were still present in the area and the DAM zone trigger of 0.04 right whales per square nautical mile (1.85 km2) continues to be met. Therefore, in order to further protect the right whales in this DAM zone, pursuant to 50 CFR 229.32(g)(3)(v), NMFS is exercising its authority to extend the restrictions on lobster trap and anchored gillnet gear for an additional 15 day period.

The DAM zone is bound by the following coordinates:

43° 52′ N., 68° 56′ W. (NW Corner)
43° 52′ N., 67° 58′ W.
43° 09′ N., 67° 58′ W.
43° 09′ N., 68° 56′ W.
43° 52′ N., 68° 56′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22-lb (10.0-kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours, December3, 2006, through 2400 hours December 17, 2006, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments (EAs) for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete.

Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: November 29, 2006.

Samuel D. Rauch III,

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

[FR Doc. 06–9500 Filed 11–29–06; 2:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–6317–35; I.D. 110806C]

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: Temporary rule; extension of temporary area and gear restrictions.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces the extension of temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These restrictions will continue to apply to lobster trap and anchored gillnet fishermen in an area totaling approximately 1,549 nm^2 (5,312 km^2), south of Portland, ME, for an additional 15 days. The purpose of this action is to provide immediate protection to an aggregation of Northern right whales (right whales).

DATES: This notice extends the restricted period from 0001 hours December 3, 2006, through 2400 hours December 17, 2006.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP Web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° 00′ N. lat. to protect right whales. Under the DAM program, NMFS may: (1) Require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary

removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On November 5, 2006, an aerial survey reported a sighting of 4 right whales in the proximity 43° 07′ N. lat. and 70° 10′ W. long. This position lies south of the Portland, ME. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS will determine whether to impose, in the zone, restrictions on fishing and/or fishing gear. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS reviewed the options and factors noted above and on November 16, 2006, published a temporary rule in the **Federal Register** (71 FR 66690) to announce the establishment of a DAM zone with restrictions on anchored gillnet and lobster trap gear for a 15-day period. On November 27, 2006, a subsequent survey conducted over the DAM zone indicated that 8 whales were still present in the area and the DAM zone trigger of 0.04 right whales per square nautical mile (1.85 km^2) continues to be met. Therefore, in order to further protect the right whales in this DAM zone, pursuant to 50 CFR 229.32(g)(3)(v), NMFS is exercising its authority to extend the restrictions on lobster trap and anchored gillnet gear for an additional 15 day period.

The DAM zone is bound by the following coordinates:

43° 52′ N., 68° 56′ W. (NW Corner)
43° 52′ N., 67° 58′ W.
43° 09′ N., 67° 58′ W.
43° 09′ N., 68° 56′ W.
43° 52′ N., 68° 56′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters and Stellwagen Bank/Jeffreys Ledge that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys. Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:
1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area and Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;
5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and
6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22–lb (10.0–kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours, December 3, 2006, through 2400 hours December 17, 2006, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA Web site, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments (EAs) for the DAM program were prepared on

December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3).

Dated: November 29, 2006.

Samuel D. Rauch, III,

Deputy Assistant Administrator for RegulatoryPrograms, National Marine Fisheries Service.

[FR Doc. 06–9499 Filed 11–29–06; 2:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 112806A]

Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Modification of a closure.

SUMMARY: NMFS is reopening directed fishing for Greenland turbot for vessels using hook-and-line gear in the Bering Sea subarea in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the 2006 total allowable catch (TAC) of Greenland turbot for vessels using hook-and-line gear in the Bering Sea subarea in the Bering Sea and Aleutian Islands (BSAI).

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 29, 2006, through 2400 hrs, A.l.t., December 31, 2006. Comments must be received no later than 4:30 p.m., A.l.t., December 14, 2006.

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

- Mail to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- Fax to 907–586–7557;
- E-mail to *turbot@noaa.gov* and include in the subject line of the e-mail comment the document identifier: ''bsturbotro.fo.wpd'' (E-mail comments, with or without attachments, are limited to 5 megabytes); or
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by

the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for Greenland turbot in the BSAI under § 679.20(d)(1)(iii) on July 27, 2006 (71 FR 43074, July 31, 2006).

NMFS has determined that 191 metric tons of Greenland turbot remain in the directed fishing allowance in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), NMFS is terminating the previous closure and is reopening directed fishing for Greenland turbot for vessels using hook-and-line gear in the Bering Sea subarea in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of Greenland turbot for vessels using hook-and-line gear in the Bering Sea subarea in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 27, 2006.

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

Without this inseason adjustment, NMFS could not allow the fishery by vessels using hook-and-line gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until December 14, 2006.

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

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

Dated: November 28, 2006.

James P. Burgess,

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

[FR Doc. 06–9501 Filed 11–29–06; 12:20 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 232
Monday, December 4, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

5 CFR Part 3201

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for FDIC Employees

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would amend existing FDIC ethics regulations involving extensions of credit, ownership of stock, and definitions. This proposal would implement the Preserving Independence of Financial Institution Examinations Act of 2003, which amended sections 212 and 213 of title 18 of the United States Code. These sections continue generally to impose criminal penalties on examiners borrowing from banks they have examined, and financial institutions extending a loan to anyone who examines or has authority to examine that institution. The statutory amendment, however, decriminalizes extensions of credit to examiners for credit cards and for primary residential home loans from institutions that they examine or have authority to examine if these loans are made on the same terms and conditions as are available to other cardholders and borrowers and satisfy other criteria contained in the statute as amended. Additionally, the proposed regulation would clarify and make minor revisions to definitions and restrictions for FDIC employees' acquisition, ownership, or control of securities of FDIC-insured depository institutions and certain holding companies.

DATES: Comments are invited and must be received on or before January 3, 2007.

ADDRESSES: You may submit comments, identified by RIN number by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow instructions for submitting comments on the Agency Web site.
- E-mail: *Comments@FDIC.gov*. Include the RIN number in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- Hand Delivery/Courier: Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.
- Instructions: All submissions received must include the agency name and RIN for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: *FDIC:* Robert J. Fagan, Ethics Program Manager, Legal Division, (202) 898–6808; and Michelle Borzillo, Counsel, Legal Division, (202) 898–7400.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed revised regulation addresses issues involving extensions of credit to all FDIC employees, including FDIC employees covered by the amended criminal statutes pertaining to examiners, members of the FDIC Board of Directors, Division and Office Directors, and their direct subordinates, as well as employees in the Corporate Employee Program who perform examiner functions (''covered employees''). This proposal would also clarify and make minor revisions to the provisions governing employee ownership of stock and the definitions used in the regulation.

On December 19, 2003, the President signed Public Law 108–198, the Preserving Independence of Financial Institution Examinations Act of 2003. The bill amended sections 212 and 213 of title 18 of the United States Code. These sections continue generally to impose criminal penalties on examiners borrowing from banks they examine, and financial institutions extending a loan to anyone who examines or has authority to examine that institution. The amendment, however, decriminalizes extensions of credit to examiners for credit cards and for primary residential home loans from institutions that they examine or have authority to examine if these loans are made on the same terms and conditions as are available to other cardholders and borrowers.

The amended statute at 18 U.S.C. 212 provides that, subject to the exception noted above, any officer, director, or employee of a financial institution, who makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, branch, agency, organization, corporation, association, or institution is subject to criminal penalties.

Under 18 U.S.C. 213, as amended, any examiner or assistant examiner who accepts a loan or gratuity, except for primary residential loans or credit cards described in this proposed rule, from any bank, branch, agency, organization, corporation, association, or institution examined by the examiner or from any person connected with it, is subject to criminal penalties and will be disqualified from holding office as an examiner.

On April 7, 2004, based on the statutory amendments, FDIC's Board of Directors adopted the Interim Policy on Credit Cards and Home Mortgages (''Interim Policy'') pending revisions to the FDIC's existing regulation on extensions of credit. The Interim Policy permits extensions of credit in the form of home mortgages for primary residences and credit cards under certain conditions. This proposed amended rule, once finalized, would replace the Interim Policy and supersede the current version of 5 CFR 3201.102.[1]

[1] Under the regulation, before being modified by the Interim Policy adopted by the FDIC Board of Directors in April 2004, the staff responsible for examination of FDIC-insured depository institutions were prohibited from obtaining credit from an FDIC-insured state nonmember bank, any subsidiary of such bank, or any person associated with such bank. No exceptions were made for home mortgages. An exception was made for credit cards issued outside the region or field office of assignment. Corporation officials in top management positions were prohibited under the existing regulation from entering into financial obligations with an institution over which the Corporation had primary Federal supervisory authority and its subsidiaries. An employee in the Division of Finance, Division of Insurance and Research, Division of Resolutions and Receiverships, the Legal Division, or who was a member of a standing committee of the Board of Directors, was prohibited from obtaining credit

Continued

Additionally, the proposed regulation would clarify and make revisions to 5 CFR 3201.103, which restricts FDIC employees' acquisition, ownership, or control of securities of FDIC-insured depository institutions and certain holding companies. Finally, the proposed regulation would make appropriate revisions to the definitions in 5 CFR 3201.101.

In proposing to make these regulatory revisions in part pursuant to its rulemaking authority under 18 U.S.C. 212(b), the FDIC has consulted with the other Federal financial institution regulatory agencies. In addition, the FDIC has determined, with the Office of Government Ethics' (OGE) concurrence, that, under 5 CFR 2635.403(a) of the executive branch standards of ethical conduct, these proposed revised provisions as to FDIC employees, their spouses and minor children, are needed so that a reasonable person would not question the impartiality and objectivity with which agency programs are administered. Further, with respect to the proposed revised restrictions and prohibitions on the holding of financial interests (including indebtedness, i.e., certain extensions of credit and loans) by the spouses and minor children of FDIC employees and covered FDIC employees, the FDIC has determined that there is a direct and appropriate nexus between such restrictions and prohibitions as applied to spouses and minor children and the efficiency of the service.

II. Description of Proposed Amended Sections of the FDIC Ethics Regulations

Proposed Amended Section 3201.102—Extensions of Credit and Loans From FDIC-Insured Institutions

The proposed revision to 5 CFR 3201.102 would retain the existing general prohibitions on borrowings and disqualification provisions for FDIC employees and members of the FDIC Board of Directors. Likewise, under the proposed revision, as with the existing version of this section a current or contingent financial obligation of an employee's spouse or minor child would be considered to be an obligation of the employee. However, the proposed rule in a new paragraph (e) would authorize the FDIC Ethics Counselor to waive any disqualification under this proposed revised section based on a determination with the advice of the Legal Division that the waiver is not inconsistent with the standards of ethical conduct for employees of the executive branch as set forth in 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality and objectivity with which the FDIC programs are administered.

The proposed rule, in keeping with the amended statutes at 18 U.S.C. 212 and 213, would eliminate the current regulatory disqualification for FDIC examiners, FDIC Board members, Division and Office Directors, and employees in the Corporate Employee Program performing examiner duties (defined as ''covered employees'' in § 3201.101(d)(3) of the proposed rule), who obtain credit cards on terms and conditions no more favorable than generally available to other borrowers. See new proposed paragraphs (c)(1) and (c)(2) of § 3201.102. Covered employees assigned to a bank from which they hold a credit card would have to inform their supervisor and ethics official prior to the examination or other participation in a matter involving the bank if any issue exists such as non-current payments, a billing dispute, or if negotiating with the bank concerning the debt. In certain cases, a disqualification would be required. Under proposed paragraph (d)(4) of § 3201.102, covered employees and their spouses and minor children are prohibited from applying for or receiving a credit card from an institution if the covered employee is assigned or about to be assigned to an examination of that institution.

Under the proposed rule in § 3201.102(c)(3)(ii), disqualification would continue to be generally required for residential real property loans on a primary residence. However, such loans would be permitted in accordance with proposed paragraph (c)(2)(ii) of § 3201.102, if the terms and conditions were no more favorable than the terms and conditions of loans generally available to other similarly situated creditworthy borrowers. Thus, covered FDIC employees could obtain such permitted loans, but would need to be recused from official participation in any particular matters involving the lending institution or person. The proposed rule would also cover limitations, restrictions, and the mechanism for waiver of the disqualification from participation in an examination or other matter in appropriate circumstances, under paragraphs (c)(4), (c)(5), (d) and (e) of § 3201.102 as proposed for amendment.

As previously noted above, a new general waiver would be available under the proposed rule in certain circumstances. Specifically, the proposed rule in paragraph (e) of § 3201.102 would authorize the Ethics Counselor to waive any disqualification based on a determination with the advice of the Legal Division that the waiver is not inconsistent with the standards of ethical conduct for employees of the executive branch as set forth in 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality and objectivity with which the FDIC programs are administered. A waiver under proposed paragraph (e) of § 3201.102 could impose appropriate conditions, such as requiring the execution of a written disqualification.

Under proposed paragraph (c)(5)(i) of § 3201.102, a covered FDIC employee would not be prohibited from retaining a loan or extension of credit from a State nonmember bank or its subsidiary on its original terms if it was obtained prior to FDIC employment or reassignment to a covered employee position, or a result of the sale, or transfer of the loan or credit extension to, or the conversion or merger of the lender into, such a bank (or subsidiary). However, any renewal or renegotiation of such a pre-existing loan or credit extension would be subject to the prohibitions in paragraphs (c)(3) and (c)(4) of § 3201.102 as proposed, subject to an exception noted in the following sentence. Under proposed paragraph (c)(5)(ii) of § 3201.102, a covered employee who experiences financial or other hardship unless allowed to renegotiate credit incurred prior to FDIC employment or reassignment of duties could submit a request for a waiver to his or her supervisor and the Ethics Counselor setting forth the reasons for the desired renegotiation and other details. After consideration, the employee's supervisor and the Ethics Counselor could jointly grant a written waiver of the prohibition based on a finding that the renegotiation would not be prohibited by law and that the waiver would not result in a loss of impartiality or objectivity or misuse of the employee's position.

Paragraph (d) of § 3201.102 of the proposed rule would also prohibit an FDIC employee from directly or indirectly accepting or becoming obligated on any extension of credit from an FDIC-insured depository

from an FDIC-insured depository institution or its subsidiary for a period of two years after the employee had participated personally and substantially in certain matters affecting the institution, its predecessor, successor, or affiliate. An exception was made for ordinary credit cards.

institution or its subsidiary for a period of two years from the date of the employee's last personal and substantial participation in an audit, resolution, liquidation, assistance transaction, supervisory proceeding, or internal agency deliberation affecting that particular institution, its predecessor or successor, or any subsidiary of such institution. This prohibition as proposed would not apply to credit obtained through the use of a credit card or a residential real property loan secured by the principal residence of the employee, subject to the same conditions, limitations, disqualification, and waiver procedures applicable to covered employees under proposed paragraphs (c) and (e) of § 3201.102.

Proposed Amended Section 3201.103—Prohibition on Acquisition, Ownership or Control of Securities of FDIC-Insured Depository Institutions and Certain Holding Companies

In addition, this proposed rule would amend 5 CFR 3201.103, which generally provides in paragraph (a), with certain exceptions set forth in paragraph (b), that no FDIC employee, spouse of an employee, or minor child of an employee may acquire, own, or control, directly or indirectly, a security of an FDIC-insured depository institution or its affiliate. The existing regulation at 5 CFR 3201.103(b) provides six exceptions to that general prohibition: (1) Acquiring, owning, or controlling securities of certain bank holding companies or their nonbank subsidiaries that are publicly traded, not primarily engaged in banking, and exempt from the Bank Holding Company Act; (2) acquiring, owning, or controlling securities of certain nonfinancial savings association holding companies; (3) retaining securities of an FDIC-insured depository institution or affiliate if retention was permitted under 12 CFR part 336 prior to a certain date, prior to employment with the FDIC, or when the securities were acquired by a spouse prior to his or her marriage to the employee; (4) acquiring, owning, or controlling securities of an FDIC-insured depository institution or affiliate if acquired by inheritance, gift, stock split, involuntary stock dividend, merger, acquisition, or other change in corporate ownership, exercise of preemptive right, or otherwise without specific intent to acquire it, or if acquired by a spouse or minor child as part of a compensation package from their employer, subject to certain disclosure and disqualification requirements; (5) acquiring, owning, or controlling an interest in certain publicly traded or publicly available investment funds; and (6) using an FDIC-insured depository institution or affiliate as a custodian or trustee of accounts containing tax-deferred retirement funds. The proposed amendment would narrow the scope of these prohibitions and generally clarify the prohibitions of this section.

The proposed amendment at § 3201.103(a) would narrow the scope of the general prohibition concerning ownership and control of a security by FDIC employees, spouses and their minor children by removing the prohibitions on ownership of securities with respect to insured depository institution affiliates, other than certain holding companies. The reason for proposing to eliminate other affiliates from the prohibition is that the potential for a conflict of interest is generally only present when there is ownership or control of a company that in turn has control of an insured depository institution. Affiliates other than holding companies do not own, and generally do not control, an insured depository institution that is their parent or sister organization.

The proposed amendment to § 3201.103 would generally prohibit ownership of a security of, in addition to an FDIC-insured bank or savings association; a bank holding company that is subject to supervision by the Federal Reserve Board (FRB); a savings and loan holding company that is subject to supervision by the Office of Thrift Supervision (OTS); a financial holding company that is subject to supervision by the FRB; and a company that (i) owns or controls an FDIC-insured bank or savings association, (ii) is not an FRB-supervised bank holding company, an OTS-supervised savings and loan holding company, nor an FRB-supervised financial holding company, and (iii) either is primarily engaged in banking or is not publicly traded on a U.S. securities exchange. These categories, in appropriate cases, cover companies that control industrial banks.

The proposed amendment of § 3201.103 would also create in paragraph (b)(1), a specific exception for acquisition, ownership, or control of securities of a unitary thrift holding company. In addition, the proposed amendment of the section would reorganize the descriptions of the prohibited securities and exceptions. The intent of the reorganization proposed is to make this section clearer and more useable. The proposed amendment would retain in revised paragraphs (b) and (c) the other existing exceptions, limitations, and divestiture requirements of § 3201.103. Moreover, in a new paragraph (d) of this section, the proposed rule would add a provision for written waiver in appropriate circumstances by the Ethics Counselor, with Legal Division advice and legal clearance, of any provision of the section that is identical to the proposed § 3201.102(e) waiver provision discussed above.

Proposed Amended Section 3201.101(d)—General Section; Definitions

Finally, the definitional section at paragraph (d) of § 3201.101 would be amended to add and revise certain useful definitions and delete others (''assisted entity'' and ''assuming entity'') that would no longer be used.

The term ''covered employees'' would be expanded to include employees whose duties and responsibilities include the examination of a financial institution or participation in the examination of any financial institution. The FDIC is republishing all the definitions in the paragraph, including those not proposed for revision, for ease of reference.

Request for Comments

The FDIC welcomes comments on all aspects of this proposal.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) requires that each Federal agency either certify that a proposed rule would not, if adopted in final form, have a significant impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis (IRFA) of the proposal and publish the analysis for comment. See 5 U.S.C. 603, 605. The Small Business Administration (SBA) defines small banks as those with less than $165 million in assets. The proposed rule decriminalizes under certain circumstances extensions of credit to FDIC examiners for credit cards and for primary residential home loans from institutions that they examine and clarifies certain restrictions on the acquisition, ownership, or control of securities of FDIC-insured depository institutions and certain holding companies on the part of FDIC employees. The proposed rule does not impose any obligations or restrictions on depository institutions, including small depository institutions. On this basis, the FDIC certifies pursuant to 5 U.S.C. 605(b) that this proposed rule, if it is adopted in final form, will not have a significant impact on a substantial number of small entities. Commenters are nevertheless invited to provide the FDIC with any information they may have about the likely quantitative effects of the proposal.

Paperwork Reduction Act

The FDIC has determined that this proposed rule does not involve a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the FDIC to use plain language in all proposed and final rules published after January 1, 2000. Therefore, the FDIC specifically invites your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed guidelines and regulations clearly stated? If not, how could the guidelines and regulations be more clearly stated?
- Do the proposed guidelines and regulations contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the guidelines and regulations easier to understand? If so, what changes to the format would make them easier to understand?
- What else could we do to make the guidelines and regulations easier to understand?

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 5 CFR Part 3201

Conflict of interests, Ethical conduct, Extensions of credit and loans from FDIC-insured depository institutions, Government employees, Prohibitions on ownership of securities of FDIC-insured depository institutions.

For the reasons set forth in the preamble, the Board of Directors of the FDIC, with the concurrence of OGE, proposes to amend part 3201 of title 5 of the Code of Federal Regulations as follows:

PART 3201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

1. The authority citation for 5 CFR part 3201 is revised to read as follows:

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 1819(a), 1822; 18 U.S.C. 212, 213; 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502, 2635.803.

2. Paragraph (d) of § 3201.101 is revised to read as follows:

§ 3201.101 General.

* * * * *

(d) *Definitions.*

For purposes of this part, the following definitions apply:

(1) *Affiliate,* as defined in 12 U.S.C. 1841(k), means any company that controls, is controlled by, or is under common control with another company.

(2) *Appropriate director* means the head of a Washington office or division or the highest ranking official assigned to a regional office in each division or the Ethics Counselor.

(3) *Covered employee* means:

(i) Members of the FDIC Board of Directors and any employee required to file a public or confidential financial disclosure under 5 CFR part 2634 who holds a position immediately subordinate to such Board member;

(ii) The director of any Washington division or office and the director of any regional office, and any employee required to file a public or confidential financial disclosure report under 5 CFR part 2634 who holds a position immediately subordinate to such director;

(iii) An FDIC examiner;

(iv) Any other FDIC employee whose duties and responsibilities include the examination of or the participation in the examination of any financial institution;

(v) Any other FDIC employee whose duties and responsibilities, as determined by the Chairman or Ethics Counselor after notice to the employee, require application of the prohibition on borrowing contained in § 3201.102 to ensure public confidence that the FDIC's programs are conducted impartially and objectively.

(4) *Employee* means an officer or employee, other than a special Government employee, of the Corporation, including a member of the Board of Directors appointed under the authority of 12 U.S.C. 1812(a)(1)(C). For purposes of 5 CFR part 2635 and §§ 3201.103 and 3201.104, employee includes any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation.

(5) *Ethics Counselor* means an officer or employee who is designated by the head of the agency to coordinate and manage the agency's ethics program, and includes the Corporation's Alternate Ethics Counselor.

(6) *Security* includes an interest in debt or equity instruments. The term includes, without limitation, a secured or unsecured bond, debenture, note, securitized assets, commercial paper, and all types of preferred and common stock. The term includes an interest or right in a security, whether current or contingent, a beneficial or legal interest derived from a trust, the right to acquire or dispose of any long or short position, an interest convertible into a security, and an option, right, warrant, put, or call with respect to a security. The term security does not include a deposit account.

(7) *State nonmember bank* means any State bank as defined in 12 U.S.C. 1813(e) that is not a member of the Federal Reserve System.

(8) *Subsidiary,* as defined in 12 U.S.C. 1813(w), means any company that is owned or controlled directly or indirectly by another company.

3. Section 3201.102 is revised to read as follows:

§ 3201.102 Extensions of credit and loans from FDIC-insured institutions.

(a) *Credit subject to this section.* The prohibition, disqualification, and retention provisions of this section apply to a current or contingent financial obligation of the employee. For purposes of this section, a current or contingent financial obligation of an employee's spouse or minor child is considered to be an obligation of the employee.

(b) *Disqualification applicable to FDIC employees generally.* Except as provided in this section:

(1) No FDIC employee may participate in an examination, audit, visitation, review, or investigation, or any other particular matter involving an FDIC-insured institution, subsidiary or other person with whom the employee has an outstanding extension of credit.

(2) For employees, other than covered employees as defined in § 3201.101(d)(3), disqualification is not required if the credit was extended through the use of a credit card on the same terms and conditions as are offered to the general public.

(3) The Comptroller of the Currency and the Director of the Office of Thrift Supervision shall be disqualified from any matter pending before the FDIC Board of Directors to the same extent as an FDIC employee subject to paragraph (c) of this section.

(c) *Prohibited borrowing by covered employees.* (1) *Prohibition on covered employee borrowing.* Except as provided below, no covered employee shall, directly or indirectly, accept or become obligated on a loan or extension of credit, whether current or contingent, from any FDIC-insured State nonmember bank or its subsidiary or from an officer, director, or employee, of any FDIC-insured State nonmember bank or its subsidiary.

(2) *Exceptions:* (i) *Credit Cards.* A covered employee (or spouse or minor child of a covered employee) may obtain and hold a credit card account established under an open end consumer credit plan and issued by an FDIC-insured State nonmember bank or its subsidiary subject to the following conditions:

(A) The cardholder must satisfy all financial requirements for the credit card account that are generally applicable to all applicants for the same type of credit card account; and

(B) The terms and conditions applicable with respect to the account and any credit extended to the cardholder under the account are no more favorable generally to the cardholder than the terms and conditions that are generally applicable to credit card accounts offered by the same bank (or the same subsidiary) to other cardholders in comparable circumstances under open end consumer credit plans.

(ii) *Loans secured primarily by principal residence.* A covered employee (or a spouse or minor child of a covered employee) may obtain and hold a loan from an FDIC-insured State nonmember bank or its subsidiary subject to the following conditions:

(A) The loan is secured by residential real property that is the principal residence of the borrower. The borrower may retain the loan if the residential real property ceases to be the principal residence. However, any subsequent renewal or renegotiation of the original terms of such a loan must meet the requirements of this paragraph;

(B) The borrower may not apply for the loan while the covered employee participates in any examination, the review of any application, or any other supervisory or regulatory or other particular matter directly affecting the State nonmember bank or its subsidiaries;

(C) The borrower must satisfy all financial requirements for the loan that are generally applicable to all applicants for the same type of residential real property loan; and

(D) The terms and conditions applicable with respect to the loan and any credit extended to the borrower under the loan are no more favorable generally to the borrower than the terms and conditions that are generally applicable to residential real property loans offered by the same State nonmember bank or the same subsidiary to other borrowers in comparable circumstances for residential real property loans.

(3) *Disqualification of covered employees.* A covered employee shall not participate in an examination, audit, visitation, review, or investigation, or other particular matter involving an FDIC-insured depository institution or other person with whom the covered employee has an outstanding extension of credit, or with whom the covered employee is negotiating an extension of credit.

(i) Payment dispute, delinquency, or other significant matter concerning credit card debt. Disqualification is not required if the credit is extended through the use of a credit card. However, disqualification will be required when a covered employee is delinquent on payments, has a billing dispute, is negotiating with the institution, or has any other significant issue regarding the credit card debt. The covered employee must notify his or her supervisor and deputy ethics counselor of a dispute in writing.

(ii) Primary residence mortgage loan. Disqualification will be required if the covered employee is negotiating for, has an application pending for, or enters into a primary residence mortgage loan. This disqualification will cease when the loan is sold, even if the loan originator retains the loan servicing.

(4) *Other limitations on covered employees. (i)* A covered employee shall not accept or become obligated on an otherwise permissible loan if the disqualification arising from the credit relationship would materially impair the covered employee's ability to participate in matters that are central to the performance of the covered employee's official duties, or if the covered employee has been advised of an assignment to handle a matter involving that institution.

(*ii*) Covered employees to whom the prohibitions in this section apply may not apply for a credit card or primary residence mortgage loan from a State nonmember bank or subsidiary that the covered employee is assigned to examine or participate in a matter involving that institution, or if such an assignment is imminent.

(5) *Pre-existing credit. (i)* This section does not prohibit a covered employee, or any FDIC employee who becomes a covered employee as a result of any reassignment of duties or position, from retaining a loan or extension of credit from a State nonmember bank or its subsidiary on its original terms if the loan or extension of credit was incurred prior to employment by the FDIC or as a result of the sale or transfer of a loan or credit to a State nonmember bank or its subsidiary or the conversion or merger of the lender into a State nonmember bank or its subsidiary. Any renewal or renegotiation of a pre-existing loan or extension of credit will be treated as a new loan or extension of credit subject to the prohibitions at paragraphs (c)(3) and (c)(4) of this section.

(*ii*) A covered employee may request that an exception be made to the prohibitions to permit renegotiation of a pre-existing loan or extension of credit. If a covered employee would experience financial or other hardship unless allowed to renegotiate a pre-existing loan or extension of credit, the covered employee may submit a written request to his or her supervisor and to the Ethics Counselor, describing the reasons for renegotiation, the original and the proposed terms and conditions, including whether the financial institution makes such terms generally available to the public, and any attempts by the covered employee to move the loan to a non-prohibited source. After consideration of the request, the covered employee's supervisor and the Ethics Counselor jointly may grant the waiver upon a finding that renegotiation is not prohibited by law, and that the waiver does not result in a loss of impartiality or objectivity or in misuse of the employee's position. To be effective, the waiver must be in writing.

(d) *Two-year prohibition on acceptance of credit from an FDIC-insured depository institution.* An FDIC employee shall not, directly or indirectly, accept or become obligated on any extension of credit from an FDIC-insured depository institution or its subsidiary for a period of two years from the date of the employee's last personal and substantial participation in an audit, resolution, liquidation, assistance transactions, supervisory proceeding, or internal agency deliberation affecting that particular institution, its predecessor or successor, or any subsidiary of such institution. This prohibition does not apply to credit obtained through the use of a

credit card or a residential real property loan secured by the principal residence of the employee, subject to the same conditions, limitations, disqualification, and waiver procedures applicable to covered employees under paragraphs (c) and (e) of this section.

(e) *Waiver*. The Ethics Counselor may grant a written waiver from any provision of this section based on a determination made with the advice and legal clearance of the Legal Division that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which the FDIC's programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

4. Section 3201.103 is revised to read as follows:

§ 3201.103 Prohibition on acquisition, ownership, or control of securities of FDIC-insured depository institutions and certain holding companies.

(a) *Prohibition on acquisition, ownership, or control*. Except as provided in paragraph (b) of this section, no employee, spouse of an employee, or minor child of an employee may acquire, own, or control, directly or indirectly, a security of any of the following:

(1) A bank or savings association that is insured by the Federal Deposit Insurance Corporation (FDIC);

(2) A bank holding company that is subject to supervision by the Federal Reserve Board (FRB);

(3) A savings and loan holding company that is subject to supervision by the Office of Thrift Supervision (OTS);

(4) A financial holding company that is subject to FRB supervision; or

(5) A company that:

(i) Owns or controls an FDIC-insured bank or savings association;

(ii) Is neither an FRB-supervised bank holding company, an OTS-supervised savings and loan holding company, nor an FRB-supervised financial holding company; and

(iii) Is either primarily engaged in banking or not publicly traded on a U.S. securities exchange.

(b) *Exceptions*. Notwithstanding the prohibitions of paragraph (a) of this section, but subject to the limitations of paragraph (c) of this section, an employee, or the spouse or minor child of an employee, may do any or all of the following:

(1) Acquire, own, or control the securities of a unitary thrift holding company (i.e., a savings and loan holding company that is subject to OTS supervision but whose principal business is neither banking nor activities closely related to banking);

(2) Own or control a security of an entity described in paragraph (a) of this section if the security was permitted to be retained by the employee under 12 CFR part 336 prior to May 25, 1995, was obtained prior to commencement of employment with the Corporation, or was acquired by a spouse prior to marriage to the employee;

(3) Own, or control a security of an entity described in paragraph (a) of this section if:

(i) The security was acquired by inheritance, gift, stock-split, involuntary stock dividend, merger, acquisition, or other change in corporate ownership, exercise of preemptive right, or otherwise without specific intent to acquire the security, or, by an employee's spouse or minor child as part of a compensation package in connection with his or her employment;

(ii) The employee makes full, written disclosure on FDIC form 2410/07 to the Ethics Counselor within 30 days of the commencement of employment or the acquisition of the interest; and

(iii) The employee is disqualified in accordance with 5 CFR part 2635, subpart D, from participating in any particular matter that affects his or her financial interests, or that of his or her spouse or minor child;

(4) Acquire, own, or control an interest in a publicly traded or publicly available investment fund provided that, upon initial or subsequent investment by the employee (excluding ordinary dividend reinvestment), the fund does not have invested, or indicate in its prospectus the intent to invest, more than 30 percent of its assets in the securities of one or more entities described in paragraph (a) of this section and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund; and

(5) Use an FDIC-insured depository institution or an affiliate of an FDIC-insured depository institution as custodian or trustee of accounts containing tax-deferred retirement funds.

(c) *Divestiture*. Based upon a determination of substantial conflict under 5 CFR 2635.403(b), the Ethics Counselor may require an employee, or the spouse or minor child of an employee, to divest a security he or she is otherwise authorized to acquire, own, control, or use under paragraph (b) of this section.

(d) *Waiver*. The Ethics Counselor may grant a written waiver from any provision of this section based on a determination made with the advice and legal clearance of the Legal Division that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which the FDIC's programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

By order of the Board of Directors.

Dated at Washington, DC, this 6th day of October, 2005.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Approved: November 27th, 2006.

Robert I. Cusick,

Director, Office of Government Ethics.

[FR Doc. E6–20400 Filed 11–28–06; 4:06 pm]

BILLING CODE 6714–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2006–0133]

RIN 0579–AC20

Importation of Unshu Oranges From the Republic of Korea Into Alaska

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of citrus fruit to allow fresh Unshu oranges from the Republic of Korea to be imported into the State of Alaska under certain conditions. As a condition of entry, the oranges would have to be prepared for shipping using packinghouse procedures that include culling of damaged or diseased fruit and washing in a water bath. In addition, the oranges would have to be accompanied by a phytosanitary certificate with an additional declaration stating that the oranges were inspected and found free from *Xanthomonas axonopodis* pv. *citri*

and *Unaspis yanonensis.* The individual cartons or boxes in which the Unshu oranges are shipped would also have to be stamped or printed with a statement restricting their importation and distribution to the State of Alaska. This action would allow for the importation of Unshu oranges from the Republic of Korea into Alaska while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before February 2, 2007.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0133 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0133, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0133.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8765.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a disease that affects citrus and is caused by the infectious bacterium *Xanthomonas axonopodis* (also known as *Xanthomonas campestris* pv. *citri* (Hasse) Dye and *Xanthomonas citri*). Currently, the regulations in 7 CFR 319.28 (referred to below as the regulations) allow the importation of Unshu oranges (*Citrus reticulata* Blanco var. *unshu* Swingle) from certain areas in the Republic of Korea (South Korea) into certain areas of the United States under a permit and after the specified safeguards of a preclearance program have been met to prevent the introduction of citrus canker. However, the importation of Unshu oranges from South Korea was administratively suspended in 2002 due to the increased number of interceptions of the causal agent of citrus canker at various packinghouses in South Korea.

In 2005, the national plant protection organization (NPPO) of South Korea requested that the Animal and Plant Health Inspection Service (APHIS) allow the shipment of Unshu oranges into the State of Alaska until the pest risk of citrus canker from South Korea could be adequately mitigated for the rest of the United States. As part of our evaluation of South Korea's request, we prepared a pest risk assessment (PRA) and a risk management document. Copies of the PRA and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The PRA, titled ''A Qualitative Pest Risk Analysis for the Importation of Fresh Unshu Orange Fruit (*Citrus reticulata* Blanco var. *unshu* Swingle) from the Republic of Korea into Alaska'' (May 2006), evaluates the risks associated with the importation of Unshu oranges into Alaska from South Korea. The PRA and supporting documents identified 45 pests of quarantine significance associated with Unshu oranges in South Korea. However, the assessment further determined that only 2 of the 45 quarantine significant pests identified—citrus canker and the arrowhead scale *Unaspis yanonensis* Kuwana—may be reasonably expected to follow the pathway of Unshu orange shipments from South Korea. The other 43 quarantine pests have the potential to be harmful if introduced into the United States, but are not likely to follow the import pathway and therefore, were not analyzed further.

Citrus canker is present in the State of Florida and occurs in Asia, Africa, Central America, the Caribbean, South America, and Oceania, and the D-strain has been reported in Mexico. It has the potential to establish itself in Plant Hardiness Zones 8 to 10. However, those zones do not occur in Alaska, so the bacterium would be unable to become established in that State. In addition, hosts of the causal agent of citrus canker, *X. axonopodis,* do not occur in Alaska. Symptomatic citrus canker diseased fruit are easily identified by the necrotic lesions on the rind of the fruit, so most infected fruit would be culled during post-harvest processing or detected through post-harvest inspection.

U. yanonensis is a predominantly Asian species of scale insect that prefers warm, temperate climates that correspond to at least four Plant Hardiness Zones (zones 8 to 11) within the United States. Host plants grow in North America in Plant Hardiness Zones 5 to 10. However, because those zones do not occur in Alaska and because hosts of *U. yanonensis* do not occur in Alaska, it is unlikely that this insect would be able to establish itself within the State. Although *U. yanonensis* is small, careful inspection for the mobile stages of this insect by inspectors can detect it as proven by the high number of interceptions of this pest from many countries and on many commodities.

Because of the lack of host material and the unsuitable climate for these pests in Alaska, the PRA concluded that the risk of establishment of these pests in Alaska is low. APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the risk posed by the two plant pests. Therefore, we are proposing to require that the individual cartons or boxes in which the Unshu oranges are shipped be stamped or printed with a statement specifying that ''These oranges may not be shipped to any State other than Alaska.'' Based on APHIS' past experience with similar programs for limited distribution, we have concluded that it is highly unlikely that whole shipments or containers of Unshu oranges from South Korea would be moved from Alaska into other areas of the United States. Since 1995, an estimated 24 million South Korean Unshu oranges have been shipped to the United States. In that time, only one shipment of Unshu oranges was mistakenly redirected to a citrus-producing State; that shipment was immediately redirected to a non-citrus-producing State.

We are also proposing to require that the Unshu oranges be prepared for

shipping using packinghouse procedures that include culling damaged or diseased fruit and washing in a water bath. While the water bath is unlikely to directly kill either *X. axonopodis* or *U. yanonensis,* washing fruits may help to remove any hitchhiking pests. We would also require that each shipment of Unshu oranges be accompanied by a phytosanitary certificate from the NPPO of South Korea with an additional declaration stating that the oranges were inspected and are considered to be free from *X. axonopodis* pv. *citri.* and *U. yanonensis.* Specifically listing the pests on the additional declaration would also serve to alert APHIS inspectors at the point of entry to the specific pests of concern. As with current imports of Unshu oranges from Japan, the importation of Unshu oranges from South Korea into Alaska will require a permit.

We note that producers in South Korea employ a systems approach that includes additional mitigation measures. These measures include a field pest control program involving twice-yearly chemical sprays to control citrus canker, and cultural practices such as tree thinning, pruning of dead branches, and removal of injured or symptomatic fruits. These measures, while not part of the requirements proposed in this document, are routinely applied in the Unshu orange production areas and help to minimize the expression of citrus canker and the presence of symptomatic fruit in the groves during the growing season.

We have determined that these proposed measures would prevent the introduction of plant pests into the United States. The proposed conditions described above for the importation of Unshu oranges from South Korea into Alaska would be added to the citrus fruit regulations in § 319.28 as a new paragraph (c). This proposed rule, if implemented, would not affect the provisions of § 319.28(b) regarding the importation of Unshu oranges from Cheju Island, South Korea, into any area of the United States except American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands. Those provisions will remain administratively suspended.

Executive Order 12866 and Regulatory Flexibility Act

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

The United States is not a commercial producer of Unshu oranges (*Citrus reticulata* var. unshui). The United States does produce other mandarin varieties of *Citrus reticulata,* such as tangerines and Satsuma mandarins. Effects of the proposed rule on U.S. entities would depend on (1) the substitutability in Alaska of Unshu oranges for these other mandarin varieties, and (2) Alaska's share of the U.S. supply of the other mandarin varieties. We address these overriding issues before discussing small entities that may be affected.

Unshu orange prices are higher than the prices of U.S.-grown mandarin varieties, indicating that they are not close substitutes. Retail prices of Unshu oranges are approximately $1.20 per pound, whereas other mandarin varieties, such as Satsuma, range from $0.60 to $1 per pound depending on the time of year.[1]

Regarding the second issue, only mandarin varieties marketed in Alaska could be directly affected by the proposed rule. We do not know the quantities of these varieties consumed in Alaska, but can reasonably assume the amounts to be relatively small compared to consumption in the rest of the United States. In addition, Unshu oranges are imported only 2 weeks of the year, with a shipping season beginning in mid-to late November or early December. On top of Unshu oranges and U.S.-grown mandarin varieties not being close substitutes and the relatively short shipping season, the relative small size of the Alaska market for U.S. producers would also tend to minimize possible effects of the rule for them.

Clearly, the effects of the proposed rule with respect to Alaska's broadly defined demand for all mandarin varieties are most likely to be very limited. Rather, we expect reestablished imports from Korea to compete for a share of Alaska's Unshu orange market, with the main effects being on imports into Alaska from Japan.

Prior to the administrative suspension in 2002, Korea and Japan were principal suppliers of Unshu oranges to the United States. It is estimated that Alaska consumes approximately 30 percent of the Unshu oranges imported from Japan. Quantities of Unshu oranges imported from Korea and Japan, 1995 to 2005, are shown in table 1.

[1] Information on retail prices of Unshu oranges provided by Jerry Kraft of The Oppenheimer Group, the sole importer of Unshu oranges from Japan.

TABLE 1.—UNSHU ORANGE IMPORTS BY THE UNITED STATES FROM KOREA AND JAPAN, 1995–2005

Year	Korea	Japan
	Metric tons	
1995	50	231
1996	220	160
1997	1,190	143
1998	40	223
1999	380	342
2000	240	106
2001	1,434	291
2002	1,601	([1])
2003		275
2004		271
2005		256

Source: USDA, APHIS, International Services.

[1] In 2002, we amended the regulations to allow Unshu oranges from Honshu Island, Japan, to be imported into the previously prohibited citrus-producing States of Arizona, California, Florida, Hawaii, Louisiana, and Texas. That same rule imposed a fumigation requirement for all Unshu oranges from Honshu Island, which seriously curtailed the market for that fruit in non-citrus producing States. As a result, there were no exports of Unshu oranges from Japan to the United States in 2002. We subsequently amended the regulations to apply the fumigation requirement only to fruit bound for citrus-producing States, and exports resumed in 2003.

Unshu orange imports from Japan between 1995 and 2005 averaged 238 metric tons per year.[2] Average imports of Unshu oranges from Korea between 1995 and 2002 were 644 metric tons per year, with significant year-to-year fluctuations and the average for 2001 and 2002 jumping to 1,518 metric tons. Imports of Unshu oranges from Japan have maintained a more steady supply, even in the more recent years during which Unshu oranges from Korea have been administratively suspended. From this data, it is not apparent that Korean supplies would significantly displace Unshu orange imports from Japan.

According to the pest risk assessment prepared for this rulemaking, the quantity of Unshu oranges that would be imported from Korea into Alaska each year is estimated to be between 200 and 2,000 metric tons (440,925 and 4,409,245 pounds), based on projected imports of between 10 and 100 standard 40-foot containers.[3] The lower end of this range of imports would be comparable to recent import levels from Japan. Based upon the past shipments

[2] This average does not include 2002, since it is likely that Japan would have exported Unshu oranges to the United States in that year if the fumigation requirement described under Table 1 had not been in place.

[3] USDA, APHIS, PPQ–CHPST, ''A Qualitative Pest Risk Analysis for the Importation of Fresh Unshu Orange Fruit (*Citrus reticulate* Blanco var. *unshu* Swingle) from the Republic of Korea,'' May 25, 2006, pg 33.

detailed in Table 1, we anticipate that imports of Unshu oranges from Korea would not exceed 75 containers (1,500 metric tons) per annum. The historical import data detailed in Table 1 suggest that Korean supplies would not significantly displace Japanese Unshu oranges on the Alaskan market.

Our expectation is that the proposed rule would have little effect on U.S. producers of mandarin varieties such as tangerines and Satsumas. Any impact for these producers would be small, given that the various mandarin varieties do not appear to be close substitutes for Unshu oranges. Moreover, only sales to Alaska would be affected. However, recognizing that our information for determining possible effects of the proposed rule is incomplete, we present here data on U.S. tangerine trade and production.

The United States is a net importer of mandarins (including Satsumas and tangerines). In 2005, the United States imported 209.4 million pounds of mandarins (including Satsumas and tangerines) with approximately 91 percent arriving from Spain. In that same year, the United States exported approximately 48.1 million pounds of mandarins (including Satsumas and tangerines). Canada is the largest importer of U.S. fresh mandarins, accounting for 52 percent of U.S. exports. The second and third largest importers of U.S. mandarins are South Korea and Japan, accounting for approximately 38 and 6 percent of exports, respectively.[4] U.S. imports of tangerines experienced an average increase of 17.8 percent annually over the last decade while exports have increased an average of 5.9 percent.[5] Domestic production accounted for approximately 80 percent of domestic fresh consumption in 2005.[6] The United States relies on imports of mandarins to supplement domestic production in satisfying domestic demand. Fresh utilization of U.S. mandarin and tangerine production only accounts, on average, for 70 percent of total utilized production annually.[7] U.S. grower revenue from fresh tangerine production in 2004–05 was approximately $107.4 million.[8]

U.S. tangerine production, imports, and domestic supplies are shown on table 2. Net imports were 20 percent of domestic supply in 2004 to 2005.

TABLE 2.—U.S. FRESH TANGERINE PRODUCTION AND IMPORTATION, SEASONS 1999–00 THROUGH 2004–05

Year	Production [a]	Net imports Gb	Supply Gc
	Metric tons		
1999–00	298,464	68,185	366,649
2000–01	266,712	85,728	352,440
2001–02	296,649	37,261	333,910
2002–03	289,392	69,164	358,556
2003–04	295,742	72,753	368,495
2004–05	254,919	63,944	318,863

Data Source: USDA/ERS Briefing Room, *Fruit and Tree Nut Yearbook,* 2005.
[a] Excludes processed fruit.
[b] Net imports are imports minus exports.
[c] U.S. production (excluding processed utilization) plus net imports.

The small business size standard for tangerine groves, as identified by the Small Business Administration (SBA) based upon the North American Industry Classification System (NAICS) code 111320, is $750,000 or less in annual receipts.[9]

While available data do not provide the size distribution of U.S. tangerine farms by annual receipts, it is reasonable to assume that the majority of the operations are small businesses by SBA standards.[10] According to the *2002 Census of Agriculture* data, there were a total of 1,731 tangerine operations in the United States in 2002.[11] It is estimated that approximately 93 percent of all citrus-producing farms had annual sales in 2002 of $500,000 or less.

If Unshu oranges and U.S.-grown mandarin varieties were close substitutes, then U.S. entities could be affected to the extent that Unshu orange imports from Korea would displace sales in Alaska of the U.S.-grown mandarin varieties. Small entities would be affected, since they comprise a substantial number of the producers of mandarin varieties, as indicated by the data on tangerine operations. However, even if all Unshu orange imports from Korea were to directly replace consumption of U.S.-grown tangerines in Alaska, the effect on U.S. producers would be very minor. Under such a scenario, annual imports of Unshu oranges from Korea of 2,000 metric tons (the upper limit of the projected range of imports), would displace less than 1 percent of fresh tangerines produced by U.S. operations in 2004–05. We emphasize that even a small impact for U.S. producers such as this is highly unlikely.

We expect that any product displacement that may occur as a result of the proposed changes would be borne by other foreign suppliers of Unshu oranges, in particular Japan's exporters. However, we do not expect any significant product displacement as a result of Korean supplies. Alaska's Unshu orange consumers may benefit to the extent that the competition results in price declines. Based on the information we have at this time, we expect the benefits of allowing the importation of Unshu oranges from South Korea into Alaska would outweigh any expected costs to domestic small entities. We welcome public comment that would improve our understanding of possible effects of the proposed rule for U.S. small entities.

[4] Source: Global Trade Atlas.

[5] Source: USDA, FAS, PS&D Online. ''Fresh Tangerines: Production, Supply and Distribution in Selected Countries,'' *http://www.fas.usda.gov/psdonline/psdDownload.aspx.*

[6] The proportion of domestic fresh consumption attributed to U.S. production is production less exports and processed utilization. Data Source: USDA ERS Briefing Room, Fruit and Tree Nut Yearbook, 2005.

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

[8] Florida Agricultural Statistic Service (FASS), National Agricultural Statistics Service (NASS), USDA, ''Citrus Summary 2004–05,'' February 2006.

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

[10] Based upon 2002 Census of Agriculture, State Data.

[11] The number of tangerine farms in the United States, as reported by the 2002 *Census of Agriculture,* includes operations that produced tangerines for processed utilization.

An alternative to this proposed rule would be to continue with the 2002 administrative suspension of the importation of Unshu oranges from Korea into all parts of the United States, including Alaska. Continuing the suspension of Korean Unshu orange imports into Alaska is not a satisfactory alternative to the proposed rule. Specified mitigation measures would ensure a low risk of introduction of citrus canker and Diaspidad scale into the United States. Resumption of imports would reestablish competition with Japanese suppliers, benefitting U.S. consumers but with little if any expected effect on U.S. producers.

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

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2006–0133. Please send a copy of your comments to: (1) Docket No. APHIS–2006–0133, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the regulations governing the importation of citrus fruit to allow fresh Unshu oranges from the Republic of Korea to be imported into the State of Alaska under certain conditions. As a condition of entry, the oranges would have to be prepared for shipping using packinghouse procedures that include culling of damaged or diseased fruit and washing in a water bath. In addition, the oranges would have to be accompanied by a phytosanitary certificate with an additional declaration stating that the oranges were inspected and found free from *Xanthomonas axonopodis* pv.*citri* and *Unaspis yanonensis.* The individual cartons or boxes in which the Unshu oranges are shipped would also have to be stamped or printed with a statement restricting their importation and distribution to the State of Alaska. This action would allow for the importation of Unshu oranges from the Republic of Korea into Alaska while continuing to provide protection against the introduction of quarantine pests.

APHIS is asking Office of Management and Budget (OMB) to approve its use of this information collection activity, associated with its efforts to prevent the spread of plant pests and plant diseases into the United States.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. APHIS needs this outside input to help accomplish the following:

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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

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

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.0056932 hours per response.

Respondents: Importers of Unshu Oranges, NPPO's.

Estimated annual number of respondents: 10.

Estimated annual number of responses per respondent: 544.5.

Estimated annual number of responses: 5,445.

Estimated total annual burden on respondents: 31 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

E-Government Act Compliance

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

List of Subjects in 7 CFR 319

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

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

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

2. Section 319.28 would be amended as follows:

a. By redesignating paragraphs (c) through (i) as paragraphs (d) through (j), respectively.

b. By adding a new paragraph (c) to read as set forth below.

c. By revising newly redesignated paragraph (f) to read as set forth below.

§ 319.28 Notice of quarantine.

* * * * *

(c) The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma mandarin, grown in the Republic of Korea and imported under permit into the State of Alaska under the following conditions:

(1) The Unshu oranges must be prepared for shipping using packinghouse procedures that include culling damaged or diseased fruit and washing in a water bath.

(2) Each shipment of Unshu oranges must be accompanied by a phytosanitary certificate from the national plant protection organization of the Republic of Korea bearing the following additional declaration: ''These oranges were inspected and are considered to be free from citrus canker (*Xanthomonas axonopodis* pv. *citri*) and arrowhead scale (*Unaspis yanonensis*).

(3) The individual boxes in which the oranges are shipped must be stamped or printed with the following: ''These oranges may not be shipped to any State other than Alaska.''

* * * * *

(f) Importations allowed in paragraphs (b), (c), (d), and (e) of this section shall be subject to the permit and other requirements under the regulations in Subpart—Fruits and Vegetables §§ 319.56 through 319.56–8).

* * * * *

Done in Washington, DC, this 28th day of November 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–20422 Filed 12–1–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 292

RIN 1076–AE81

Gaming on Trust Lands Acquired After October 17, 1988

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; extension of comment period and correction.

SUMMARY: This document extends the comment period for the proposed rule published on Thursday, October 5, 2006 (71 FR 58769), which establishes procedures that an Indian tribe must follow in seeking to conduct gaming on lands acquired after October 17, 1988. This document also contains corrections to the proposed rule. The regulation relates to gaming on trust lands acquired after October 17, 1988.

DATES: Comments must be received on or before December 19, 2006.

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

- *Federal rulemaking portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *Fax:* 202–273–3153.
- *Mail:* Mr. George Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, 1849 C Street, NW., Mail Stop 3657–MIB, Washington, DC 20240.
- *Hand delivery:* Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, 1849 C Street, NW., Room 3657–MIB, Washington, DC, from 9 a.m. to 4 p.m., Monday through Friday.

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

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

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

Correction

In the issue of October 5, 2006, on page 58773, in the second column, paragraphs (a)(2) and (b) introductory text of § 292.5 are corrected to read as follows:

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

* * * * *

(a) * * *

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

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

* * * * *

Dated: November 29, 2006.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–20494 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–103039–05]

RIN 1545–BE26

AJCA Modifications to the Section 6111 Regulations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains a correction to notice of proposed rulemaking by cross-reference to temporary regulations that were published in the **Federal Register** on Thursday, November 2, 2006 (71 FR 64496) relating to the disclosure of reportable transactions by material advisors.

FOR FURTHER INFORMATION CONTACT: Tara P. Volungis or Charles Wien, 202–622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking by cross-reference to temporary regulations (REG–103039–05) that is the subject of this correction is under sections 6111 and 6112 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking by cross-reference to temporary regulations (REG–103039–05) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking by cross-reference to temporary regulations (REG–103039–05) that was the subject of FR Doc. E6–18321 is corrected as follows:

§ 301.6111–3 [Corrected]

On page 64499, column 1, § 301.6111–3(b)(2)(ii)(B), first paragraph

of the column, lines 4 and 5, the language ''disclosure of the tax structure or tax aspects of the transaction is limited in'' is corrected to read ''disclosure of the tax treatment or tax structure of the transaction is limited in''.

La Nita VanDyke,

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

[FR Doc. E6–20382 Filed 12–1–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC 2006–26397]

RIN 2135–AA24

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The proposed changes will update the following sections of the Regulation and Rules: Condition of Vessels; Preclearance and Security for Tolls; Seaway Navigation; Dangerous Cargo; and, General. These proposed amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the proposed amendments are merely editorial or for clarification of existing requirements.

DATES: Any party wishing to present views on the proposed amendment may file comments with the Corporation on or before January 3, 2007.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number SLSDC 2006–26397] by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *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 or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading under *Regulatory Notices*.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room 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: Craig H. Middlebrook, Acting Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by updating the Regulations and Rules in various categories. The proposed changes would update the following sections of the Regulations and Rules: Condition of Vessels; Preclearance and Security for Tolls; Seaway Navigation; Dangerous Cargo; and, General. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these proposed changes are to clarify existing requirements in the regulations. Where new requirements or regulations are being proposed, an explanation for such a change is provided below.

Regulatory Notices: 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*.

The SLSDC is proposing to make one clarification to the Interpretation section of the joint Seaway regulations. Under Section 401.2, ''Interpretation', after the definition of Seaway station, the SLSDC is proposing to add a reference to section 401.62, ''Seaway stations'' for a list and location of the specific Seaway stations. In terms of Notice and Arrival requirements for vessels transiting the Seaway pursuant to section 401.79, ''Advance notice of arrival, vessels requiring inspection'', there has been some confusion regarding the location of the nearest Seaway station. Inserting a reference to the list of Seaway Stations in the definition would aid in clarifying the location to which a vessel must provide its 96 hours notice of arrival.

The SLSDC is proposing to make two amendments to the joint regulations pertaining to the Condition of Vessels. Under section 401.8, ''Landing booms'', the SLSDC is proposing to require vessels that are equipped with landing booms, but not using them, to use the Seaway's tie-up service at approach walls. This proposed amendment will clarify which vessels are required to use the Seaway's tie-up service. Under section 401.12, ''Minimum requirements—mooring lines and fairleads'', the SLSDC is proposing to provide flexibility to Seaway ship inspectors' ability to require an alternate mooring arrangement when a vessel cannot comply with the Seaway regulation due to design or other factors.

Two amendments to the joint regulations regarding Preclearance and Security for Tolls are proposed. The proposed amendment to section 401.22, ''Preclearance of vessels'', would provide flexibility to an officer to preclear a vessel, such as a large private yacht or ''Tall Ship'' that would not be able to moor at the pleasure craft docks because of its unusual design and requirements for inspection. Section 401.24, ''Application for Preclearance'', is being revised to eliminate the requirement that a representative of a

vessel must submit 3 copies of a preclearance form since the Manager no longer issues 3 copies of the form.

The SLSDC is proposing two amendments to the joint regulations pertaining to Seaway Navigation. Under section 401.40, ''Entering a lock'', the SLSDC is proposing to rename the section and add language to make it clear that no vessel shall exit a lock in a manner that results in the stern passing the stop symbol on the lock wall nearest the closed gates. There have been instances in which vessels, when required to maintain position in a lock or upon entering or departing a lock, have drifted astern resulting in damage to Seaway property. This amendment would require a vessel entering, exiting or maintaining its position in a lock to adhere to firmly established Seaway procedures. Under section 401.58, ''Pleasure craft scheduling'', language is proposed to clarify that the requirement to use the automated ticket dispensers only applies to vessels transiting Canadian locks since there are no automated ticket dispensers at the U.S. locks.

The SLSDC is proposing to make several clarifying/editorial changes in the joint Seaway regulations pertaining to Dangerous Cargo. Proposed language throughout the following sections: 401.68, ''Explosives Permission Letter''; 401.70, ''Fendering—explosive and hazardous cargo vessels''; and, 401.72, ''Reporting—explosive and hazardous cargo vessels'', would clarify that the Seaway(s) issue Seaway Explosives Permission Letters rather than permits.

In the regulations pertaining to general requirements, the SLSDC proposes one amendment. Under section 401.93, ''Access to Seaway property,'' the word ''swim '' would be removed in order to clarify that a person may not enter any Seaway canal or lock area regardless of the method of entry.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this proposed rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR Part 401, Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

2. In § 401.2 paragraph (k) would be revised to read as follows:

§ 401.2 Interpretation.

* * * * *

(k) *Seaway Station* means a radio station operated by the Corporation or the Manager. (*See* 401.62. Seaway Stations for the list and location of stations).

* * * * *

3. In § 401.8 paragraph (c) would be revised to read as follows:

§ 401.8 Landing booms.

* * * * *

(c) Vessels not equipped with or not using landing booms must use the Seaway's tie-up service at approach walls.

4. Section 401.12 paragraph (a) introductory text would be revised to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) Minimum requirements in respect of mooring lines, which shall be available for securing on either side of the vessel, winches, and the location of fairleads on vessels are as follows unless otherwise permitted by the officer:

* * * * *

5. In § 401.22 paragraph (c) would be revised to read as follows:

§ 401.22 Preclearance of vessels.

* * * * *

(c) A non-commercial vessel of 300 gross registered tonnage or less cannot apply for preclearance status and must transit as a pleasure craft unless otherwise permitted by an officer.

6. § 401.24 will be revised as follows:

§ 401.24 Application for preclearance.

The representative of a vessel may, on a preclearance form obtained from the Manager, St. Lambert, Quebec, or downloaded from the St. Lawrence Seaway Web site at *http://www.greatlakes-seaway.com*, apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel.

7. In § 401.40 the section heading will be revised, paragraphs (b) and (c) will be redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) will be added to read as follows:

§ 401.40 Entering, Exiting or Position in a Lock.

* * * * *

(b) No vessel shall depart a lock in such a manner that the stern passes the stop symbol on the lock wall nearest the closed gates.

* * * * *

8. In § 401.58 paragraph (b) is revised to read as follows:

§ 401.58 Pleasure craft scheduling.

* * * * *

(b) Every pleasure craft seeking to transit Canadian Locks shall stop at a

pleasure craft dock and arrange for transit by contacting the lock personnel using the direct-line phone and make the lockage fee payment by purchasing a ticket using the automated ticket dispensers.

9. In § 401.68, the section heading and paragraphs (a) introductory text, (b), (c), and (d) are revised to read as follows:

§ 401.68 Explosives Permission Letter.

(a) A Seaway Explosives Permission Letter is required for an explosive vessel in the following cases:

* * * * *

(b) When an explosive vessel is carrying quantities of explosives above the maximum mentioned in paragraph (a), no Seaway Explosives Permission Letter shall be granted and the vessel shall not transit.

(c) A written application for a Seaway Explosives Permission Letter certifying that the cargo is packed, marked, and stowed in accordance with the Canadian Regulations respecting the Carriage of Dangerous Goods, the United States Regulations under the Dangerous Cargo Act and the International Maritime Dangerous Goods Code may be made to the Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662 or to the St. Lawrence Seaway Management Corporation, 202 Pitt Street, Cornwall, Ontario, K6J 3P7.

(d) A signed copy of a Seaway Explosives Permission Letter and a true copy of any certificate as to the loading of dangerous cargo shall be kept on board every explosive vessel in transit and shall be made available to any officer requiring production of such copies.

* * * * *

10. § 401.70 will be revised to read as follows:

§ 401.70 Fendering—explosive and hazardous cargo vessels.

All explosive vessels requiring a Seaway Explosives Permission Letter in accordance with § 401.68 and all tankers carrying cargo with a flashpoint of up to 61 °C, except those carrying such cargo in center tanks with gas free wing tanks, shall be equipped with a sufficient number of non-metallic fenders on each side to prevent any metallic part of the vessel from touching the side of a dock or lock wall.

11. In § 401.72 paragraph (b) will be revised to read as follows:

§ 401.72 Reporting—explosive and hazardous cargo vessels.

* * * * *

(b) Every explosive vessel requiring a Seaway Explosives Permission Letter shall, when reporting in, give the number of its Seaway Explosives Permission Letter.

* * * * *

12. In § 401.93 paragraph (b) will be revised to read as follows:

§ 401.93 Access to Seaway property.

* * * * *

(b) Except as authorized by an officer or by the Seaway Property Regulations or its successors, no person shall enter upon any land or structure of the Manager or the Corporation or in any Seaway canal or lock area.

Issued at Washington, DC on November 27, 2006.

Saint Lawrence Seaway Development Corporation.

Collister, Johnson, Jr.,

Administrator.

[FR Doc. E6–20371 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0883; FRL–8251–1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the inclusion of revisions to the Construction Permit Exemptions rule. The Construction Permit Exemptions rule lists specific construction or modification projects that are not required to obtain permits to construct under the Construction Permits Required rule. Revisions to this rule include updating the insignificance levels used for construction permit exemptions, adding a new exemption for manufacturing operations, which produce insignificant emissions, clarifying the grain handling facilities exemption, and restructuring of the record keeping portion of the rule. Missouri developed the revisions to this rule under two separate state rulemaking processes.

DATES: Comments on this proposed action must be received in writing by January 3, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0883 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: algoe-eakin.amy@epa.gov.*

3. *Mail:* Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551–7942, or by e-mail at *algoe-eakin.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: November 17, 2006.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E6–20434 Filed 12–1–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0925; FRL–8250–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to Grossman Iron and Steel's Source Registration Permit, number SR00.045A. This permit, issued by the City of St. Louis, will control particulate matter (PM_{10}) emissions from Grossman Iron and Steel Company. This proposed approval will make the permit Federally enforceable.

DATES: Comments on this proposed action must be received in writing by January 3, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0925 by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.
2. *E-mail: algoe-eakin.amy@epa.gov.*
3. *Mail:* Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier:* Deliver your comments to: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551–7942, or by e-mail at *algoe-eakin.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: November 24, 2006.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E6–20432 Filed 12–1–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 061106290–6290–01, I.D. 101706C]

RIN 0648–AV01

List of Fisheries for 2007

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

ACTION: Proposed rule; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) is publishing its proposed List of Fisheries (LOF) for 2007, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2007 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must categorize each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: Comments must be received by January 3, 2007.

ADDRESSES: Send comments to Chief, Marine Mammal Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via email to *2007LOF.comments@noaa.gov* or to the Federal eRulemaking portal: *http://www.regulations.gov* (follow instructions for submitting comments).

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and to David Rostker, OMB, by fax to 202–395–7285 or by email to *David_Rostker@omb.eop.gov*.

See **SUPPLEMENTARY INFORMATION** for a listing of all Regional offices.

FOR FURTHER INFORMATION CONTACT: Melissa Andersen, Office of Protected Resources, 301–713–2322; David Gouveia, Northeast Region, 978–281–9328; Laura Engleby, Southeast Region, 727–824–5312; Elizabeth Petras, Southwest Region, 562–980–3238; Brent Norberg, Northwest Region, 206–526–6733; Bridget Mansfield, Alaska Region, 907–586–7642; Alecia Van Atta, Pacific Islands Region, 808–973–2937. Individuals who use a telecommunications device for the hearing impaired 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.

SUPPLEMENTARY INFORMATION:

Availability of Published Materials

Information regarding the LOF and the Marine Mammal Authorization Program, including registration procedures and forms, current and past LOFs, observer requirements, and marine mammal injury/mortality reporting forms and submittal procedures, may be obtained at: *http://www.nmfs.noaa.gov/pr/interactions/mmap*, or from any NMFS Regional Office at the addresses listed below.

Regional Offices

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298, Attn: Marcia Hobbs;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Teletha Mincey;

NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Lyle Enriquez;

NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802; or

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1100, Honolulu, HI, 96814–4700.

What is the List of Fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Stock Assessment Reports and other relevant sources and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(1)(c)).

How Does NMFS Determine in which Category a Fishery is Placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock, and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level 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. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock would be placed in Category III (unless those fisheries interact with other stock(s) in which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2, Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level.

Tier 2, Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level.

Tier 2, Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level.

While Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock, Tier 2 considers fishery-specific mortality and serious injury for a particular stock. Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Since fisheries are categorized on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically categorized on the LOF at its highest level of classification (e.g., a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

Other Criteria That May Be Considered

In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality qualifies for Category II by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

How Does NMFS Determine which Species or Stocks are Included as Incidentally Killed or Seriously Injured in a Fishery?

The LOF includes a list of marine mammal species or stocks incidentally killed or seriously injured in each commercial fishery, based on the level of serious injury or mortality in each fishery relative to the PBR level for each stock. To determine which species or stocks are included as incidentally killed or seriously injured in a fishery, NMFS annually reviews the information presented in the current marine mammal Stock Assessment Reports (SARs). The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of mortality or serious injury incidental to commercial fishing operations. NMFS also reviews other sources of new information, including observer data, stranding data and fisher self-reports.

In the absence of reliable information on the level of mortality or serious injury of a marine mammal stock, or insufficient observer data, NMFS will determine whether a species or stock should be added to, or deleted from, the list by considering other factors such as: changes in gear types used, increases or decreases in fishing effort, increases or decreases in the level of observer coverage, and/or changes in fishery management that are expected to lead to decreases in interactions with a given marine mammal stock (such as a Fishery Management Plan [FMP] or a Take Reduction Plan [TRP]). NMFS will provide case specific justification in the LOF for changes to the list of species or stocks incidentally killed or seriously injured.

How do I Determine the Level of Observer Coverage in a Fishery?

Data obtained from observers and the level of observer coverage are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. The best available information on the level of observer coverage, and the spatial and temporal distribution of observed marine mammal interactions, is presented in the SARs. Starting in 2005, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of

mortality and serious injury of marine mammals. Information presented in the SARs' appendices include: level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, gear characteristics, management and regulations, and protected species interactions.

NMFS refers readers to the SARs for the most current information on the level of observer coverage for each fishery. Copies of the SARs are available on the NMFS Office of Protected Resource's Web site at: *http://www.nmfs.noaa.gov/pr/sars/*. Additional information on observer coverage in commercial fisheries can be found on the National Observer Program's website: *http://www.st.nmfs.gov/st4/nop/*.

How Do I Find Out if a Specific Fishery is in Category I, II, or III?

This proposed rule includes two tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the fisheries in the Pacific Ocean (including Alaska). Table 2 lists all of the fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Am I Required to Register Under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization from NMFS in order to lawfully incidentally take a marine mammal in a commercial fishery. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How Do I Register?

Vessel or gear owners must register with the Marine Mammal Authorization Program (MMAP) by contacting the relevant NMFS Regional Office (see **ADDRESSES**) unless they participate in a fishery that has an integrated registration program (described below). Upon receipt of a completed registration, NMFS will issue vessel or gear owners an authorization certificate. The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)).

What is the Process for Registering in an Integrated Fishery?

For some fisheries, NMFS has integrated the MMPA registration process with existing state and Federal fishery license, registration, or permit systems. Participants in these fisheries are automatically registered under the MMPA and are not required to submit registration or renewal materials or pay the $25 registration fee. The following section indicates which fisheries are integrated fisheries and has a summary of the integration process for each Region. Vessel or gear owners who operate in an integrated fishery and have not received an authorization certificate by January 1 of each new year or with renewed state fishing licenses (as in Washington and Oregon) must contact their NMFS Regional Office (see **ADDRESSES**). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

Which Fisheries Have Integrated Registration Programs?

The following fisheries have integrated registration programs under the MMPA:

1. All Alaska Category II fisheries;
2. All Washington and Oregon Category II fisheries;
3. Northeast Regional fisheries for which a state or Federal permit is required;
4. All Southeast Regional fisheries for which a Federal permit is required, as well as fisheries permitted by the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas; and
5. The Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set line Fishery.

How Do I Renew My Registration Under the MMPA?

Vessel or gear owners that participate in fisheries that have integrated registration programs (described above) are automatically renewed and should receive an authorization certificate by January 1 of each new year, with the exception of Washington and Oregon Category II fisheries. Washington and Oregon fishers receive authorization with each renewed state fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in an integrated fishery and have not received authorization certificates by January 1 or with renewed fishing licenses (Washington and Oregon) must contact the appropriate NMFS Regional Office (see **ADDRESSES**). Vessel or gear owners that participate in fisheries that do not have integrated registration programs and that have previously registered in a Category I or II fishery will receive a renewal packet from the appropriate NMFS Regional Office at least 30 days prior to January 1 of each new year. It is the responsibility of the vessel or gear owner in these fisheries to complete their renewal form and return it to the appropriate NMFS Regional Office at least 30 days in advance of fishing. Individuals who have not received a renewal packet by January 1 or are registering for the first time must request a registration form from the appropriate Regional Office (see **ADDRESSES**).

Am I Required to Submit Reports When I Injure or Kill a Marine Mammal During the Course of Commercial Fishing Operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery must report to NMFS all incidental injuries and mortalities of marine mammals that occur during commercial fishing operations. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Injury/mortality report forms and instructions for submitting forms to NMFS can be downloaded from: *http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf*. Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I Required to Take an Observer Aboard My Vessel?

Fishers participating in a Category I or II fishery are required to accommodate an observer aboard vessel(s) upon request. Observer requirements can be found in 50 CFR 229.7.

Am I Required to Comply With Any Take Reduction Plan Regulations?

Fishers participating in a Category I or II fishery are required to comply with

any applicable take reduction plans. Take reduction plan requirements can be found at 50 CFR 229.30–34.

Sources of Information Reviewed for the Proposed 2007 LOF

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the SARs for all observed fisheries to determine whether changes in fishery classification were warranted. NMFS' SARs are based on the best scientific information available at the time of preparation, including the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that informs the SARs, and to advise NMFS on population status and trends, stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, and other information that may not be included in the SARs.

The LOF for 2007 was based, among other things, on information provided in the final SARs for 1996 (63 FR 60, January 2, 1998), the final SARs for 2001 (67 FR 10671, March 8, 2002), the final SARs for 2002 (68 FR 17920, April 14, 2003), the final SARs for 2003 (69 FR 54262, September 8, 2004), the final SARs for 2004 (70 FR 35397, June 20, 2005), the final SARs for 2005 (71 FR 26340, May 4, 2006), and the draft SARs for 2006 (71 FR 42815, July 28. 2006). All SARs are available at: *http://www.nmfs.noaa.gov/pr/sars/*.

Summary of Changes to the LOF for 2007

The following summarizes changes to the LOF in 2007 in fishery classification, fisheries listed on the LOF, the number of participants in a particular fishery, and the species and/or stocks that are incidentally killed or seriously injured in a particular fishery. The placement and definition of U.S. commercial fisheries for 2007 are identical to those provided in the LOF for 2006 with the following exceptions.

Commercial Fisheries in the Pacific Ocean

Fishery Classification

AK Cook Inlet Salmon Set Gillnet Fishery

NMFS proposes to elevate the ''AK Cook Inlet salmon set gillnet fishery'' from Category III to Category II based on a documented serious injury/mortality of a Central North Pacific (CNP) humpback whale from entanglement in 2005. From 2001–2005, 17 documented serious injuries and mortalities of CNP humpback whales were directly attributable to commercial U.S. fisheries under state or Federal management. Therefore, annual average serious injury and mortality of this stock is 3.4 animals per year for the same period, or 26.36 percent of the PBR (PBR = 12.9). The single serious injury/mortality in the AK Cook Inlet salmon set gillnet fishery translates to an annual average mortality and serious injury of 0.2 animals per year, or 1.55 percent of the stock's PBR (PBR= 12.9). Category II classification is necessary based on the mean serious injury and mortality of humpback whale (CNP) exceeding 1 percent of its PBR. Consequently, NMFS proposes to elevate the AK Cook Inlet salmon set gillnet fishery to Category II.

Addition of Fisheries to the LOF

WA, OR Sardine Purse Seine Fishery

NMFS proposes to add the ''WA, OR sardine purse seine fishery'' as a Category III fishery. This fishery has 42 participants. The 2006 LOF contains the California portion of the fishery in the Category II ''CA sardine purse seine fishery'' (proposed to be merged with the anchovy and mackerel portion of the ''CA anchovy, mackerel, tuna purse seine fishery'' to create the ''CA anchovy, mackerel, sardine purse seine fishery'' on the 2007 LOF). The Washington and Oregon portion of the sardine purse seine fishery should be listed separately because incidental taking of marine mammals in the this fishery has not been documented. Initially the coastwide sardine harvest guideline, distributed across the entire west coast Exclusive Economic Zone (EEZ), had separate allocations between the Federally managed limited entry fishery off California and the state regulated fisheries off Oregon and Washington. Observations made under the divided allocation indicated that the California portion of the fishery warranted listing as a Category II fishery, owing to rare incidental taking of California sea lions and by analogy with other Category II purse seine fisheries. However, no incidental take of marine mammals was observed in the northern portion of the fishery off Oregon and Washington. Harvest allocations for the two areas were combined in 2005, however fishing effort in the northern state-managed fishery is expected to remain limited in timing and area and the fishery should be listed separately to reflect that no incidental take has been documented.

Oregon and Washington issued 26 and 16 permits, respectively, for the fishery in 2004 and the fishery is managed as a limited entry fishery. Observer coverage in the sardine purse seine fishery in the Pacific Northwest, ranging from 4 to 27 percent between 2000–2004, documented no incidental take of marine mammals off Oregon and Washington. The absence of observed serious injuries or mortalities indicates there is a remote likelihood of serious injuries or mortalities in this fishery. Therefore, NMFS proposes to add this fishery to the LOF in Category III.

CA Halibut Bottom Trawl Fishery

NMFS proposes to add the ''CA halibut bottom trawl fishery'' as a Category III fishery. There has not been a Federal observer program initiated for this fishery and there are no documented marine mammal serious injury or mortalities incidental to this fishery.

The ''CA halibut bottom trawl fishery'' is currently an open-access fishery operating primarily outside state waters. This fishery is not part of the Federal Groundfish Fishery Management Plan (FMP), or any other FMP, and is therefore managed by the California Department of Fish and Game (CDFG) in both state and Federal waters. There is limited fishing allowed between one and three miles offshore within the halibut fishing grounds between Point Arguello and Point Mugu, California. In 2006, the CDFG implemented a permit program for this fishery. Approximately 125 vessels meet the minimum criteria established by CDFG for permit but only 53 permits have been issued.

CA Tuna Purse Seine Fishery

See discussion below under ''CA purse seine fisheries''.

AK Cook Inlet Salmon Purse Seine Fishery

NMFS proposes to add the ''AK Cook Inlet salmon purse seine fishery'' as a Category II based on a documented mortality of a Central North Pacific (CNP) humpback whale in this fishery. The LOF has never included this fishery, although it has existed under state management for many years. This

fishery has 82 participants. This oversight is likely the result of an incomplete inclusion in the LOF of AK state-managed fisheries, as well as a lack of documented serious injuries or moralities in this fishery. NMFS assumes that this humpback whale belongs to the CNP stock based on the known distribution of the this stock, and because there is no known overlap of this fishery with the Western Central North Pacific stock of humpback whales.

From 2001–2005, 17 documented serious injuries and mortalities of CNP humpback whales were directly attributable to commercial U.S. fisheries under state or Federal management. Therefore, annual average serious injury and mortality of this stock is 3.4 animals per year for the same time period, or 26.36 percent of the PBR (PBR = 12.9). The single mortality in the AK Cook Inlet salmon purse seine fishery translates to an annual average mortality and serious injury of 0.2 animals per year, or 1.55 percent of the stock's PBR. Category II classification is necessary based on the mean serious injury and mortality of CNP humpback whales exceeding 1 percent of PBR. Consequently, NMFS proposes to add the AK Cook Inlet salmon purse seine fishery to the LOF as a Category II.

AK Kodiak Salmon Purse Seine Fishery

NMFS proposes to add the ''AK Kodiak salmon purse seine fishery'' as a Category II based on a documented mortality of a CNP humpback whale in this fishery. The LOF has never included this fishery, although it has existed under state management for many years. This fishery has 370 participants. This oversight is likely the result of an incomplete inclusion in the LOF of AK state-managed fisheries, as well as a lack of documented serious injuries or moralities in this fishery. NMFS assumes that this humpback whale belongs to the CNP stock based on the known distribution of the this stock, and because there is no known overlap of this fishery with the Western Central North Pacific stock of humpback whales.

From 2001–2005, 17 documented serious injuries and mortalities of CNP humpback whales were directly attributable to commercial U.S. fisheries under state or Federal management. Therefore, annual average serious injury and mortality of this stock is 3.4 animals per year for the same time period, or 26.36 percent of the PBR (PBR = 12.9). The single mortality in the AK Kodiak salmon purse seine fishery translates to an annual average mortality and serious injury of 0.2 animals per year, or 1.55 percent of the stock's PBR (PBR = 12.9). Category II classification is necessary based on the mean serious injury and mortality of CNP humpback whales exceeding 1 percent of PBR. Consequently, NMFS proposes to add the AK Kodiak salmon purse seine fishery to the LOF as a Category II.

Removal of Fisheries from the LOF

CA Sardine Purse Seine Fishery

See discussion for ''CA purse seine fisheries'' under Fishery Name and Organizational Changes and Clarifications.

CA Herring Purse Seine Fishery

NMFS proposes to remove the ''CA herring purse seine fishery''. This fishery was phased out by CDFG for biological and economic reasons. The fishery was eliminated in 1998.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to modify the definition of superscript [(1)]in ''Table 1-List of Fisheries Commercial Fisheries in the Pacific Ocean'' from ''...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock's PBR'' to read ''...[1] fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR.'' The current definition only defines a stock influencing the elevation of a fishery to Category II, and not to Category I, where annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the stock's PBR (August 30, 1995; 60 FR 45088). Modifying the definition by deleting ''...but less than 50 percent'' allows marine mammal stocks responsible for all Category I and II fishery classifications to be evident.

Hawaii Inshore Gillnet Fishery

NMFS proposes to modify the name of the ''Hawaii gillnet fishery'' to the ''Hawaii inshore gillnet fishery'' to reflect the location of effort in this fishery.

Hawaii Inshore Purse Seine Fishery

NMFS proposes to modify the name of the ''Hawaii purse seine fishery'' to the ''Hawaii inshore purse seine fishery'' to reflect the location of effort in this fishery.

CA Yellowtail, Barracuda, and White Seabass Drift Gillnet (mesh size >3.5 inches and <14 inches) Fishery

NMFS proposes to modify the name of the ''CA yellowtail, barracuda, white seabass, and tuna drift gillnet (mesh size >3.5 inches and <14 inches) fishery'' to delete ''tuna'' from the title. Thus, the name should be ''CA yellowtail, barracuda, and white seabass drift gillnet (mesh size >3.5 inches and <14 inches) fishery''. Targeting tuna with this type of drift gillnet was effectively prohibited with the adoption of the Highly Migratory Species (HMS) FMP in April, 2004. The HMS FMP allows vessels with drift gillnet of less than 14 inches to land no more than 10 HMS species (including tuna and excluding swordfish) per trip.

CA Purse Seine Fisheries

NMFS proposes to reorganize the ''CA anchovy, mackerel, tuna purse seine fishery'' and the ''CA sardine purse seine fishery'' by moving the tuna portion into a separate fishery and combining the sardine, anchovy, and mackerel portions into one fishery. The end result is to create the ''CA anchovy, mackerel, sardine purse seine fishery'' and the ''CA tuna purse seine fishery''.

The purse seine gear used, fishing methods and areas fished to target anchovy, mackerel, and sardine are similar, and all three fish species may be taken by vessels in this fishery. Harvest of anchovy, mackerel, and sardine is managed jointly by the state of California and NMFS under the Coastal Pelagic Species (CPS) FMP. The current fleet in the CA anchovy, mackerel, sardine purse seine fishery is approximately 100 vessels, with 61 permits issued to fish sardine.

The gear used and areas fished for tuna are different than for the other three species. Harvest of tuna is managed under the Highly Migratory Species FMP. Approximately 10 vessels made tuna landings using this gear in 2005. There are no documented marine mammal mortality or serious injuries in this fishery; however, NMFS proposes to retain the CA tuna purse seine fishery as Category II by analogy with other CA purse seine fisheries.

The Category II ''CA squid purse seine fishery'' will remain as currently listed. Although this fishery, like other fisheries targeting coastal pelagic species, is jointly managed by the state of California and NMFS under the CPS FMP, the methods used to target squid differ from those used to target other coastal pelagic species (i.e., gear is set at night with the aid of lights).

Number of Vessels/Persons

NMFS proposes to update the estimated number of participants in the ''Commonwealth of Northern Mariana Islands tuna troll fishery'' from 50 to 88.

NMFS proposes to update the estimated number of participants in the

''Guam tuna troll fishery'' from 50 to 401.

NMFS proposes to update the estimated number of participants in the ''American Samoa longline fishery'' from 138 to 60.

NMFS proposes to update the estimated number of participants in the ''Guam bottomfish fishery'' from <50 to 200.

NMFS proposes to update the estimated number of participants in the ''HI Main Hawaiian Islands, Northwestern Hawaiian Islands deep sea bottomfish fishery'' from 387 to 300. The waters surrounding the Northwestern Hawaiian Islands (NWHI), out to a distance of approximately 50 nmi from the islands, have been designated as part of the NWHI Marine National Monument by Proclamation 8031 (June 15, 2006). Proclamation 8031 limits the number of bottomfish fishery participants in the Monument to 8 commercial fishermen permitted at the time of designation to fish for certain species within particular zones in the Monument. Commercial fishing in the Monument may continue until June 15, 2011.

List of Species That are Incidentally Injured or Killed

CA/OR Swordfish/Thresher Shark Drift Gillnet Fishery

NMFS proposes to remove the following marine mammals from the list of marine mammal species and stocks incidentally killed or seriously injured in the CA/OR swordfish/thresher shark drift gillnet fishery: Baird's beaked whale (CA/OR/WA stock), bottlenose dolphin (CA/OR/WA offshore stock), Cuvier's beaked whale (CA/OR/WA stock), killer whale (Eastern North Pacific offshore stock), Mesoplodont beaked whale (CA/OR/WA stock), northern fur seal (San Miguel Island stock), pygmy sperm whale (CA/OR/WA stock), Steller sea lion (Eastern U.S. stock), and striped dolphin (CA/OR/WA stock). None of these species have been observed taken in the fishery since October 30, 1997, when regulations were published implementing the Pacific Offshore Cetacean Take Reduction Plan (POCTRP). The POCTRP requires pingers (acoustic deterrent devices) be placed on drift gillnets and extenders (buoy lines) be at least 36 feet long. In addition, following notification from NMFS, vessel captains must attend skipper education workshops provided by NMFS Southwest Regional Office. Since implementation of the POCTRP, marine mammal bycatch in this fishery has declined and the species listed above have not been observed killed or seriously injured in this fishery.

NMFS also proposes to change name of the humpback whale stock from ''CA/OR/WA-Mexico'' to ''Eastern North Pacific''. The title for this stock was changed in the 2001 SAR to be consistent with stock names of other Pacific species. Due to a technical error, this change was not made to the humpback whale stock under this fishery.

CA Lobster, Prawn, Shrimp, Rock Crab, Fish Pot Fishery

NMFS proposes to add the humpback whale (Eastern North Pacific stock), gray whale (Eastern North Pacific stock), and harbor seal (CA stock) to the list of marine mammal species and stocks incidentally killed or seriously injured in the ''CA lobster, prawn, shrimp, rock crab, fish pot fishery'' based upon data from the NMFS Southwest Regional Office stranding and entanglement databases. Between 2000–2005, there were 14 sightings of free swimming humpback whales, gray whales, or unidentified whales entangled in fishing gear identified as pot or trap gear. Of these sightings, 11 entanglements were identified as crab pot gear and 3 were identified as other gear types (lobster and spot prawn). In addition, the stranding database has recorded one dead gray whale, one dead harbor seal, and one dead unidentified pinniped entangled or trapped in pot or fish trap gear. Currently there are insufficient data to elevate this fishery to Category II, but NMFS will continue to monitor marine mammal interactions with pot/trap gear and revisit the fishery's classification in future LOFs.

WA, OR, CA Crab Pot Fishery

NMFS proposes to add the humpback whale (Eastern North Pacific) to the list of marine mammal species and stocks incidentally killed or seriously injured in the ''WA, OR, CA crab pot fishery'' based upon data from the NMFS Southwest Regional Office stranding and entanglement databases. Between 2000–2005, there were 14 sightings of free swimming humpback whales, gray whales, or unidentified whales entangled in fishing gear identified as pot or trap gear. Of these sightings, 11 entanglements were identified as crab pot gear and 3 were identified as other gear types (lobster and spot prawn). In addition, the stranding database has recorded one dead gray whale, one dead harbor seal, and one dead unidentified pinniped entangled or trapped in pot or fish trap gear. Currently there are insufficient data to elevate this fishery to Category II, but NMFS will continue to monitor marine mammal interactions with pot/trap gear and revisit the fishery's classification in future LOFs.

AK Prince William Sound Salmon Drift Gillnet

Due to a typographical error in the 2006 LOF, the South Central AK stock of sea otters was inadvertently removed from the list of stocks incidentally killed or seriously injured in the ''AK Prince William Sound salmon drift gillnet fishery.'' NMFS proposes to correct this error and place the stock back on the list of species and stocks incidentally killed or seriously injured in this fishery.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Classification

Mid-Atlantic Mid-Water Trawl (Including Pair Trawl) Fishery

NMFS proposes to downgrade the ''mid-Atlantic mid-water trawl (including pair trawl) fishery'' from Category I to Category II based on data presented in the draft 2006 SAR. This fishery was elevated to Category I on the 2001 LOF based on the estimated incidental serious injury and mortality of the western north Atlantic (WNA) stock of common dolphins exceeding 50 percent of the stock's PBR during the period from 1996–1998. Based on the most recent data presented in the draft 2006 SAR, the mean serious injury and mortality of common dolphins (WNA) in the mid-Atlantic mid-water trawl (including pair trawl) fishery was 0, or 0 percent of PBR (PBR= 1000) while the mean serious injury and mortality of white sided dolphins (WNA) was 4.3 percent of PBR (PBR= 379). As a result, NMFS has determined that a Category I classification for the mid-Atlantic mid-water trawl fishery is no longer warranted. However, a Category II classification is necessary based on the mean serious injury and mortality of white sided dolphins (WNA) exceeding 1 percent of its PBR. Consequently, NMFS proposes to downgrade the mid-Atlantic mid-water trawl (including pair trawl) fishery from Category I to Category II.

NMFS also proposes to remove the superscript (1) from common dolphins (WNA), long-finned pilot whales (WNA), and short-finned pilot whales (WNA) in Table 2. The mean mortality and serious injury levels presented in the draft 2006 LOF for common dolphins (WNA) was 0 percent of PBR, and for short-finned and long-finned pilot whales (WNA) was 0.3 percent of PBR; therefore, serious injury and mortality of common dolphins (WNA) and long-finned and short-finned pilot

whales (WNA) is no longer driving the categorization of this fishery. The serious injury and mortality of white-sided dolphins (WNA) continues to drive the classification of this fishery as a Category II.

Addition of Fisheries to the LOF

Mid-Atlantic Flynet Fishery

NMFS proposes to add the ''Mid-Atlantic flynet'' fishery as Category II. The flynet fishery currently operates from the Oregon Inlet to Cape Hatteras, NC between October and April, and operates in both Federal and state waters. Flynet fishing gear is characterized by high profile trawls that fish just off the bottom, targeting summer flounder, croaker, and weakfish. Flynets range from 8–12 ft (24 to 36 m) across, with wing mesh sizes of 16–64 in. (41–163 cm). Mesh size is smaller closer to the tailbag, where the mesh size is 3.5 in (9 cm) square hung. Flynet fishing is no longer permitted south of Cape Hatteras in order to protect weakfish stocks. As of 2002, there were 21 vessels utilizing flynet fishing gear. This is largely an opportunistic fishery, meaning that fishermen may have flynets on their vessels as well as other gear, and generally use them to harvest large schools of target fish. NMFS has placed observers on a voluntary basis on flynet vessels operating out of Wanchese, NC, and approximately 12 trips have been observed. Although no marine mammals have been observed incidentally seriously injured or killed, the similarity of this gear to other Category II bottom trawl fisheries warrants its classification as a Category II fishery by analogy.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to modify the definition of superscript (1)in Table 2, ''List of Fisheries Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean'' from ''...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock's PBR'' to read ''...1 fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR.'' The current definition only defines a stock influencing the elevation of a fishery to Category II, and not to Category I, where annual mortality and serious injury of a stock in a given fishery are greater than or equal to 50 percent of the stock's PBR (60 FR 45088, August 30, 1995). Modifying the definition by deleting ''...but less than 50 percent'' allows marine mammal stocks responsible for all Category I and II fishery classifications to be evident.

Southeastern U.S. Atlantic Shark Gillnet Fishery

NMFS proposes to clarify that fishermen in the ''Southeastern U.S. Atlantic shark gillnet'' fishery include those using gillnets set in a sink, stab, set, strike, or drift fashion to target sharks. Traditionally, the 6 vessels considered to comprise this fishery used gillnets in either a drift or strikenet configuration. However, observers placed on various gillnet vessels in the Southeast have also documented the use of sink, stab, and set gillnets to target sharks by fishermen with a directed shark permit issued by NMFS under the FMP for Atlantic Tunas, Swordfish, and Sharks (50 CFR 635). A more accurate estimate of the number of vessels currently targeting sharks in the Southeast using gillnets is up to 30 vessels, although the fishery is dynamic with vessels configuring their gear to target a variety of other species as well.

Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery

NMFS proposes to clarify the target species in the ''Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery'' to also include fishermen using pelagic longlines to target or land dolphin and wahoo. Fishing for dolphin and wahoo using longline gear involves shortening the gangions (the lines that serve to attach the hook to the mainline) so that they fish closer to the surface. Observers have noted that fishermen generally modify only sections of the pelagic longline gear set to target dolphin or wahoo, with the rest of the gear configured to target swordfish, tuna, and/or sharks. The number of vessels that regularly modify sections of their gear to target dolphin and wahoo is unknown, and there is no record of any observed vessel modifying their gear to fish only for dolphin and wahoo. Although fishermen using longlines to catch dolphin or wahoo are required to be permitted under the NMFS FMP for the Dolphin and Wahoo Fishery of the Atlantic in order to land these species, because they are only modifying a section of the gear to target dolphin or wahoo, they must also have a permit issued by NMFS under the FMP for Atlantic Tunas, Swordfish, and Sharks (50 CFR 635) to land pelagic species caught on unmodified sections of the gear. For these reasons, fishing for dolphin or wahoo using pelagic longline gear is considered part of the ''Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery''.

Northeast Sink Gillnet Fishery, Northeast Anchored Float Gillnet Fishery, and Northeast Drift Gillnet Fishery

NMFS proposes to change the language defining the ''Northeast sink gillnet'', the ''Northeast anchored float gillnet'', and the ''Northeast drift gillnet'' fisheries by removing ''...from the Maine/Canada border through the waters east of 72° 30′W...'' (62 FR 33, January 2, 1997) from all three fisheries descriptions and replacing this with ''...from the U.S./Canada border to Long Island, NY, at 72° 30′W. long. South to 36° 33.03′N. lat. And east to the eastern edge of the EEZ...''. This wording is more consistent with proposed management area boundaries for gillnet fisheries under the Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations. As the ALWTRP management areas for gillnet fisheries consider the LOF definitions, consistency between the two boundaries may reduce confusion.

Northeast Sink Gillnet Fishery

NMFS proposes to expand the list of target species associated with the ''Northeast sink gillnet fishery''. Upon the classification of sturgeon as a prohibited species in state and Federal waters, NMFS removed the ''Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery'' from the LOF. Gillnet fishing for shad in the Northeast was reorganized and recategorized into the ''Northeast sink gillnet fishery'', ''Northeast anchored float gillnet fishery'', and/or the ''Northeast drift gillnet fishery'' depending on the type of gear used (66 FR 6545, January 22, 2001). The ''Offshore monkfish gillnet fishery'' was also removed from the LOF in 1997 (62 FR 33, January 2, 1997) and monkfish were to be integrated into either the ''Northeast sink gillnet fishery'' or the ''U.S. mid-Atlantic coastal gillnet fishery'' depending on where the fish were targeted. Monkfish gillnetting in the Gulf of Maine was already considered to be an extension of the ''Northeast sink gillnet fishery'' (60 FR 67063, December 28, 1995).

NMFS has recently become aware of additional species being targeted and, therefore, proposes to expand the list of fish species to include, but not be limited to: all species defined in the Northeast Multispecies FMP (American plaice, Atlantic cod, Atlantic halibut, haddock, ocean pout, offshore hake, pollock, red hake [ling], redfish, silver hake [whiting], white hake, windowpane flounder, winter flounder, witch flounder and yellowtail flounder),

as well as spiny dogfish, monkfish, shad, skate and mackerel.

Northeast Anchored Float Gillnet Fishery

NMFS proposes to expand the list of target species associated with the ''Northeast anchored float gillnet fishery'' to include, but not be limited to: shad, herring, mackerel and menhaden. NMFS proposed the 2001 reclassification of the ''Gulf of Maine small pelagics surface gillnet fishery'' to the ''Northeast anchored pelagic gillnet fishery'' (66 FR 6545, January 22, 2001) to incorporate fishing effort in other Northeast areas and to include catch other than small pelagics. However, due to changes in recording gillnet fishing effort and the need to better distinguish Atlantic gillnet fisheries by gear type, the fishery was classified as the ''Northeast anchored float gillnet'' (66 FR 42780, August 15, 2001). Upon the classification of sturgeon as a prohibited species in state and Federal waters, NMFS removed the ''Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery'' from the LOF. Gillnet fishing for shad in the Northeast was reorganized and recategorized into the ''Northeast sink gillnet fishery'', ''Northeast anchored float gillnet fishery'', and/or the ''Northeast drift gillnet fishery depending on the type of gear used (66 FR 6545, January 22, 2001).

Northeast Drift Gillnet Fishery

NMFS proposes to clarify the list of target species associated with the ''Northeast drift gillnet fishery''. Upon the classification of sturgeon as a prohibited species in state and Federal waters, NMFS removed the ''Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet fishery'' from the LOF. Gillnet fishing for shad in the Northeast is included in the ''Northeast sink gillnet fishery'', ''Northeast anchored float gillnet fishery'', and/or the ''Northeast drift gillnet fishery'' depending on the type of gear used. NMFS therefore proposes to expand the list of target species in the Northeast drift gillnet to include, but not be limited to, shad, herring, mackerel and menhaden.

Mid-Atlantic Gillnet Fishery

NMFS proposes to expand the list of target species associated with the ''Mid-Atlantic gillnet fishery'' to include, but not be limited to: Atlantic croaker, mackerel, black drum, bluefish, herring, menhaden, scup, shad, striped bass, weakfish, white perch, yellow perch, shark (large and small coastal shark, dogfish), and monkfish. This fishery includes recently expanded gillnet effort for large and small coastal shark in the mid-Atlantic. Atlantic sturgeon are listed as a species of concern under the Endangered Species Act, and a moratorium on possession and harvest of this species currently exists throughout the U.S. East Coast.

In addition, NMFS proposes to clarify the type of gear associated with this fishery to include gillnets set in a sink, stab, set, strike, or drift fashion. This fishery includes any residual large pelagic driftnet effort in the mid-Atlantic.

NMFS also proposes to change language defining the mid-Atlantic gillnet fishery by removing ''...west of 72° 30′W. and north of a line extending due east from the North Carolina/South Carolina border...'' (62 FR 33, January 2, 1997) and replacing this with ''...west of a line drawn at 72° 30′W. long south to 36° 33.03′N. lat. and east to the eastern edge of the EEZ and north of the North Carolina/South Carolina border...''. This wording is more consistent with proposed management area boundaries for gillnet fisheries under the ALWTRP regulations. As the ALWTRP management areas for gillnet fisheries consider the LOF definitions, consistency between the two boundaries may reduce confusion.

Atlantic Mixed Species Trap/Pot Fishery

NMFS proposes to expand the list of target species associated with the ''Atlantic mixed species trap/pot fishery''. NMFS added the category II ''Atlantic mixed species trap/pot fishery'' to the 2003 LOF to encompass the ''Northeast trap/pot fishery'', the ''mid-Atlantic mixed species trap/pot fishery'', the ''U.S. mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot'' fisheries and any other trap/pot fisheries otherwise not identified in the LOF, based on the use of similar gear and the potential for marine mammal entanglements. NMFS has recently become aware of additional species being targeted in this fishery. Therefore, NMFS proposes to expand the list of target species to include, but not be limited to: hagfish, shrimp, conch/whelk, red crab, Jonah crab, rock crab, black sea bass, scup, tautog, cod, haddock, pollock, redfish (ocean perch), white hake, spot, skate, catfish and American eel (not included in the LOF's ''U.S. mid-Atlantic eel trap/pot fishery'' description).

Number of Vessels/Persons

NMFS proposes to update the number of participants in the ''Southeastern U.S. Atlantic shark gillnet fishery'' from 6 to 30.

NMFS proposes to update the number of participants in the ''Mid-Atlantic gillnet fishery'' from >655 to >670 to include the 15 participants targeting shark (e.g., large and small coastal shark, dogfish) in this fishery.

List of Species That are Incidentally Seriously Injured or Killed

Atlantic Ocean, Caribbean, Gulf of Mexico Large Pelagics Longline Fishery

NMFS proposes to add Northern bottlenose whales (Western North Atlantic stock) to the list of species and stocks incidentally killed or seriously injured in the ''Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery''. A bottlenose whale was observed to be entangled and seriously injured in this fishery in 2001.

NMFS has reviewed the other species listed as incidentally killed or seriously injured in this fishery. Although some species have not been observed to have been seriously injured or killed within the most recent 5–year timeframe for which estimates of marine mammal bycatch are made, the fishery still operates in the same general areas and uses the same type of gear, with the exception of the requirement for fishermen to now use circle hooks. The impacts of the use of circle hooks on reducing marine mammal incidental serious injury and mortality are still being analyzed. Therefore, NMFS has determined that no other changes to the list of species killed or seriously injured in this fishery is warranted at this time. NMFS will reassess the list of species incidentally seriously injured or killed in this fishery as more information becomes available.

Mid-Atlantic Haul/Beach Seine Fishery

NMFS proposes to remove harbor porpoise (Gulf of Maine/Bay of Fundy stock) from the list of species or stocks incidentally killed or seriously injured in the ''Mid-Atlantic haul/beach seine fishery''. The most recent SAR (2005) highlights the most recent 5–years of data (from 1999–2003), as well as anecdotal or historical information, as records of interaction. There is no current evidence to indicate harbor porpoises are killed or seriously injured in the Mid-Atlantic haul/beach seine fishery.

Gulf of Maine Atlantic Herring Purse Seine Fishery

NMFS proposes to remove harbor porpoise (Gulf of Maine/Bay of Fundy stock) from the list of species or stocks incidentally killed or seriously injured in the ''Gulf of Maine Atlantic herring purse seine fishery''. The most recent

SAR (2005) highlights the most recent 5–years of data (from 1999–2003), as well as anecdotal or historical information, as records of interaction. There is no current evidence to indicate harbor porpoises are killed or seriously injured in the Gulf of Maine Atlantic herring purse seine fishery.

Mid-Atlantic Gillnet Fishery

NMFS proposes to remove the superscript (1) from bottlenose dolphin (Western North Atlantic offshore stock) and minke whale (Canadian east coast stock) on the list of stocks incidentally killed or seriously injured in the ''Mid-Atlantic gillnet fishery''. In 1996 the mid-Atlantic gillnet fishery was elevated from category III to category II based on a tier analysis focused on the incidental mortality and serious injury of harbor porpoise, coastal bottlenose dolphin, and humpback whales (60 FR 67081, December 28, 1995). For re-classification to a category I fishery in the 2002 LOF, the tier analysis was based on the incidental mortality and serious injury of coastal bottlenose dolphins (68 FR 1422, January 10, 2003). Though offshore bottlenose dolphins and minke whales have the potential to interact with the mid-Atlantic gillnet fishery, these species have not influenced the fishery classification or its elevation; therefore, NMFS proposes to remove the superscript (1).

Northeast Bottom Trawl

NMFS proposes to correct a typographical error in the 2006 LOF, Table 2, by removing the superscript (1) after harp seals (WNA) in the ''Northeast bottom trawl fishery''. Mortality and serious injury of harp seals (WNA) does not drive the categorization of this fishery.

List of Fisheries

The following two tables list U.S. commercial fisheries according to their assigned categories under section 118 of the MMPA. The estimated number of vessels/participants is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants in a fishery, the number from the most recent LOF is used.

The tables also list the marine mammal species and stocks incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, and fisher reports. This list includes all species or stocks known to experience mortality or injury in a given fishery, but also includes species or stocks for which there are anecdotal records of interaction. Additionally, species identified by logbook entries may not be verified. Not all species or stocks identified are the reason for a fishery's placement in a given category. NMFS has designated those stocks that are responsible for a current fishery's classification by a ''1''.

There are several fisheries classified in Category II that have no recently documented interactions with marine mammals, or interactions that did not result in a serious injury or mortality. Justifications for placement of these fisheries, which are greater than 1 percent of a stock's PBR level, are by analogy to other gear types that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a ''Category II fishery'' in 50 CFR 229.2. NMFS has designated those fisheries originally listed by analogy in Tables 1 and 2 by a ''2'' after the fishery's name.

Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		
CA angel shark/halibut and other species set gillnet (> 3.5 in. mesh)	58	California sea lion, U.S. Harbor seal, CA Harbor porpoise, Central CA[1] Long-beaked common dolphin, CA Northern elephant seal, CA breedingSea otter, CA Short-beaked common dolphin, CA/OR/WA
CA/OR thresher shark/swordfish drift gillnet (≥ 14 in. mesh)	85	California sea lion, U.S. Dall's porpoise, CA/OR/WA Fin whale, CA/OR/WA Gray whale, Eastern North Pacific Humpback whale, Eastern North Pacific Long-beaked common dolphin, CA Northern elephant seal, CA breeding Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA[1] Sperm whale, CA/OR/WA
LONGLINE/SET LINE FISHERIES:		

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line	140	Blainville's beaked whale, HI Bottlenose dolphin, HI False killer whale, HI[1] Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso's dolphin, HI Short-finned pilot whale, HI Spinner dolphin, HI Sperm whale, HI
Category II		
GILLNET FISHERIES:		
AK Bristol Bay salmon drift gillnet[2]	1,903	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Spotted seal, AK Steller sea lion, Western U.S.[1]
AK Bristol Bay salmon set gillnet[2]	1,014	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific Spotted seal, AK
AK Cook Inlet salmon set gillnet	745	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Humpback whale, Central North Pacific[1] Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	576	Beluga whale, Cook Inlet Dall's porpoise, AK Harbor porpoise, GOA[1] Harbor seal, GOA Steller sea lion, Western U.S.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA[1] Harbor seal, GOA Sea otter, Southwest AK Steller sea lion, Western U.S.
AK Metlakatla/Annette Island salmon drift gillnet[2]	60	None documented
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	164	Dall's porpoise, AK Harbor porpoise, GOA Harbor seal, GOA Northern fur seal, Eastern Pacific
AK Peninsula/Aleutian Islands salmon set gillnet[2]	116	Harbor porpoise, Bering Sea Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	541	Dall's porpoise, AK Harbor porpoise, GOA[1] Harbor seal, GOA Northern fur seal, Eastern Pacific Pacific white-sided dolphin, North Pacific Steller sea lion, Western U.S.[1]

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK Southeast salmon drift gillnet	481	Dall's porpoise, AK Harbor porpoise, Southeast AK Harbor seal, Southeast AK Humpback whale, Central North Pacific[1] Pacific white-sided dolphin, North Pacific Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	170	Gray whale, Eastern North Pacific Harbor seal, Southeast AK Humpback whale, Central North Pacific (Southeast AK)
CA yellowtail, barracuda, and white seabass drift gillnet fishery (mesh size > 3.5 inches and < 14 inches)[2]	24	California sea lion, U.S. Long-beaked common dolphin, CA Short-beaked common dolphin, CA/OR/WA
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	210	Dall's porpoise, CA/OR/WA Harbor porpoise, inland WA[1] Harbor seal, WA inland
PURSE SEINE FISHERIES:		
AK Southeast salmon purse seine	416	Humpback whale, Central North Pacific[1]
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific[1]
CA anchovy, mackerel, tuna purse seine	110	Bottlenose dolphin, CA/OR/WA offshore1 California sea lion, U.S. Harbor seal, CA
CA squid purse seine	65	Common dolphin, unknown Short-finned pilot whale, CA/OR/WA[1]
CA tuna purse seine[2]	10	Common dolphin, unknown None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	26	Bearded seal, AK Harbor porpoise, Bering Sea Harbor seal, Bering Sea Killer whale, AK resident[1] Northern fur seal, Eastern North Pacific Spotted seal, AK Steller sea lion, Western U.S.[1] Walrus, AK
AK Bering Sea, Aleutian Islands pollock trawl	120	Dall's porpoise, AK Harbor seal, AK Humpback whale, Central North Pacific[1] Humpback whale, Western North Pacific[1] Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient[1] Minke whale, AK Ribbon seal, AK Spotted seal, AK Steller sea lion, Western U.S.[1]
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Pacific cod longline	114	Killer whale, AK resident[1] Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient[1] Ribbon seal, AK Steller sea lion, Western U.S.
CA pelagic longline[2]	6	California sea lion, U.S. Risso's dolphin, CA/OR/WA

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
OR swordfish floating longline[2]	0	None documented
OR blue shark floating longline[2]	1	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific[1] Humpback whale, Western North Pacific[1]
Category III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,922	Harbor porpoise, Bering Sea
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	2,034	None documented
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less	341	None documented
Hawaii inshore gillnet	35	Bottlenose dolphin, HI Spinner dolphin, HI
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet	913	None documented
WA, OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S.Harbor seal, OR/WA coast
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast Northern elephant seal, CA breeding
PURSE SEINE, BEACH SEINE, ROUND HAUL AND THROW NET FISHERIES:		
AK Metlakatla salmon purse seine	10	None documented
AK miscellaneous finfish beach seine	1	None documented
AK miscellaneous finfish purse seine	3	None documented
AK octopus/squid purse seine	2	None documented
AK roe herring and food/bait herring beach seine	8	None documented
AK roe herring and food/bait herring purse seine	624	None documented
AK salmon beach seine	34	None documented
AK salmon purse seine (except Southeast Alaska, which is in Category II)	953	Harbor seal, GOA
WA, OR sardine purse seine	42	None documented
HI Kona crab loop net	42	None documented
HI opelu/akule net	12	None documented
HI inshore purse seine	23	None documented

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
HI throw net, cast net	14	None documented
WA (all species) beach seine or drag seine	235	None documented
WA, OR herring, smelt, squid purse seine or lampara	130	None documented
WA salmon purse seine	440	None documented
WA salmon reef net	53	None documented
DIP NET FISHERIES:		
CA squid dip net	115	None documented
WA, OR smelt, herring dip net	119	None documented
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented
CA salmon enhancement rearing pen	>1	None documented
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented
OR salmon ranch	1	None documented
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries	1,530 (330 AK)	None documented
AK salmon troll	2,335	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	> 50	None documented
CA/OR/WA salmon troll	4,300	None documented
Commonwealth of the Northern Mariana Islands tuna troll	88	None documented
Guam tuna troll	401	None documented
HI trolling, rod and reel	1,321	None documented
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	12	Killer whale, AK resident Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient
AK Bering Sea, Aleutian Islands rockfish longline	17	None documented
AK Bering Sea, Aleutian Islands sablefish longline	63	None documented
AK Gulf of Alaska halibut longline	1,302	None documented
AK Gulf of Alaska Pacific cod longline	440	None documented
AK Gulf of Alaska rockfish longline	421	None documented
AK Gulf of Alaska sablefish longline	412	Sperm whale, North Pacific Steller sea lion, Eastern U.S.
AK halibut longline/set line (State and Federal waters)	3,079	Steller sea lion, Western U.S.

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK octopus/squid longline	7	None documented
AK state-managed waters groundfish longline/setline (including sablefish, rockfish, and miscellaneous finfish)	731	None documented
American Samoa longline	60	None documented
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented
WA, OR North Pacific halibut longline/set line	350	None documented
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	8	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	87	Harbor seal, Bering Sea Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	9	None documented
AK Gulf of Alaska flatfish trawl	52	None documented
AK Gulf of Alaska Pacific cod trawl	101	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	83	Fin whale, Northeast Pacific Northern elephant seal, North Pacific Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	45	None documented
AK food/bait herring trawl	3	None documented
AK miscellaneous finfish otter or beam trawl	6	None documented
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	58	None documented
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl	2	None documented
CA halibut bottom trawl	53	None documented
WA, OR, CA groundfish trawl	585	California sea lion, U.S. Dall's porpoise, CA/OR/WA Harbor seal, OR/WA coast Northern fur seal, Eastern Pacific Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S.
WA, OR, CA shrimp trawl	300	None documented
POT, RING NET, AND TRAP FISHERIES:		
AK Aleutian Islands sablefish pot	8	None documented
AK Bering Sea, Aleutian Islands Pacific cod pot	76	None documented
AK Bering Sea, Aleutian Islands crab pot	329	None documented
AK Gulf of Alaska crab pot	unknown	None documented
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA
AK Southeast Alaska crab pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK Southeast Alaska shrimp pot	unknown	Humpback whale, Central North Pacific (Southeast AK)
AK octopus/squid pot	72	None documented

TABLE 1.—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
AK snail pot	2	None documented
CA lobster, prawn, shrimp, rock crab, fish pot	608	Gray whale, Eastern North Pacific Harbor seal, CA Humpback whale, Eastern North Pacific Sea otter, CA
OR, CA hagfish pot or trap	25	None documented
WA, OR, CA crab pot	1,478	Humpback whale, Eastern North Pacific Gray whale, Eastern North Pacific
WA, OR, CA sablefish pot	176	None documented
WA, OR shrimp pot/trap	254	None documented
HI crab trap	22	None documented
HI fish trap	19	None documented
HI lobster trap	0	Hawaiian monk seal
HI shrimp trap	5	None documented
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline and mechanical jig	100	None documented
AK North Pacific halibut handline and mechanical jig	93	None documented
AK octopus/squid handline	2	None documented
American Samoa bottomfish	<50	None documented
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented
Guam bottomfish	200	None documented
HI aku boat, pole and line	4	None documented
HI Main Hawaiian Islands, Northwest Hawaiian Islands deep sea bottomfish	300	Hawaiian monk seal
HI inshore handline	307	None documented
HI tuna handline	298	Hawaiian monk seal
WA groundfish, bottomfish jig	679	None documented
Western Pacific squid jig	6	None documented
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	452	None documented
AK Southeast herring roe/food/bait pound net	3	None documented
WA herring brush weir	1	None documented
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		

TABLE 1 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Coastwide scallop dredge	108 (12 AK)	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	1	None documented
AK clam	156	None documented
WA herring spawn on kelp	4	None documented
AK dungeness crab	3	None documented
AK herring spawn on kelp	363	None documented
AK urchin and other fish/shellfish	471	None documented
CA abalone	111	None documented
CA sea urchin	583	None documented
HI black coral diving	1	None documented
HI fish pond	N/A	None documented
HI handpick	37	None documented
HI lobster diving	19	None documented
HI squiding, spear	91	None documented
WA, CA kelp	4	None documented
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection	637	None documented
WA shellfish aquaculture	684	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK, WA, OR, CA commercial passenger fishing vessel	>7,000 (1,107 AK)	Killer whale, stock unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	None documented
LIVE FINFISH/SHELLFISH FISHERIES:		
CA finfish and shellfish live trap/hook-and-line	93	None documented

List of Abbreviations and Symbols Used in Table 1: AK - Alaska; CA - California; GOA - Gulf of Alaska; HI - Hawaii; OR - Oregon; WA - Washington; [1] - Fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR; [2] - Fishery classified by analogy.

TABLE 2 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTICOCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery Description	Estimated ι of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category I		
GILLNET FISHERIES:		

TABLE 2 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTICOCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated ι of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Mid-Atlantic gillnet	>670	Bottlenose dolphin, WNA coastal[1] Bottlenose dolphin, WNA offshore Common dolphin, WNA Gray seal, WNA Harbor porpoise, GME/BF[1] Harbor seal, WNA Harp seal, WNA Humpback whale, Gulf of Maine[1] Long-finned pilot whale, WNA Minke whale, Canadian east coast Short-finned pilot whale, WNA White-sided dolphin, WNA
Northeast sink gillnet	341	Bottlenose dolphin, WNA offshore Common dolphin, WNA Fin whale, WNA Gray seal, WNA Harbor porpoise, GME/BF[1] Harbor seal, WNA Harp seal, WNA Hooded seal, WNA Humpback whale, WNA[1] Minke whale, Canadian east coast[1] North Atlantic right whale, WNA[1] Risso's dolphin, WNA White-sided dolphin, WNA
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline	94	Atlantic spotted dolphin, Northern GMX Atlantic spotted dolphin, WNA Bottlenose dolphin, GMX outer continental shelf Bottlenose dolphin, GMX, continental shelf edge and slope Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA[1] Mesoplodon beaked whale, WNA Northern bottlenose whale, WNA Pantropical spotted dolphin, Northern GMX Pantropical spotted dolphin, WNA Pygmy sperm whale, WNA[1] Risso's dolphin, Northern GMX Risso's dolphin, WNA Short-finned pilot whale, Northern GMX Short-finned pilot whale, WNA[1]
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	13,000	Fin whale, WNA Harbor seal, WNA Humpback whale, WNA[1] Minke whale, Canadian east coast[1] North Atlantic right whale, WNA[1]
Category II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	45	None documented
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, and estuarine Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal[1]

TABLE 2 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTICOCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated ι of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Northeast anchored float gillnet[2]	133	Harbor seal, WNA Humpback whale, WNA White-sided dolphin, WNA
Northeast drift gillnet[2]	unknown	None documented
Southeast Atlantic gillnet[2]	779	Bottlenose dolphin, WNA coastal
Southeastern U.S. Atlantic shark gillnet	30	Atlantic spotted dolphin, WNA Bottlenose dolphin, WNA coastal[1] North Atlantic right whale, WNA
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl (including pair trawl)	620	Bottlenose dolphin, WNA offshore Common dolphin, WNA Long-finned pilot whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
Mid-Atlantic bottom trawl	>1,000	Common dolphin, WNA[1] Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1]
Mid-Atlantic flynet[2]	21	None documented
Northeast mid-water trawl (including pair trawl)	17	Harbor seal, WNA Long-finned pilot whale, WNA[1] Short-finned pilot whale, WNA[1] White-sided dolphin, WNA
Northeast bottom trawl	1,052	Common dolphin, WNA Harbor porpoise, GME/BF Harp seal, WNA[1] Long-finned pilot whale, WNA Short-finned pilot whale, WNA White-sided dolphin, WNA[1]
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	>16,000	Bottlenose dolphin, WNA coastal[1] West Indian manatee, FL[1]
Atlantic mixed species trap/pot[2]	unknown	Fin whale, WNA Humpback whale, Gulf of Maine
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine Bottlenose dolphin, Northern GMX coastal[1] Bottlenose dolphin, Western GMX coastal
Mid-Atlantic menhaden purse seine[2]	22	Bottlenose dolphin, WNA coastal
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	25	Bottlenose dolphin, WNA coastal[1]
North Carolina long haul seine	33	Bottlenose dolphin, WNA coastal[1]
STOP NET FISHERIES:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal[1]
POUND NET FISHERIES:		
Virginia pound net	187	Bottlenose dolphin, WNA coastal[1]

TABLE 2 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTICOCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated ι of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Category III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA West Indian manatee, Antillean
Delaware River inshore gillnet	60	None documented
Long Island Sound inshore gillnet	20	None documented
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet	32	None documented
Southeast Atlantic inshore gillnet	unknown	None documented
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	972	None documented
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX outer continental shelf Bottlenose dolphin, Northern GMX continental shelf edge and slope
Gulf of Mexico mixed species trawl	20	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	>18,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, GMX bay, sound, estuarine West Indian Manatee, FL
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA
Shellfish aquaculture	unknown	None documented
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	30	Harbor seal, WNA Gray seal, WNA
Gulf of Maine menhaden purse seine	50	None documented
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal
U.S. Atlantic tuna purse seine	5	Long-finned pilot whale, WNA Short-finned pilot whale, WNA
U.S. Mid-Atlantic hand seine	>250	None documented
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	46	None documented
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	26,223	Humpback whale, WNA
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	None documented
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	<125	None documented
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	1,446	None documented

TABLE 2 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTICOCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated ι of vessels/persons	Marine mammal species and stocks incidentally killed/injured
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented
Caribbean spiny lobster trap/pot	>197	None documented
Florida spiny lobster trap/pot	2,145	Bottlenose dolphin, Eastern GMX coastal
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, GMX Bay, Sound, & Estuarine West Indian manatee, FL
Gulf of Mexico mixed species trap/pot	unknown	None documented
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	None documented
U.S. Mid-Atlantic eel trap/pot	>700	None documented
STOP SEINE/WEIR/POUND NET FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	Gray seal, Northwest North Atlantic Harbor porpoise, GME/BF Harbor seal, WNA Minke whale, Canadian east coast White-sided dolphin, WNA
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the North Carolina roe mullet stop net)	751	None documented
DREDGE FISHERIES:		
Gulf of Maine mussel	>50	None documented
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	233	None documented
U.S. Mid-Atlantic/Gulf of Mexico oyster	7,000	None documented
U.S. Mid-Atlantic offshore surf clam and quahog dredge	100	None documented
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean
Gulf of Mexico haul/beach seine	unknown	None documented
Southeastern U.S. Atlantic, haul/beach seine	25	None documented
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented
Gulf of Maine urchin dive, hand/mechanical collection	>50	None documented
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		

TABLE 2 - LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTICOCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery Description	Estimated ι of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, WNA coastal

List of Abbreviations and Symbols Used in Table 2: FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; NC - North Carolina; SC - South Carolina; TX - Texas; WNA - Western North Atlantic; [1] - Fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent of the stock's PBR; [2] - Fishery classified by analogy.

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule would not have a significant economic impact on a substantial number of small entities. For convenience, the factual basis leading to the certification is repeated below.

Under existing regulations, all fishers participating in Category I or II fisheries must register under the MMPA, obtain an Authorization Certificate, and pay a fee of $25 (with the exception of those in regions with a registration integrated with existing state and Federal permitting processes). Additionally, fishers may be subject to a take reduction plan and requested to carry an observer. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 42,000 fishing vessels, most of which are small entities, operate in Category I or II fisheries, and therefore, are required to register. However, registration has been integrated with existing state or Federal registration programs for the majority of these fisheries so that the majority of fishers do not need to register separately under the MMPA. Currently, less than 360 fishers register directly with NMFS under the MMPA authorization program.

Though this proposed rule would affect less than 360 small entities, the $25 registration fee, with respect to anticipated revenues, is not considered a significant economic impact. If a vessel is requested to carry an observer, fishers will not incur any economic costs associated with carrying that observer. As a result of this certification, an initial regulatory flexibility analysis was not prepared. In the event that reclassification of a fishery to Category I or II results in a take reduction plan, economic analyses of the effects of that plan will be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

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

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries, and therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. If NMFS takes a management action, for example, through the development of a Take Reduction Plan (TRP), NMFS will first prepare an environmental document, as required under NEPA, specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This proposed rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

Dated: November 27, 2006.

Samuel D. Rauch III,

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

[FR Doc. E6–20448 Filed 12–1–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 71, No. 232

Monday, December 4, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 29, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Generic Clearance to Conduct Formative Research.

OMB Control Number: 0584–0524.

Summary of Collection: Diet has a significant impact on the health of citizens and is linked to four leading causes of disease, which can reduce the quality of life and cause premature death. While these diet-related problems affect all Americans, they have a greater impact on the disadvantaged populations reached by many of the Food and Nutrition Service (FNS) programs. One of FNS' goals includes improving the nutrition of children and low-income families by providing access to program benefits and nutrition education. The basis of FNS' approach rests on the philosophies that all health communications and social marketing activities must be science-based, theoretically grounded, audience-driven, and results-oriented. FNS will collect information through formative research methods that will include focus groups, interviews (dyad, triad, telephone, etc.), surveys and web-based information gathering tools. The formative research is essential to advancing ''Eat Smart Play Hard'' Campaign as well as other FNS nutrition education and outreach efforts.

Need and Use of the Information: FNS will collect information to provide formative input and feedback on how best to reach and motivate the targeted population. The collected information will provide input regarding the potential use of materials and products during both the developmental and testing stages. FNS will also collect information regarding effective nutrition education and outreach initiatives being implemented by State agencies that administer nutrition assistance programs to address critical nutrition program access issues.

Description of Respondents: Individuals or households.

Number of Respondents: 10,000.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 7,008.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–20423 Filed 12–1–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0140]

Bayer CropScience; Extension of Determination of Nonregulated Status to Rice Genetically Engineered for Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to extend a determination of nonregulated status to a rice line developed by Bayer CropScience, which has been genetically engineered to be tolerant to the herbicide glufosinate. Therefore, APHIS no longer considers the rice line to be a regulated article under Agency regulations governing the introduction of certain genetically engineered organisms. Our decision is based on our evaluation of data submitted by Bayer CropScience in its request for an extension of a determination of nonregulated status, an analysis of other scientific data, and comments received from the public in response to a previous notice and preliminary determination. This notice also announces the availability of our written determination, final environmental assessment, and our finding of no significant impact.

EFFECTIVE DATE: November 24, 2006.

ADDRESSES: You may read the extension request, the final environmental assessment, finding of no significant impact, the comments we received on our previous notice, and our responses to those comments in our reading room or on the Internet. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before

coming. To view those documents on the Internet, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0140, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

FOR FURTHER INFORMATION CONTACT: Dr. Neil Hoffman, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–6331, *neil.e.hoffman@aphis.usda.gov.* To obtain copies of the extension request or the environmental assessment (EA) and finding of no significant impact (FONSI), contact Mr. Steve Bennett at (301) 734–5672; e-mail: *steven.m.bennett@aphis.usda.gov.* The extension request, final EA, response to comments, and FONSI are also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/06_23401p.pdf* and *http://www.aphis.usda.gov/brs/aphisdocs/06_23401p_ea.pdf.*

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

Background

On August 18, 2006, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 06–234–01p) from Bayer CropScience (Bayer) of Research Triangle Park, NC, for rice (*Oryza sativa* L.) designated as Liberty Link® Transformation Event LLRICE601, which has been genetically engineered for tolerance to the herbicide glufosinate. Bayer requested an extension of a determination of nonregulated status issued in response to APHIS petition number 98–329–01p for glufosinate-tolerant rice transformation events LLRICE06 and LLRICE62, the antecedent organisms (See 64 FR 22595, published April 27, 1999, Docket No. 98–126–2). Based on the similarity of the antecedent rice lines LLRICE06 and LLRICE62 and rice line LLRICE601, Bayer CropScience requested a determination that rice line LLRICE601 does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On July 31, 2006, Bayer CropScience notified APHIS that trace levels of LLRICE601 were detected in long grain commercial rice. Subsequently, Bayer CropScience supplied APHIS and the Food and Drug Administration (FDA) with information about the molecular characterization and agronomic performance of LLRICE601. APHIS completed a preliminary risk assessment and determined that LLRICE601 did not pose any plant pest or environmental concerns. This risk assessment is attached as appendix I to the final environmental assessment (EA).

On September 8, 2006, APHIS published a notice in the **Federal Register** (71 FR 53076–53077, Docket No. APHIS–2006–0140) announcing that an EA and a preliminary decision for the Bayer extension request had been prepared and was available for public comment. The analysis upon which APHIS based its preliminary decision was also published within that notice. APHIS received 15,871 comments on the subject EA and preliminary decision during the designated 30-day public comment period, which ended October 10, 2006. Of the 15,871 comments, 15,517 opposed the extension request. Respondents opposing the extension request were 12 public interest groups, academic professionals, organic food producers, and individuals. Of these comments, 10,500 nearly identical comments were submitted by members of 1 public interest group and 4,796 nearly identical comments were submitted by members of another public interest group. There were 354 comments supporting the extension of nonregulated status to LLRICE601. Respondents supporting the petition were rice growers, millers (or from related industries), rice industry groups, academia, a commodity company, a State government agency, and individuals. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as attachments to the finding of no significant impact (FONSI).

Decision

Based on an analysis of the data submitted by Bayer and a review of other scientific data, APHIS has determined that rice transformation event LLRICE601 is very similar to the antecedent organisms in APHIS petition number 98–329–01p and poses no more potential for plant pest risk than the antecedent organisms. Therefore, APHIS has concluded that rice line LLRICE601 and any progeny derived from crosses with other rice varieties will be as safe to grow as rice that is not subject to regulation under 7 CFR part 340.

Because APHIS has determined that the subject rice line does not present a plant pest risk based on its similarity to the antecedent organisms, Bayer rice line LLRICE601 will no longer be considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of LLRICE601 or its progeny.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the extension of a determination of nonregulated status for LLRICE601, an EA was prepared. The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a FONSI with regard to the determination that Bayer rice line LLRICE601 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and FONSI are available as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–20516 Filed 12–1–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–893]

Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of the Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 6, 2006, the Department of Commerce (''the Department'') published in the **Federal Register** the preliminary results of the new shipper review of the antidumping duty order on certain frozen warmwater shrimp from the People's Republic of China (''PRC'') for Zhanjiang Regal Integrated Marine Resources Co., Ltd. (''Zhanjiang Regal''). *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of the Antidumping Duty New Shipper Review,* 71 FR 38368 (July 6, 2006) (''*Preliminary Results*''). We gave interested parties an opportunity to comment on the *Preliminary Results.* No party submitted a case brief in the instant review and we made no changes to the *Preliminary Results.* Therefore, we continue to find that Zhanjiang Regal did not sell subject merchandise at less than normal value during the period of review (''POR'') July 16, 2004, through July 31, 2005.

EFFECTIVE DATE: December 4, 2006.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, 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) 482–2243.

SUPPLEMENTARY INFORMATION:

Case History

Subsequent to the *Preliminary Results,* on August 18, 2006, the Department implemented the temporary suspension of the new shipper bonding provision in this review, in accordance with the Pension Protection Act of 2006, Pub. L. No. 109–280, Sec. 1632, 120 Stat. 780 (2006), which was signed into law on August 17, 2006. The legislation suspended the ability of a U.S. importer to satisfy the antidumping duty deposit requirements by posting a bond or other security deposit in lieu of a cash deposit with U.S. Customs and Border Protection (CBP) during the period of April 1, 2006 to June 30, 2009. On September 20, 2006, the Department published in the **Federal Register** a notice extending the deadline for the final results. *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Extension of Time Limit for Final Results of the 2004/2005 Antidumping Duty New Shipper Review,* 71 FR 54978 (September 20, 2006). On September 22, 2006, we placed additional entry documents on the record in which an importer listed Zhanjiang Regal as the producer of shrimp exported to the United States.[1] On September 22, 2006, we issued Zhanjiang Regal a supplemental questionnaire. On September 29, 2006, Zhanjiang Regal submitted its response to this questionnaire. No party submitted case briefs.

Scope of the Order

The scope of this order includes certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off (including the telson and the uropods), deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *penaiedae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*penaeus vannemei*), banana prawn (*penaeus merguiensis*), fleshy prawn (*penaeus chinensis*), giant river prawn (*macrobrachium rosenbergii*), giant tiger prawn (*penaeus monodon*), redspotted shrimp (*penaeus brasiliensis*), southern brown shrimp (*penaeus subtilis*), southern pink shrimp (*penaeus notialis*), southern rough shrimp (*trachypenaeus curvirostris*), southern white shrimp (*penaeus schmitti*), blue shrimp (*penaeus stylirostris*), western white shrimp (*penaeus occidentalis*), and indian white prawn (*penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) Lee Kum Kee's shrimp sauce; (7) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (8) certain dusted shrimp; and (9) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and ten percent of the product's total weight after being dusted, but prior to being frozen; (5) that is subjected to individually quick frozen (IQF) freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for Customs purposes only and are dispositive, but rather the written description of the scope of this order is dispositive.

[1] Although these additional entries were not reported during the course of the review, there is nothing on the record demonstrating that Zhanjiang Regal knew or had reason to believe that these additional entries were destined for the United States.

Final Results of Review

We made no changes to the *Preliminary Results*; thus, we continue to find the following margin exists during the period July 16, 2004, through July 31, 2005:

CERTAIN FROZEN WARMWATER SHRIMP FROM THE PRC

Exporter/manufacturer	Weighted-average margin (percent)
Zhanjiang Regal Integrated Marine Resources Co., Ltd.	0.00

Assessment Rates

The Department will issue appropriate appraisement instructions directly to U.S. Customs and Border Protection (''CBP'') for Zhanjiang Regal within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.*

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these results of the new shipper review for all shipments of subject merchandise from Zhanjiang Regal entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) For subject merchandise manufactured and exported by Zhanjiang Regal, no cash deposit will be required; (2) for subject merchandise exported by Zhanjiang Regal but not manufactured by itself, the cash deposit rate will continue to be the PRC-wide rate, (*i.e.,* 112.81 percent); and (3) for subject merchandise produced by Zhanjiang Regal, but not exported by Zhanjiang Regal, the cash deposit rate will be the rate applicable to the exporters. These requirements will remain in effect until publication of the final results of the next administrative review.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This new shipper review and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.214(h).

Dated: November 20, 2006.

David M. Spooner,

Assistant Secretary, for Import Administration.

[FR Doc. 06–9463 Filed 12–1–06; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–337–806

Certain Individually Quick Frozen Red Raspberries from Chile: Correction to Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 4, 2006.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas or Julie H. Santoboni, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3813 or (202) 482–4194, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 2006, the Department of Commerce (the Department) received a request from Santiago Comercio Exterior Sociedad Anonima (SANCO) to defer for one year the initiation of the July 1, 2005 through June 30, 2006 administrative review of the antidumping duty order on Individually Quick Frozen (IQF) Red Raspberries from Chile with respect to SANCO in accordance with 19 CFR 351.213(c). The Department received no objections to this request from any party cited in 19 CFR 351.213(c)(1)(ii).

On August 30, 2006, the Department published *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (Aug. 30, 2006) (''*Initiation Notice*''). In the Initiation Notice, the Department inadvertently included SANCO , despite SANCO's pending, unopposed request for deferral. We have granted SANCO's request for deferral. Therefore, we are correcting the Initiation Notice to defer for one year the initiation of the July 1, 2005 through June 30, 2006 administrative review of IQF Red Raspberries with respect to SANCO in accordance with 19 CFR 351.213(c).

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 21, 2006.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–20459 Filed 12–01–06; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–428–830

Stainless Steel Bar from Germany: Extension of Time Limit for the Preliminary Results of the New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 4, 2006.

FOR FURTHER INFORMATION CONTACT: Damian Felton or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0133 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2006, the Department of Commerce (''the Department'') published a notice of initiation of a new shipper review of the antidumping duty order on stainless steel bar from Germany covering the period March 1, 2005, through February 28, 2006 (71 FR 24642). On May 10, 2006, Schmiedewerke Groditz GmbH (''SWG'') agreed to align the new shipper review with the ongoing fourth administrative review and waive the accelerated time limits for completion of the new shipper review. On July 28, 3006, the fourth administrative review was rescinded. (71 FR 42804). However, the new shipper review remains on the administrative review time line. The preliminary results for this new shipper review are currently due no later than December 1, 2006.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an antidumping duty order for which a review is requested and issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Due to the complexity of the issues in this case, including the need to issue another supplemental questionnaire, it is not practicable to complete the preliminary results of this review within the original time limit (*i.e.*, December 1, 2006). Therefore, the Department is partially extending the time limit for completion of the preliminary results to no later than March 15, 2007.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: November 27, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–20457 Filed 12–01–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–533–825

Notice of Extension of Time Limit for Final Results of Administrative Review: Polyethylene Terephthalate (PET) Film from India

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: December 4, 2006.

FOR FURTHER INFORMATION CONTACT: Elfi Blum, Nicholas Czajkowski, or Toni Page, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–0197, (202) 482–1395, or (202) 482–1398, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2006, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the countervailing duty order on polyethylene terephthalate (PET) film from India. *See Notice of Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 45037 (August 8, 2006). The current deadline for the final results of review is December 6, 2006.

Extension of Time Limits for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results of the review within 120 days after the date on which notice of the preliminary results were published in the **Federal Register**. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to 180 days from the date of publication of the preliminary results.

The Department finds that it is not practicable to complete the review within the original time frame due to the complex nature of the case. As this case involves a large number of programs under review, the Department needs additional time to review information gathered at verification and to give parties time to submit subsequent comments. Consequently, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the deadline for completion of the final results of the administrative review by 60 days. As the 180th day falls on a Sunday, the final results will now be due no later than February 5, 2007.

This notice is published pursuant to sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 28, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–20467 Filed 12–1–06; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Textile and Apparel Products From Vietnam: Import Monitoring Program; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Request for Public Comment—Import Monitoring of Textile and Apparel Products From Vietnam.

SUMMARY: The Department of Commerce (the Department) is requesting public comment on the development of a monitoring program covering imports of textile and apparel products from Vietnam to remain in place for the duration of this Administration. To help the Department develop the program and, at the same time, be advised of the concerns of all interested stakeholders, the Department is inviting the public to provide input on the monitoring program and identify issues or considerations that they believe are deserving of the Department's attention as implementation of this program proceeds.

DATES: Written comments and electronic files must be received on or before 5 p.m. on December 27, 2006.

ADDRESSES: Persons wishing to comment should file, by the deadline specified above, a signed original and four copies of each set of comments. Written comments should be addressed to David M. Spooner, Assistant Secretary for Import Administration, Room 1870, Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230. Comments should be limited to 25 pages or less. All comments will be available for public inspection at Import Administration's Central Records Unit, Room B–099, between the hours of 8:30

a.m. and 5 p.m. on business days. The Department will not accept nor consider comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason.

While the Department requires that comments be submitted in written form, we also recommend submission of comments in electronic form. Comments filed in electronic form should be submitted on CD–ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment. Electronic files should indicate that they are in response to the request for public comment on import monitoring of textile and apparel products from Vietnam. Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration Web site at the following address: *http://ia.ita.doc.gov.* Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Kelly Parkhill at (202) 482–3791.

SUPPLEMENTARY INFORMATION: The Department is establishing a monitoring program on imports of textile and apparel products from Vietnam. The program will begin upon Vietnam's accession to the World Trade Organization (WTO) and will expire at the end of the current administration (January 19, 2009). While we seek comment on what textile and apparel goods should be subject to monitoring, we note that items in the following product groups have been identified as being of special sensitivity: trousers, shirts, underwear, swimwear and sweaters. In addition to monitoring import volumes and values, the Department will develop, in close cooperation with interested parties, production templates to assist it in its biannual evaluation of imports of these products to determine whether sufficient evidence exists to initiate an antidumping investigation consistent with U.S. law and our international obligations under the WTO.

The Department is aware that such a program has an impact on a broad array of parties (e.g., domestic textile and apparel producers, retailers, workers, importers, and the Government of Vietnam) and is seeking input from all interested parties who wish to comment. This is the first step in our outreach to interested parties and will be followed up with other outreach efforts as we progress. If you have any thoughts on what the most effective means of outreach would be, please feel free to comment.

Guidance On Comments: The following is a list of issues and questions on which we are requesting assistance and comment. This is not a questionnaire; it is simply for your convenience. Please feel free to comment on any or all of the issues outlined below as well as provide additional comments that you believe will assist the Department in developing this monitoring program. Please be as specific as possible in your comments, especially with respect to product categories and HTS numbers. When responding, please identify the name of your company. Also please provide contact information including address, phone number and e-mail address.

Consultative Process With Interested Parties

- The Department wants to ensure that all interested parties (e.g., producers, retailers, workers) are given a full opportunity to provide input into all aspects of the process, consistent with legal requirements. Is there any advice you would like to share on the establishment of consultative mechanisms with or outreach efforts to interested parties?
- Are there advisory panels or industry groups that you believe the Department should meet with on an ongoing basis? Please identify and provide contact information, if possible.
- The Department intends to hold public hearings on this process. In addition to hearings in Washington, DC, should the Department consider field hearings in select locations? Are there specific locations where you think such hearings should be held?
- The Department is also considering options for other kinds of outreach sessions. Do you have suggestions for how such sessions should be structured and are there specific locations where or specific parties with whom you think such sessions should be held?
- Are there any other companies, groups or associations whose views you believe are integral to this process? Please identify and, to the extent possible, provide contact information.

Products

- As noted above, five product groups—trousers, shirts, underwear, swimwear and sweaters—have been identified as being of special sensitivity. Within these broader groups, are there any particular products that should be monitored or could act as an indicator or bellwether for the category group as a whole? Please identify and explain.
- What other textile and apparel categories or HTS numbers do you believe should be monitored? Please identify and explain.
- What other textile and apparel product categories or HTS numbers do you believe could be excluded from monitoring? Please identify and explain.
- For any additional textile and apparel categories that you have indicated should be monitored, are there any particular products that could act as an indicator or bellwether for the category group as a whole? Please identify and explain.
- Textile and apparel import data from Vietnam are currently publicly available in the Major Shipper Reports issued by Import Administration's Office of Textiles and Apparel (OTEXA). These reports include volume and value (US$) data according to the historical product categories used in current monitoring activities. Is there any other type of publicly available aggregate information that should be used for purposes of the Vietnam monitoring program?
- In monitoring products, should the Department focus on products that specific U.S. domestic producers have identified as being products they produce? If not, please explain why?
- Are there any other comments relating to products that you wish to provide?

Production Templates

- As part of the monitoring system, the Department of Commerce may find it necessary to develop production templates to assist it in its evaluation of textile and apparel imports from Vietnam. Development of these templates will require a detailed understanding of the production process associated with the products to be monitored. Once product categories have been selected, we will be, if necessary, soliciting information on these production templates.
- As part of this process, the Department would likely examine information from market economy countries that it believes are most similar to Vietnam. In this regard, what countries would be the most appropriate for the Department to examine? To your knowledge, what market economy countries have the most similar textile and apparel industries to Vietnam? Please explain.
- Are there any other comments with respect to production templates that you wish to provide?

Domestic Industry Information

• As part of its monitoring, the Department will examine a broad range of public information on the domestic textile and apparel industry (e.g., production, capacity utilization, employment). In your opinion, what information on the domestic industry should the Department examine as part of this process? Are there sources that you recommend for such information? Please identify and explain.

• The Department will also examine public information on the domestic textile and apparel market (e.g., demand, domestic prices, market share). In your opinion, what information on the domestic market should the Department examine as part of this process? Are there sources that you recommend for such information? Please identify and explain.

• Should the Department also examine global industry and market information? In your opinion, what information should the Department examine as part of this process? Are there sources that you recommend for such information? Please identify and explain.

• Is there any other industry or market information that you think should be examined as part of this process? Are there sources that you recommend for such information? Please identify and explain.

• How can the Department best ascertain the effects of shifts in the type of textile and apparel imports from Vietnam on the domestic textile and apparel industry?

• Please identify interested parties (e.g., producers, retailers, workers) who are, in your view, relevant to our examination of the domestic industry.

• Are there any other comments with respect to the domestic industry that you wish to provide?

Biannual Evaluation Process

• Every six months, for the duration of the monitoring program, the Department will evaluate the information it has compiled as part of this effort. What information do you think is most important for the Department to consider in its evaluation process?

• As part of the biannual process, should the Department also undertake intermittent, mid-term or staged analyses of import and market trends? If so, what should be the focus of this analysis?

• What advice do you have with respect to the consultative process with interested parties (e.g., industry, retailers, workers) to be undertaken as part of the biannual evaluation process? Should the Department hold hearings or conduct outreach as part of this process?

• Are there any other comments you wish to provide on the biannual evaluation process.

Public Dissemination of Information

• What information should be disseminated to the public as part of this process (e.g., import data, U.S. industry information)?

• Is there any information that you think should not be publicly disseminated (please note that the Department is prohibited from releasing business proprietary information to the public)? Please explain why.

Additional Comments

• Do you have any additional comments? Are there any other concerns that you wish the Department to be aware of as it develops this monitoring program?

Dated: November 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–20545 Filed 12–1–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112006G]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt of a permit application; request for comments.

SUMMARY: Notice is hereby given that NOAA Fisheries has received an application for a permit to conduct research for scientific purposes from Elise Kelley, researcher at the University of California at Santa Barbara, in Santa Barbara County, California. The requested permit would affect the Southern California Coast Distinct Population Segment of endangered steelhead (*Oncorhynchus mykiss*). The public is hereby notified of the availability of the permit application for review and comment before NOAA Fisheries either approves or disapproves the application.

DATES: Written comments on the permit application must be received at the appropriate address or fax number (see **ADDRESSES**) on or before January 3, 2007.

ADDRESSES: Written comments on the permit application should be sent to Matt McGoogan, Protected Resources Division, NOAA Fisheries, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Comments may also be sent using email (*FRNpermits.lb@noaa.gov*) or fax (562.980.4027). The permit application is available for review, by appointment only, at the foregoing address.

FOR FURTHER INFORMATION CONTACT: Matt McGoogan at phone number (562.980.4026) or e-mail: *matthew.mcgoogan@noaa.gov*

SUPPLEMENTARY INFORMATION:

Authority:

Issuance of permits, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531B1543) (ESA), is based on a finding that such permits: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits are issued in accordance with and are subject to the ESA and NOAA Fisheries regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should provide the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NOAA Fisheries.

Permit Application Received

Elise Kelley has applied for a scientific research permit to conduct a study with the Southern California Coast Distinct Population Segment of endangered steelhead (*Oncorhynchus mykiss*) in the Santa Ynez River and Santa Clara River systems respectively located in Santa Barbara and Ventura Counties in southern California. The purpose of this study is to assess steelhead smolt residence time in the Santa Clara River and Santa Ynez River estuaries, assess steelhead smolt survival in the estuaries using acoustic tags, and assess adult steelhead return and straying rates in southern California by placing Passive Integrated

Transponder (PIT) tags in steelhead smolts. This study will be conducted during 3 years with sufficient flows and number of smolts. Due to the patterns of dry and wet years for this region it may take as many as 10 years to get the desired 3 years of data. Therefore, the duration of coverage requested by this permit covers about a 10-year period from January 2006 through July 2015. Elise Kelley has requested an annual non-lethal take of up to 575 steelhead. The annual unintentional lethal take that may occur during data collection is up to 16 steelhead or no more than 3 per cent of the total captured.

Dated: November 29, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20450 Filed 12–1–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112706B]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of an application to renew and to modify a scientific research permit; request for comments.

SUMMARY: Notice is hereby given that NMFS has received an application to renew and modify a permit for scientific research from Hagar Environmental Science (HES) in Richmond, California (1105). The permit would affect federally endangered Central California Coast coho salmon, threatened Central California Coast steelhead, and threatened South-Central California Coast steelhead. This document serves to notify the public of the availability of the permit application for review and comment.

DATES: Written comments on the permit application must be received no later than 5 p.m. Pacific Standard Time on January 3, 2007.

ADDRESSES: Comments submitted by e-mail must be sent to the following address: *FRNpermits.SR@noaa.gov*. The application and related documents are available for review by appointment, for Permit 1105 Modification 1: Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 315, Santa Rosa, CA 95404 (ph: 707–575–6097, fax: 707–578–3435).

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn at phone number 707–575–6097, or e-mail: *Jeffrey.Jahn@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally endangered Central California Coast coho salmon (*Oncorhynchus kisutch*), threatened Central California Coast steelhead (*O. mykiss*), and threatened South-Central California Coast steelhead (*O. mykiss*).

Renewal and Modification Request Received

HES requests to renew and modify a 5-year permit (1105) for take of juvenile Central California Coast coho salmon, Central California Coast steelhead, and South-Central California Coast steelhead to assess salmonid population distribution, abundance, and habitat in the following watersheds and coastal lagoons: Pilarcitos Creek in San Mateo County, California; San Lorenzo River, Liddell Creek, Laguna Creek, and Majors Creek in Santa Cruz County, California; Salinas River in Monterey and San Luis Obispo counties, California; and Arroyo Grande Creek in San Luis Obispo County, California. HES requests authorization for an estimated annual non-lethal take of 640 juvenile Central California Coast coho salmon, 4,800 juvenile Central California Coast steelhead, and 1,920 juvenile South-Central California Coast steelhead, with no more than 3 percent unintentional mortality to result from capture (by electrofishing), handling, and release of fish. HES also requests authorization for an estimated annual non-lethal take of 320 juvenile Central California Coast coho salmon, 1,200 juvenile Central California Coast steelhead, and 320 juvenile South-Central California Coast steelhead, with no more than 1 percent unintentional mortality to result from capture (by seine), handling, and release of fish.

Dated: November 29, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of ProtectedResources, National Marine Fisheries Service.

[FR Doc. E6–20452 Filed 12–1–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112806D]

Endangered Species; File No. 1575

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Earth Tech Northeast Inc. (Joseph Falbo, Responsible Party), One World Financial Center, 200 Liberty Street, 25th Floor, New York, New York 10281, has been issued a permit to conduct scientific research on shortnose sturgeon (*Acipenser brevirostrum*) on the Hudson River, New York.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9300; fax (978) 281–9394.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Brandy Hutnak, (301)713–2289.

SUPPLEMENTARY INFORMATION: On May 10, 2006, notice was published in the Federal Register (71 FR 27230) that a

request for a scientific research permit to take shortnose sturgeon had been submitted by Earth Tech Northeast Inc. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Earth Tech Northeast Inc. proposes to document: (1) The use of the existing Tappan Zee Bridge structure on the Hudson River as significant habitat by fisheries resources; and (2) the relative abundance and spatial and temporal patterns of shortnose sturgeon, if these fish are present. The applicants propose to use anchored gill nets and traps to capture, measure, scan and release a maximum of 250 juvenile and adult shortnose sturgeon. The proposed research would occur at six stations alongside and under the existing Tappan Zee Bridge and at three reference locations within 700 feet north of the existing bridge.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 28, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20453 Filed 12–1–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The meeting will include discussions of personnel issues at the Naval Academy, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on Monday, December 11, 2006, from 8 a.m. to 10:30 a.m. The closed executive session will be held from 10:30 a.m. to 12:15 p.m.

ADDRESSES: The meeting will be held at the U.S. Naval Academy, Annapolis, MD.

FOR FURTHER INFORMATION CONTACT: Major Craig C. Clemans, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of personnel issues at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because it will be concerned with matters listed in sections 552b(c)(2), (5), (6), (7) and (9) of title 5, United States Code.

Dated: November 27, 2006.

M. A. Harvison,

Lieutenant Commander, U.S. Navy, Office of the Judge Advocate General, Federal Register Liaison Officer.

[FR Doc. E6–20414 Filed 12–1–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 3, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 28, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Title I State Plan for Vocational Rehabilitation Services and Title VI—Part B Supplement for Supported Employment Services.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 80.

Burden Hours: 1,002,000.

Abstract: The Rehabilitation Act of 1973, as amended (the Act), requires each state to submit to the Commissioner of the Rehabilitation Services Administration (RSA) a State Plan for the Vocational Rehabilitation (VR) Services program and the State Supported Employment (SE) Services program that meets the requirements of Sections 101(a) and 625 of the Act. Program funding is contingent on Departmental approval of the State Plan and its supplement.

Requests for copies of the information collection submission for OMB review may be accessed from *http://*

edicsweb.ed.gov, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3189. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–20418 Filed 12–1–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools—Discretionary Grant Programs

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of final eligibility requirement.

SUMMARY: The Assistant Deputy Secretary for Safe and Drug-Free Schools announces an eligibility requirement for the following discretionary grant programs administered by the Office of Safe and Drug-Free Schools (OSDFS Discretionary Grant Programs):

- Federal Activities (CFDA No. 84.184).
- Alcohol Abuse Reduction (CFDA No. 84.184A).
- Mentoring Programs (CFDA No. 84.184B).
- Student Drug Testing (CFDA No. 84.184D).
- Emergency Response and Crisis Management (CFDA No. 84.184E).
- Grants to Prevent High-Risk Drinking or Violent Behavior Among College Students (CFDA No. 84.184H).
- Safe Schools/Healthy Students (CFDA No. 84.184L).
- Prevention Models on College Campuses (CFDA No. 84.184N).
- Grants to States to Improve Management of Drug and Violence Prevention Programs (CFDA No. 84.184R).
- Native Hawaiians (CFDA No. 84.186C).
- Elementary and Secondary School Counseling Program (CFDA No. 84.215E).
- Carol M. White Physical Education Program (CFDA No. 84.215F).
- Foundations for Learning (CFDA No. 84.215H).
- Grants to Integrate Schools and Mental Health Systems (CFDA No. 84.215M).
- Partnerships in Character Education Program (CFDA No. 84.215S/V).
- Cooperative Civic Education and Economic Education Exchange (CFDA No. 84.304A).

We may use the eligibility requirement for competitions under the OSDFS Discretionary Grant Programs in fiscal year 2007 and later years. We take this action to focus Federal financial assistance on identified national needs. We intend for the eligibility requirement to ensure an equitable distribution of awards among eligible applicants for grants under the OSDFS Discretionary Grant Programs.

DATES: *Effective Date:* This requirement is effective January 3, 2007.

FOR FURTHER INFORMATION CONTACT: Nicole A. White, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6450. Telephone: (202) 260–1131. E-mail: *nicole.white@ed.gov.*

If you use a telecommunications device 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 under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The Office of Safe and Drug-Free Schools (OSDFS) Discretionary Grant Programs provide funding to develop, implement, or expand drug and violence prevention, physical education, school counseling, mentoring, character education, civics education, and related projects at the local and State levels. In addition to providing this initial funding, OSDFS also is committed to promoting sustainability of projects and activities by encouraging grantees to seek other sources of funding and support when their project period ends.

We published a notice of proposed eligibility requirement in the **Federal Register** on February 23, 2006 (71 FR 9329).

With one exception, there are no differences between the notice of proposed eligibility requirement and this notice of final eligibility requirement. The exception is that the final eligibility requirement in this notice does not include the Life Skills for State and Local Prisoners program (CFDA No. 84.255A) because that program is no longer administered by the Office of Safe and Drug-Free Schools.

Analysis of Comments

In response to our invitation in the notice of proposed eligibility requirement, fourteen parties submitted comments. Eleven comments did not address the proposed eligibility requirement and are not discussed here. An analysis of the comments and of any changes in the eligibility requirement since publication of the notice of proposed eligibility requirement follows.

We group major issues according to subject. Generally, we do not address technical and other minor changes and suggested changes the law does not authorize us to make under the applicable statutory authority.

Quality of Applications

Comments: Several commenters said the quality of an application, regardless of an applicant's previous history, should be the main criterion for awarding Federal funds.

Discussion: The quality of an application is, and will remain, the principal criterion for awarding Federal funds under the Discretionary Grant Programs. However, the eligibility requirement will permit the Secretary to take previous funding history into account when determining who is eligible to compete for an award. We take this action for several reasons: First, to focus Federal financial assistance on expanding the number of programs and projects that support activities in a covered program; second, to promote rigorous assessment of results of funded projects to determine their impact on target populations and to inform future improvement efforts before making a second award under the same program; and, finally, to promote management improvement in Federal grant administration by requiring grantees to complete activities under current grants before embarking on a second grant under the same program.

Change: None.

Comment: One commenter objected to excluding current grantees from reapplying to the same program because the experience of one grant often leads to the identification of gaps that need to be addressed through a second grant.

Discussion: We agree that project implementation often results in grantees gaining a greater awareness of needs and

gaps in service. For that reason, we encourage grantees to design procedures that ensure feedback and continuous improvement in the operation of their projects. By completing one full grant cycle before considering whether to apply for another award, we think grantees will achieve a better understanding of the effectiveness of their efforts and be better able to design new projects that are fully reflective of newly identified needs as well as what has been learned through their first implementation efforts.

Change: None.

Comment: One commenter expressed concern that the eligibility requirement would deny funding to the best qualified applicants and result in the selection of applications of lesser quality that are likely to have weaker outcomes.

Discussion: OSDFS grant competitions are generally highly competitive, and fractions of a point may separate funded and unfunded applications. For example, in fiscal year 2006, 88 applications submitted for the Elementary and Secondary School Counseling Program scored 90 or above, and we were able to fund only 49 of them. We do not agree, therefore, that excluding current grantees would necessarily result in poor-quality applications receiving funds.

Change: None.

Comment: Several commenters expressed strong opposition to the eligibility requirement's perceived limitation on the number of awards a grantee could have.

Discussion: The eligibility requirement will prohibit only applicants with an active grant from receiving a new grant for that same program. The requirement would have no effect on the number of grants an entity could receive under different programs. Applicants may apply for and receive grants under competitions offered by the Department under any of the 16 named programs, except for any program in which they currently have an active grant.

Change: None.

Comment: One commenter expressed concern that the eligibility requirement would have a negative impact on large school districts with a greater need for Federal funds and recommended a per-student enrollment limitation on the number of active grants one entity could receive under the same program.

Discussion: Although we understand that larger school districts may have greater needs, we do not think that multiple or overlapping grants in the same program are an appropriate means of meeting those needs because they encourage fragmentation of efforts rather than a comprehensive, unified approach to problems. All applicants, including those in larger school districts, are encouraged to carefully assess their needs and request an amount of funding commensurate with those needs in their initial application.

Change: None.

Comment: None.

Discussion: Since publication of the notice of proposed eligibility requirement, administration of the Life Skills for State and Local Prisoners program has been assigned to the Office of Vocational and Adult Education, and therefore will not be subject to the final eligibility requirement.

Change: We have removed the Life Skills for State and Local Prisoners program from the list of Discretionary Grant programs.

Note: In any year in which we elect to use the eligibility requirement, we will announce the eligibility requirement in the **Federal Register** notice governing the applicable grant competition.

Eligibility Requirement for OSDFS Discretionary Grant Programs—Federal Activities (CFDA No. 84.184); Alcohol Abuse Reduction (CFDA No. 84.184A); Mentoring Programs (CFDA No. 84.184B); Student Drug Testing (CFDA No. 84.184D); Emergency Response and Crisis Management (CFDA No. 84.184E); Grants to Prevent High-Risk Drinking or Violent Behavior Among College Students (CFDA No. 84.184H); Safe Schools/Healthy Students (CFDA No. 84.184L); Prevention Models on College Campuses (CFDA No. 84.184N); Grants to States to Improve Management of Drug and Violence Prevention Programs (CFDA No. 84.184R); Native Hawaiians (CFDA No. 84.186C); Elementary and Secondary School Counseling Program (CFDA No. 84.215E); Carol M. White Physical Education Program (CFDA No. 84.215F); Foundations for Learning (CFDA No. 84.215H); Grants to Integrate Schools and Mental Health Systems (CFDA No. 84.215M); Partnerships in Character Education (CFDA No. 84.215S/V); Cooperative Civic Education and Economic Education Exchange (CFDA No. 84.304A)

Active Grants

Under this requirement, the Secretary limits eligibility under the discretionary grant program competition to applicants that do not currently have an active grant under the same discretionary grant program. For the purpose of this eligibility requirement, a grant is considered active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

Executive Order 12866

This notice of final eligibility requirement has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this notice of final eligibility requirement are those we have determined as necessary for administering this program effectively and efficiently. The benefit of this final eligibility requirement is to ensure that limited Federal financial assistance under the Discretionary Grant Programs is made available in a manner that is fair and equitable to the greatest number of applicants.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final eligibility requirement, we have determined that the benefits of the final eligibility requirement justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access To This Document

You may view this document, as well as all other documents of this Department 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.*

To use PDF, you must have Adobe Acrobat Reader, which is available free 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 Code of Federal Regulations is available on GPO

Access at: *http://www.gpoaccess.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1211–2 (1991), 6715, 7117, 7131, 7139, 7140, 7245, 7247, 7261, 7269, and 7269a.

Dated: November 28, 2006.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E6–20456 Filed 12–1–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability; Draft Environmental Impact Statement for the Western Greenbrier Co-Production Demonstration Project

AGENCY: Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of the document, Draft Environmental Impact Statement for the Western Greenbrier Co-Production Demonstration Project, (DOE/EIS–0361), for public comment. The draft environmental impact statement (EIS) analyzes the potential environmental consequences of providing Federal funding for the design, construction, and demonstration of a 98 megawatt (MWe) net power plant and ash byproduct manufacturing facility to be located in the municipality of Rainelle, Greenbrier County, West Virginia. The facility would be constructed and demonstrated through a cooperative agreement between DOE and Western Greenbrier Co-Generation, LLC (WGC) under the Clean Coal Power Initiative (CCPI). WGC proposes to design, construct, and demonstrate an atmospheric pressure circulating fluidized-bed (CFB) power plant that would generate electricity and steam by burning approximately 3,000 to 4,000 tons per day of coal refuse from several local sites as the primary fuel. The proposed power plant would be the first commercial application within the United States of a CFB combustor featuring a compact inverted cyclone design.

The Department prepared this draft EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) regulations that implement the procedural provisions of NEPA (40 CFR parts 1500–1508), and the DOE procedures implementing NEPA (10 CFR part 1021).

DOE's proposed action is to provide cost-shared financial assistance to WGC through a cooperative agreement under the CCPI for design, construction, and operation of the Western Greenbrier Co-Production Demonstration Project. WGC proposes to design, construct, and operate a 98 MWe (net) power plant that would generate electricity and steam by burning fuel derived from the beneficiation of approximately 3,000 to 4,000 tons per day of coal refuse. The proposed power plant would be the first commercial application within the United States of an atmospheric circulating fluidized-bed combustor featuring a compact inverted cyclone design. The design would require less steel and facilitate erection in remote areas by reducing the boiler system footprint and height. These innovations could reduce steel costs by approximately 40 percent and shorten construction time by approximately 10 percent.

DATES: DOE invites the public to comment on the Draft EIS during the public comment period, which ends January 18, 2007. DOE will consider all comments postmarked or received during the public comment period in preparing the Final EIS, and will consider late comments to the extent practicable.

DOE will hold a public hearing on Thursday, January 4, 2007, at Western Greenbrier Middle School, Crawley, West Virginia from 7 p.m. to 9 p.m. An informational session will be held at the same location from 4 p.m. to 6:30 p.m., preceding the public hearing on the date noted above.

ADDRESSES: Requests for information about this Draft EIS or to receive a copy of the Draft EIS should be directed to: Roy G. Spears, NEPA Document Manager, U.S. Department of Energy, National Energy Technology Laboratory, M/S NO–3, P.O. Box 0880, Morgantown, West Virginia. Additional information about the Draft EIS may also be requested by telephone at: (304) 285–5460, or toll-free at: (800) 432–8330, x5460.

The Draft EIS will be available at *http://www.eh.doe.gov/nepa/.* Copies of the Draft EIS are also available for review at the locations listed in the **SUPPLEMENTARY INFORMATION** section of this Notice. Written comments on the Draft EIS can be mailed to Roy G. Spears, NEPA Document Manager, at the address noted above. Written comments may also be submitted by fax to: (412) 285–4403, or submitted electronically to: *roy.spears@netl.doe.gov.* Oral comments on the Draft EIS will be accepted only during the public hearing scheduled for the date and location provided in the **DATES** section of this Notice. Requests to speak at the public hearing can be made by calling or writing the EIS Document Manager (see **ADDRESSES**). Requests to speak that have not been submitted prior to the hearing will be accepted in the order in which they are received at the hearing. Speakers are encouraged to provide a written version of their oral comments for the record. Each speaker will be allowed five minutes to present comments unless more time is requested and available. Comments will be recorded by a court reporter and will become part of the public hearing record.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed project or the draft environmental impact statement, please contact Mr. Roy G. Spears, as directed above. For general information regarding the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586–4600, or leave a message at: (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Description of Alternatives

DOE analyzed two alternatives in the Draft EIS: The proposed action and the no-action alternative. Under the proposed action, DOE would provide cost-shared funding to a private-sector applicant for the design, construction and demonstration of a Co-Production Facility based on an innovative atmospheric-pressure circulating fluidized-bed (ACFB) boiler with a compact inverted-cyclone design. In addition to producing electricity and steam, the Co-Production facility would include a kiln that would produce cement for use in the production of structural brick and other similar products. The Co-Production Facility would utilize coal refuse (also referred to as ''gob'') from nearby coal refuse sites as the primary fuel source, and portions of the ash generated by the circulating fluidized-bed (CFB) would be returned to the coal refuse sites for use in site reclamation efforts. DOE has entered into a 5-year cooperative agreement with WGC to provide financial support through the CCPI program.

WGC was a successful applicant in Round 1 of the CCPI program and will be ultimately responsible for the siting, design, construction, and operation of the facility and related components.

WGC is collectively owned by the towns of Rainelle, Rupert, and Quinwood, and its mission is to provide economic development for the area through the construction and operation of the proposed facility.

The main focus of the WGC Co-Production Facility Project is the construction and operation of the 98 MWe generating plant that utilizes the technologies described in Section 2.3 of the Draft Environmental Impact Statement. However, there are several unique and important aspects of the project that extend beyond the construction and operation of the power plant. In addition to generating power for the national grid and demonstrating the inverted cyclone technology, the proposed plant is intended to use coal refuse as its primary fuel source, to apply potential waste streams to beneficial uses, and to serve as an economic catalyst for the region by providing an anchor tenant for a planned industrial park (the ''EcoPark'') to be located in Rainelle. As a result, there are connected actions associated with the excavation and reclamation of the proposed coal refuse piles (*e.g.*, beneficiation of the coal refuse by a third party), the additional industrial activities that may occur with the project (*e.g.*, potential production of building products from the cement), and potential future commercial and industrial development that are intended to occur as a result of the plant. These additional project aspects are not integral to the DOE decision on whether to provide cost-shared funding to demonstrate the clean coal technologies of interest.

Under the No Action Alternative, DOE would not provide cost-shared funding to demonstrate the Co-Production Facility Project. Although WGC could proceed to implement the proposed project in spite of DOE's No Action Alternative, it is unlikely that this project would be completed successfully without DOE funding support. The No Action alternative would not involve new construction, new discharges, or changes in land or water uses in the planning area. Because this alternative would not involve introducing new emission sources, no impact on the air quality, either locally or regionally, is expected. Aesthetic and scenic conditions, as well as surface and ground water, would remain unchanged. The No Action alternative would not contribute to the goal of the CCPI program, which is to accelerate commercial deployment of advanced technologies that provide the United States with clean, reliable, and affordable energy.

Availability of the Draft EIS

Copies of this Draft EIS have been distributed to Members of Congress, Federal, State, and local officials, and agencies, organizations and individuals who may be interested or affected. This Draft EIS will be available on the Internet at: *http://www.eh.doe.gov/nepa/*. Additional copies can also be requested by telephone at: 304–285–5460, or (800) 432–8330, x5460. Copies of the Draft EIS are also available for public review at the Greenbrier County Public Library, 301 Courtney Drive, Lewisburg, West Virginia, and at the Rainelle Municipal Public Library, 312 7th Street, Rainelle, West Virginia.

Issued in Washington, DC, on November 28, 2006.

Mark J. Matarrese,

Director, Office of Environment, Security, Safety and Health, Office of Fossil Energy.

[FR Doc. E6–20435 Filed 12–1–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX07–1–000]

Brazos Electric Power Cooperative, Inc.; Notice of Filing

November 27, 2006.

Take notice that on October 13, 2006 and amended on November 21, 2006, Brazos Electric Power Cooperative, Inc. filed an application for an order directing a physical interconnection of facilities and transmission services under sections 210, 211 and 212 of the Federal Power Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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.

Comment Date: 5 p.m. Eastern Time on December 11, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20469 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–74–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

November 24, 2006.

Take notice that on November 20, 2006, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed below to become effective December 21, 2006:

First Revised Sheet No. 5
First Revised Sheet No. 33
Third Revised Sheet No. 50
First Revised Sheet No. 89
Third Revised Sheet No. 115
First Revised Sheet No. 284
Second Revised Sheet No. 286
Second Revised Sheet No. 315
First Revised Sheet No. 342
First Revised Sheet No. 344
First Revised Sheet No. 358

Dauphin Island states that these tariff sheets reflect numerous housekeeping changes to Dauphin Island's tariff.

Dauphin Island states that copies of the filing are being served contemporaneously on its customers and other interested parties.

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 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. E6–20464 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–413–004]

East Tennessee Natural Gas, LLC; Notice of Supplemental Filing

November 24, 2006.

Take notice that on November 17, 2006, East Tennessee Natural Gas, LLC (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Original Sheet No. 21A to be effective October 29, 2006.

East Tennessee states that it is supplementing its filing approved by the Commission on September 15, 2006, in the captioned docket with the revised tariff sheet in order to reflect the reduced 2006 ACA unit charge in its rates for lateral service under Rate Schedules FT–L and IT–L.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions, as well as all parties on the Commission's official service list in this proceeding.

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 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. E6–20461 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–413–003, RP97–13–027 and PA05–63–003]

East Tennessee Natural Gas, LLC; Notice of Compliance Filing

November 24, 2006.

Take notice that on November 15, 2006, East Tennessee Natural Gas, LLC (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, which the effective date of the tariff sheets is October 29, 2006.

East Tennessee states that the filing is being made in compliance with the Commission orders issued on September 15, 2006 and October 4, 2006 in Docket Nos. CP05–413–001 and RP97–13–025.

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 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.

Protest Date: 5 p.m. Eastern Time on December 8, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20465 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR07–3–000]

Enbridge Pipelines (Alabama Intrastate), L.L.C.; Notice of Petition for Rate Approval

November 24, 2006.

Take notice that on November 14, 2006, Enbridge Pipelines (Alabama Intrastate), L.L.C. (Alabama Intrastate) filed a petition for rate approval pursuant to section 284.123(b)(2) of the Commission's regulations. Alabama Intrastate requests that the Commission approve as fair and equitable the existing maximum rate of $0.1621 per MMBtu plus actual fuel up to three percent for firm and interruptible transportation service provided under Section 311(a)(2) of the Natural Gas Policy Act of 1978.

Any person desiring to participate in this rate proceeding must file a motion 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 on or before the date as indicated below. 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.

Comment Date: 5 p.m. Eastern Time November 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20463 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–45–000; ER07–45–001]

Horizon Power and Light, LLC; Notice of Issuance of Order

November 27, 2006.

Horizon Power and Light, LLC (Horizon) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed market-based rate tariff provides for the sale of energy and capacity at market-based rates. Horizon also requested waivers of various Commission regulations. In particular, Horizon requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Horizon.

On November 21 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Horizon should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is December 21, 2006.

Absent a request to be heard in opposition by the deadline above, Horizon is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Horizon, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Horizon's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20470 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–160]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Amendments

November 24, 2006.

Take notice that on November 20, 2006, Tennessee Gas Pipeline Company (Tennessee) tendered for filing certain exhibits to two amendments to two Gas Transportation Agreements, dated November 1, 2002, between Tennessee and Calpine Energy Services L.P. pursuant to Tennessee's Rate Schedule FT–A. Tennessee requests the amendments to the Negotiated Rate Agreements to be effective on December 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 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. E6–20460 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 27, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–24–000.
Applicants: Endeavor Power Partners, LLC; Osceola Windpower, LLC.
Description: Endeavor Power Partners, LLC and Osceola Windpower, LLC submit a joint application for authorization to dispose of jurisdictional facilities to acquire an existing Generation Facility.
Filed Date: 11/17/2006.
Accession Number: 20061122–0125.
Comment Date: 5 p.m. Eastern Time on Friday, December 8, 2006.

Take notice that the Commission received the following electric rate filings

Docket Numbers: ER06–615–003.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits a compliance filing pursuant to the Commission's 9/21/06 Order.
Filed Date: 11/20/2006.
Accession Number: 20061122–0123.
Comment Date: 5 p.m. Eastern Time on Monday, December 11, 2006.

Docket Numbers: ER06–729–003.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits a compliance filing to the Commission's 10/19/06 Order.
Filed Date: 11/20/2006.
Accession Number: 20061122–0193.
Comment Date: 5 p.m. Eastern Time on Monday, December 11, 2006.

Docket Numbers: ER06–869–001.
Applicants: Consolidated Edison Company of New York.
Description: Consolidated Edison Co of New York, Inc submits amendments to its Electric Tariff Rate Schedules 96 and 92 in compliance with the Commission's 5/15/06 letter order.
Filed Date: 11/20/2006.
Accession Number: 20061121–0273.
Comment Date: 5 p.m. Eastern Time on Monday, December 11, 2006.

Docket Numbers: ER06–1308–003.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator submits a second errata to its 11/6/06 compliance filing, revisions to Schedules 10–C, 16–A and 17–A of its OAT&EM Tariff.
Filed Date: 11/21/2006.
Accession Number: 20061124–0079.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 12, 2006.

Docket Numbers: ER06–1537–001.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits notices of cancellation of Rate Schedules 149 and 121 in compliance with the Commission's 11/15/06 letter order.
Filed Date: 11/20/2006.
Accession Number: 20061122–0185.
Comment Date: 5 p.m. Eastern Time on Monday, December 11, 2006.

Docket Numbers: ER07–235–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits proposed designation of an additional Narrow Constrained Area.
Filed Date: 11/20/2006.
Accession Number: 20061122–0192.
Comment Date: 5 p.m. Eastern Time on Monday, December 11, 2006.

Docket Numbers: ER07–236–000.
Applicants: Carolina Power and Light Company.
Description: California Power and Light Company submits an amendment to its Large Generator Interconnection Agreement filed on 2/1/06.
Filed Date: 11/20/2006.
Accession Number: 20061122–0190.
Comment Date: 5 p.m. Eastern Time on Monday, December 11, 2006.

Docket Numbers: ER07–237–000; EC05–104–002.
Applicants: Monogahela Power Company; Allegheny Energy, Inc.; The Potomac Edison Company; Allegheny Energy Supply Company, LLC.
Description: Monogahela Power Company *et al.* submit a Motion to amend application for authorization of disposition of jurisdictional assets and filing of related jurisdictional contract, Power Sales Agreement.
Filed Date: 11/17/2006.
Accession Number: 20061122–0191.
Comment Date: 5 p.m. Eastern Time on Friday, December 8, 2006.

Docket Numbers: ER07–239–000.
Applicants: BG Energy Merchants, LLC.
Description: BG Energy Merchants, LLC submits a petition for acceptance of Initial Rate Tariff, Waivers and Blanket Authority.
Filed Date: 11/21/2006.
Accession Number: 20061124–0086.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 12, 2006.

Docket Numbers: ER07–240–000.
Applicants: Twin Buttes Wind LLC.
Description: Twin Buttes Wind LLC submits an application for market-based rate authority under Section 205 of the Federal Power Act and request for waivers and pre-approvals.
Filed Date: 11/21/2006.
Accession Number: 20061124–0087.
Comment Date: 5 p.m. Eastern Time on Tuesday, December 12, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding,

interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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. E6–20466 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–12–000 and CP06–13–000]

Gulf LNG Energy, LLC and Gulf LNG Pipeline, LLC; Notice of Availability of the Final Environmental Impact Statement for the LNG Clean Energy Project

November 24, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission), in cooperation with the U.S. Coast Guard (Coast Guard), has prepared this final Environmental Impact Statement (EIS) for the construction and operation of the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities, referred to as the LNG Clean Energy Project, as proposed by Gulf LNG Energy, LLC and Gulf LNG Pipeline, LLC (collectively referred to as Gulf LNG) in the above-referenced dockets.

This final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the LNG Clean Energy Project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The final EIS evaluates alternatives to the proposed action, including the Coast Guard's alternatives to issuing a Letter of Recommendation, system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives. The final EIS also contains our Essential Fish Habitat Assessment.

The final EIS addresses the potential environmental effects of construction and operation of the following facilities near the City of Pascagoula in Jackson County, Mississippi:

- A ship berth and unloading facilities (i.e., marine facilities) capable of accommodating one LNG ship;
- LNG transfer systems;
- Two 160,000 cubic meter full containment LNG storage tanks;
- 10 high-pressure submerged combustion vaporizers;
- Vapor handling systems;
- Hazard detection and response equipment, ancillary utilities, buildings, and service facilities;
- A 5.0-mile-long, 36-inch-diameter natural gas sendout pipeline; and
- Associated pipeline support facilities, including three interconnects/meter stations, one pig launcher, and one pig receiver.

The analysis also includes operation of LNG vessels in the waterway from the territorial seas until moored at the proposed LNG terminal.

The general purpose of the LNG Clean Energy Project is to provide up to 1.5 billion cubic feet per day of natural gas to markets in the United States.

The final EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the final EIS are available from the Public Reference and Files Maintenance Branch identified above. In addition, CD copies of the final EIS have been mailed to federal, state, and local agencies; elected officials; public interest groups; individuals and affected landowners; libraries; newspapers; and parties to these proceedings.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at: *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY at (202) 502–8659. The eLibrary link on the FERC Internet website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission 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 on the FERC Internet Web site.

Information about the project is also available from the Coast Guard by contacting Captain James Bjostad, Captain of the Port, Sector Mobile, at (251) 441–5960.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20462 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests and Comments

(November 27, 2006)

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12741–000.

c. *Date filed:* September 19, 2006.

d. *Applicant:* Albany Engineering Corporation.

e. *Name of Project:* Thomson Hydroelectric Project.

f. *Location:* On the Hudson River, in Saratoga and Washington Counties, New

York. Dam is owned by New York State Canal Corporation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. James A. Besha, P.E., Albany Engineering Corporation, 447 New Karner Road, Albany, NY 12205, (518) 456–7712, *jim@albanyengineering.com*.

i. *FERC Contact:* Patricia W. Gillis at (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* January 30, 2007.

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. Please include the project number (P–12741–000) on any comments, protests, or motions filed.

k. *Description of Project:* The proposed project would utilize an existing dam owned by New York State Canal Corporation and consist of: (1) An existing 835-foot-long, 12-foot-high concrete dam; (2) an existing impoundment having a surface area of 2,750 acres and a storage capacity of 3,350 acre-feet with a normal water surface elevation of 101.1 feet mean sea level; (3) a proposed underground powerhouse containing one generating unit with an installed capacity of 20-megawatts; (4) a proposed tailrace; (5) a proposed 8,000-foot-long, 34.5-kilovolt transmission line; and (6) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 65-gigawatt-hours. The applicant plans to sell the generated energy to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT'', or ''COMPETING APPLICATION'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20471 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 27, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12747–000.

c. *Date filed:* October 31, 2006.

d. *Applicant:* San Diego Water Authority.

e. *Name of Project:* San Vicente Pumped Storage Project.

f. *Location:* The project would be located on San Vicente Reservoir and San Vicente River in San Diego County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Paul Gebert, San Diego Water Authority, 4677 Overland Avenue, San Diego, CA 92123, phone: (858)–522–67551.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. Deadline for filing comments, protests, and motions to intervene: 60 days from the issuance date of this notice.

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 in 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.

k. *Description of Project:* There are three alternatives for the proposed project: Iron Mountain Alternative, Foster Canyon Alternative, and East Reservoir Alternative. Specific details about each of these alternatives are described below.

Applicable To All Alternatives

All of the alternatives will have the same lower reservoir consisting of: (1) An existing dam to be raised to a dam height of 274 feet, and a length of 1,120 feet with the possibility that the dam could be raised to be 337 feet high with a length of 1,442 feet; and (2) an existing impoundment increased to a surface area of 1,360 acres, having a storage capacity of 142,00 acre-feet with a normal maximum water surface elevation of 704 feet mean sea level (msl), and also the possibility to further increase the surface area to 1,667 acres, having a storage capacity of 247,000 acre-feet with a normal maximum water surface elevation of 767 feet msl.

Iron Mountain Alternative

(1) A proposed 235-foot-high, 1,250-foot-long upper dam, (2) a proposed upper reservoir with a surface area of 93 acres having a storage capacity of 8,070 acre-feet and a normal maximum water surface elevation of 2,110 feet msl, (3) a proposed 12,300-foot-long, 20-foot-long concrete power tunnel, (4) two proposed 300-foot-long steel lined penstocks, (5) a proposed powerhouse containing two generating units having a total installed capacity of 550 megawatts, (6) a proposed 3,300-foot-long, 24-foot-diameter concrete tailrace, (7) a proposed 2,600-foot-long, 230 kilovolt transmission line, and (8) appurtenant facilities.

Foster Canyon Alternative

(1) A proposed 215-foot-high, 4,500-foot-long upper dam, (2) a proposed upper reservoir with a surface area of 100 acres having a storage capacity of 12,200 acre-feet and a normal maximum water surface elevation of 1,490 feet msl, (3) a proposed 3,000-foot-long, 20-foot-long concrete power tunnel, (4) two proposed 300-foot-long steel lined penstocks, (5) a proposed powerhouse containing two generating units having a total installed capacity of 480 megawatts, (6) a proposed 2,700-foot-long, 24-foot-diameter concrete tailrace, (7) a proposed 2,600-foot-long, 230 kilovolt transmission line, and (8) appurtenant facilities.

East Reservoir Alternative

(1) A proposed 200-foot-high, 2,200-foot-long upper dam, (2) a proposed upper reservoir with a surface area of 60 acres having a storage capacity of 6,800 acre-feet and a normal maximum water surface elevation of 1,600 feet msl, (3) a proposed 6,000-foot-long, 20-foot-long concrete power tunnel, (4) two proposed 300-foot-long steel lined penstocks, (5) a proposed powerhouse containing two generating units having a total installed capacity of 570 megawatts, (6) a proposed 2,600-foot-long, 24-foot-diameter concrete tailrace, (7) a proposed 2,600-foot-long, 230 kilovolt transmission line, and (8) appurtenant facilities.

The proposed project would have a maximum estimated annual generation of up to 1,000 gigawatt-hours, which would be sold to a local utility.

l. *Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'',''COMPETING APPLICATION'' OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20472 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

November 27, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 516–434.

c. *Date Filed:* November 2, 2006.

d. *Applicant:* South Carolina Electric & Gas Company.

e. *Name of Project:* Saluda Project.

f. *Location:* Lake Murray in Lexington County, South Carolina. This project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Randolph R. Mahan, Manager, Environmental Programs and Special Projects, SCANA Services, Inc., Columbia, SC, 29218; (803) 217–9538.

i. *FERC Contacts:* Any questions on this notice should be addressed to Ms. Shana High at (202) 502–8674.

j. *Deadline for filing comments and or motions:* December 28, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–516–434) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Proposal:* South Carolina Electric & Gas Company is requesting Commission authorization to issue a permit to Dutch Fork Development Group for the use of project lands and waters to construct a 52 slip marina for the private recreational use of future landowners of Turner's Pointe Subdivision. The marina would not provide fuel services. There will be a wastewater pump out system for boats with marine sanitation devices, as required by the South Carolina Department of Health and Environmental Control.

l. *Location of the Applications:* The filings are available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please call the Helpline at (866) 208–3676 or contact *FERCOnLineSupport@ferc.gov.* For TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–20473 Filed 12–1–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project—Post-2008 Resource Pool

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final power allocation.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), announces the Parker-Davis Project (P–DP) Post-2008 Resource Pool Final Allocation of Power (Resource Pool Final Power Allocation), developed under the requirements of the Energy Planning and Management Program (EPAMP). This notice also includes Western's responses to public comments on the proposed allocations published July 17, 2006.

The Resource Pool Final Power Allocation documents Western's decisions prior to beginning the contractual phase of the process. Firm electric service contracts, with the allottees in this notice, will extend from October 1, 2008, through September 30, 2028.

DATES: The Resource Pool Final Power Allocation will become effective January 3, 2007.

ADDRESSES: Information regarding the Resource Pool Final Power Allocation, including comments, letters, and other supporting documents, is available for public inspection and copying at the Desert Southwest Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009. Public comments and related information may be viewed at *http://www.wapa.gov/dsw/pwrmkt*.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Young, Re-marketing Program Manager, Desert Southwest Regional Office, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2594, e-mail *post2008pdp@wapa.gov*.

SUPPLEMENTARY INFORMATION: Subpart C—Power Marketing Initiative (PMI) of EPAMP's Final Rule, 10 CFR part 905 (60 FR 54151), developed in part to implement Section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. EPAMP calls for planning and efficient electric energy use by Western's long-term firm power customers and provides a framework for extending Western's firm power resource commitments. One aspect of EPAMP is to establish project-specific power resource pools when existing resource commitments expire and to allocate power from these pools to eligible preference customers. Existing resource commitments for the P–DP expire on September 30, 2008. Western published its decision to apply the EPAMP PMI to the P–DP in the **Federal Register** on May 5, 2003 (68 FR 23709). This decision created a resource pool of approximately 17 megawatts (MW) of summer season capacity and 13 MW of winter season capacity, based on estimates of current P–DP hydroelectric resource availability, for allocation to eligible preference customers for 20 years beginning October 1, 2008. The resource pool includes 0.869 MW of summer season withdrawable capacity and 0.619 MW of winter season withdrawable capacity. The associated energy will be a maximum of 3,441 kilowatthours per kilowatt (kWh/kW) in the summer season and 1,703 kWh/kW in the winter season, based on current marketing plan criteria.

Western published a notice of proposed allocation procedures and a call for applications in the **Federal Register** on October 1, 2004 (69 FR 58900). Applications received by January 30, 2005, were considered. A notice of final procedures for use in allocating power from the P–DP Post-2008 resource pool (Final Allocation Procedures) was published in the **Federal Register** on December 16, 2005 (70 FR 74805). The Final Allocation Procedures include the eligibility criteria, allocation criteria, and P–DP power contract principles.

Western published the Parker-Davis Project Post-2008 Resource Pool Proposed Power Allocation (Resource Pool Proposed Power Allocation) in the **Federal Register** on July 17, 2006, (71 FR 40503) and initiated a public comment period on the proposed power allocations. Public information forums were held on August 29 and August 31, 2006, and public comment forums were held on September 12 and September 14, 2006. The public comment period ended on September 15, 2006.

The Resource Pool Final Power Allocation was determined from the applications received during the call for applications in accordance with the guidelines and criteria of the Final Allocation Procedures, the current P–DP Marketing Plan (49 FR 50582, 52 FR 7014, and 52 FR 28333), and EPAMP.

Response to Comments on Resource Pool Proposed Power Allocation

Comments and Responses

Comment: Several comments commended Western for conducting a fair and equitable allocation process. The comments stated that Western went through a very thorough, complete, open, and methodical process to arrive at the proposed allocations. Western held a sequence of open meetings where all applicants had equal opportunity to access the program information regarding the allocation processes, obtain a clear definition of the information and data required for the application and the application schedule, and update the application data when the schedule was delayed. Western also provided applicants with a definitive investigation of load, organization, and the organizational ability to utilize the allocation in the manner prescribed. The comments also expressed great appreciation for the integrity of the allocation investigation and determination process which assured that the results were based upon a thorough review of each application to confirm qualifications and conformance with the Final Allocation Procedures.

Response: Western appreciates the support for the lengthy, thorough and methodical P–DP re-marketing process.

Comment: Western received a comment that it was inappropriate to limit the first priority of consideration for allocations to entities that have no contracts with Western stating that the existence of a power contract by itself is not adequate to disqualify an applicant from the first priority of consideration unless that contract provides meaningful electric service. The commenter stated that their allocation from the Colorado River Storage Project (CRSP) was not meaningful because it did not consider loads on that portion of the reservation located in California.

Response: The Final Allocation Procedures, consistent with EPAMP, provide first priority for consideration to preference entities in the P–DP marketing area that do not have a contract with Western for Federal power resources and are not a member of a parent entity that has a contract with Western for Federal power resources. This priority was incorporated in the Final Allocation Procedures to further promote widespread use of Federal resources which is a goal of EPAMP and this allocation process. The Final Allocation Procedures do not provide for an exception based upon the meaningfulness of electric service provided by the power allocation in such contract with Western or the loads considered when the allocation for Federal power under existing contracts was made. The entity submitting this comment has a CRSP allocation of 6.42 MW (summer capacity), and a P–DP allocation of 8.9 MW (summer capacity), for a total Federal power allocation of 15.32 MW (summer capacity). The

existing P–DP allocation of 8.9 MW considered all loads in the P–DP marketing area, which includes that portion of the reservation located in California. Western considers all Federal power allocations to be meaningful, including this entity's existing Federal power allocations of 15.32 MW. Western's proposed power allocations conform to the Final Allocation Procedures by excluding entities from the first priority of consideration for an allocation of power from the resource pool based on their existing contracts with Western for Federal power resources. Comments proposing changes to the eligibility and allocation criteria are outside the scope of this notice. This notice of Final Power Allocation considers comments regarding the Resource Pool Proposed Power Allocation.

Comment: A comment was received expressing appreciation for recognition of the statutory obligation to give priority consideration to Indian irrigation pumping load on certain Indian lands adjacent to the Colorado River in the lower basin. The comment stated that the Colorado River Indian Tribe (CRIT) has irrigation pumping load in California and that they now look forward to getting a piece of that power, which Congress and the Supreme Court clearly wanted CRIT to have for the benefit of the tribes, and they look forward to using that power on the California side of the river, which they believe has been neglected in appraisals by Western.

Response: The CRIT currently has a P–DP allocation of 8.9 MW (summer capacity) which was based on a consideration of loads in the P–DP marketing area which includes southern California. The CRIT P–DP allocation of 8.9 MW specifically considered and provided capacity for on-reservation irrigation pumping loads, as documented in the Bureau of Indian Affairs for Colorado River Indian Reservation Memorandum of Understanding for Electric Service (Memorandum No. 14–06–300–2627 dated April 1, 1976). CRIT's application data did not identify additional irrigation pumping load in California above that already provided for under their existing P–DP allocation.

Comment: Several comments were received providing additional supplemental application information, revising load data previously submitted, or requesting that Western reconsider an allocation based upon potential future loads. Western also received several comments expressing appreciation that the process included ample opportunity to provide information in support of applications for power, including an extension of the deadline for receipt of applications to January 30, 2005, and the opportunity to provide updated application data by the deadline date of April 1, 2006.

Response: Applications, including load information, were required to be submitted by January 30, 2005. In accordance with the Final Allocation Procedures, actual load data submitted no later than April 1, 2006, was considered for calendar year 2003 or the most recent 12 months. In response to a comment that Western should consider future projected load, Western declined to allow consideration of future load projections, but did provide an opportunity for applicants to update actual load data to the most recent 12 months available for submission prior to the April 1, 2006, deadline.

Comment: One applicant for power from Western who was determined to not meet the General Eligibility Criteria of attaining electrical utility status requested an explanation of whether the decision to not grant an allocation of power was based upon the fact that their cooperative members are served by investor owned and publicly owned utilities, when the allocation criteria stated that arrangements with third parties for transmission and distribution by April 1, 2008, were acceptable.

Response: Third party transmission and/or distribution arrangements are different criteria from electrical utility status. Having a need for third party transmission arrangements does not prevent an entity from satisfying the electrical utility requirements. Applicants, including cooperatives, desiring to purchase power from Western for resale to consumers were required to attain electrical utility status by April 1, 2006, to be eligible for an allocation. Having electrical utility status means the applicant has the responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis for resale to retail consumers. This applicant was determined to not be eligible for an allocation because it did not meet these electrical utility status requirements.

Allottees, including those that are electrical utilities, are required to have transmission, displacement, or distribution arrangements in place by April 1, 2008, if such arrangements are needed to take delivery of P–DP power beyond the P–DP point(s) of delivery. Arrangements may be with investor owned utilities or publicly owned utilities for entities that require third party transmission, displacement, or distribution.

Comment: Several comments expressed disappointment at not being selected for an allocation and expressed understanding that there was a limited quantity of power available to distribute among a significant number of applicants. Some of these entities supported the allocations as proposed, while others requested that Western reconsider them for allocations if one of the current successful applicants is unable to receive its proposed allocation.

Response: If any of those receiving an allocation are unable to place the power under contract, the power will be offered to existing contractors up to the amount they contributed to the resource pool. Beyond that, any remaining resource pool power will be used as determined by Western.

Comment: Several comments expressed appreciation for recognition of the Native American needs in making the allocations and noted the economic benefits that the Tribes will derive from the allocations. The allocations will help further support the Tribes' business plans and will provide employment opportunity to Tribal members.

Response: Western appreciates the support for allocations to Native American entities.

Comment: Western received several comments regarding the large positive economic impact to rural communities and the potential to finance infrastructure improvements with the electric service cost savings that will be realized as a result of the proposed allocations.

Response: Western appreciates the support for widespread use of the P–DP resource including allocations to rural communities.

Comment: Western received several comments expressing appreciation for allocations to municipal utilities other than electrical utilities, and noting the positive impact that the allocations will have on municipal utility rates.

Response: Western appreciates the support for widespread use of the P–DP resource including allocations to municipal utilities.

Comment: Several comments expressed that data provided by applicants in support of their allocation is proprietary and Western should not make the data available to the public.

Response: Western does not intend to distribute or make public the proprietary data submitted by applicants in support of their applications for a P–DP power allocation.

Comment: The Naval Facilities Engineering Command, Southwest (NAVFAC SW), as the contracting agency for the Navy and Marine Corps bases spread across the Southern California Edison (SCE) and the San Diego Gas & Electric (SDG&E) service territories in California, expressed appreciation for the 2 MW proposed allocation, which will allow for a significant savings to the military and the taxpayers. NAVFAC SW commented that the 2 MW P–DP allocation should be distributed equally among the 11 Marine Corps and Naval facilities that were included in the NAVFAC SW application to more widely disseminate the use of the Federal power allocation.

Response: Western agrees that distribution of the NAFVAC SW allocation among all the NAVFAC SW facilities included in the application would further promote the widespread use of Federal resources. NAVFAC SW, as the sole contracting agent and allotee, may determine the specific distribution among the NAVFAC SW facilities in the P–DP marketing area provided Western is able to schedule power deliveries in 1 MW or greater quantities and Western is able to send a single billing statement to NAVFAC SW. This change is noted in the final allocation table.

Comment: Several comments expressed support for the process employed by Western to allocate the Parker-Davis Project resource pool. The procedure set forth in the **Federal Register** on July 17, 2006, (71 FR 40503) to allocate Parker-Davis power was well reasoned, giving consideration for Indian irrigation pumping on certain Indian lands adjacent to the Colorado River in the lower basin, widespread use of the Federal resource, magnitude of the benefits, and load. Because proper procedures were followed and a logical rationale for the Parker-Davis allocation has been presented, the comments expressed support for the proposed allocations and requested that the allocations should be finalized as proposed.

Response: Western appreciates the support for the proposed allocations. The Final Power Allocation of the Parker-Davis Project Resource Pool is presented below.

Final Power Allocation

The Resource Pool Final Power Allocation is made in accordance with the Final Allocation Procedures. All allocations are subject to the execution of a contract in accordance with the General Contract Principles contained in the Final Allocation Procedures.

The Resource Pool Final Power Allocation is shown in the table below:

FINAL ALLOCATION CAPACITY IN MEGAWATTS (MW)

Allottee	Summer			Winter		
	Non-withdrawable FES allocation (MW)	Withdrawable FES allocation (MW)	Total FES allocation (MW)	Non-withdrawable FES allocation (MW)	Withdrawable FES allocation (MW)	Total FES allocation (MW)
Aqua Caliente Band of Cahuilla Indians	1.000	0.000	1.000	1.000	0.000	1.000
Aha Macav Power Service [1]	2.000	0.000	2.000	0.000	0.000	0.000
Corona, CA, City of	2.000	0.000	2.000	1.000	0.000	1.000
Eastern Arizona Preference Pooling Association [2]	1.000	0.000	1.000	1.000	0.000	1.000
Town of Gilbert, AZ Utility Department	1.000	0.000	1.000	1.000	0.000	1.000
Hohokam Irrigation & Drainage District	1.000	0.000	1.000	1.000	0.000	1.000
Naval Facilities Engineering Command Southwest [3]	1.131	0.869	2.000	1.381	0.619	2.000
Pechanga Band of Luiseño Mission Indians	1.000	0.000	1.000	1.000	0.000	1.000
San Luis Rey River Indian Water Authority [4]	2.000	0.000	2.000	1.000	0.000	1.000
Town of Marana, AZ Water Department	1.000	0.000	1.000	1.000	0.000	1.000
Viejas Band of Kumeyaay Indians	1.000	0.000	1.000	1.000	0.000	1.000
Williams, AZ, City of	1.000	0.000	1.000	1.000	0.000	1.000
City of Yuma, AZ Public Works Department	1.000	0.000	1.000	1.000	0.000	1.000
Total Allocations	16.131	0.869	17.000	12.381	0.619	13.000

[1] Addition to existing post-2008 allocation to serve Indian irrigation pumping load of the Fort Mohave Indian Tribe.

[2] Allocation to aggregated group consisting of the utility functions of Town of Eagar, AZ, City of St. Johns, AZ, Town of Springerville, AZ & Village of Reserve, NM. The Town of Pinetop-Lakeside, AZ is excluded from the allocation.

[3] Allocation to Naval Facilities Engineering Command Southwest as the contracting agency for California Marine Corps & Naval facilities included in the P–DP marketing area.

[4] Allocation to aggregated group consisting of San Luis Rey River Indian Water Authority, Vista Irrigation District and the City of Escondido, CA Utility Division.

The Resource Pool Final Power Allocation listed in the table above is based on the P–DP marketable resource available at this time. Firm electric service contracts will be offered to the customers listed in the table. The contracts offered will incorporate the general contract principles listed in the Final Allocation Procedures. If the P–DP marketable resource is adjusted in the future, P–DP power allocations may be adjusted accordingly.

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

Western completed an environmental impact statement on EPAMP, under the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register** on October 12, 1995 (60 FR 53181). Western's NEPA review assured all environmental effects related to these actions have been analyzed.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: November 20, 2006.

Michael S. Hacskaylo,

Administrator.

[FR Doc. E6–20438 Filed 12–1–06; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8250–5]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Office of Enforcement and Compliance Assurance (OECA) Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html*. The document may be located by date, author, subpart, or subject search. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564–7027, or by e-mail at: *malave.maria@epa.gov*. For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions to the NSPS in 40 CFR part 60 and the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed applicability determinations. See 40 CFR 60.5 and 61.06. Although the 40 CFR part 63 NESHAP and section 111(d) of the Clean Air Act (CAA) regulations contain no specific regulatory provision that sources may request applicability determinations, EPA does respond to written inquiries regarding applicability for the 40 CFR part 63 and section 111(d) of the CAA programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are broadly termed alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are broadly termed regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 63 such documents added to the ADI on November 10, 2006. The subject, author, recipient, date and header of each letter and memorandum are listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI through the OECA Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html*.

The following table identifies the database control number for each document posted on the ADI database system on November 10, 2006; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter. We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents.

Control	Category	Subpart	Title
0600001	NSPS	Dc	Alternative Fuel Monitoring.
0600002	NSPS	BB	Exemption from TRS Standard for Brown Stock Washer.
0600003	NSPS	BB	Alternative Monitoring for Scrubber.
0600004	NSPS	Db, Dc	Fuel Supplier Certification Statements.
0600006	NSPS	J	Alternative Monitoring Plan for a Catalytic Cracking Unit.
0600007	NSPS	J	Alternative Monitoring Plan for a Flare.
0600008	NSPS	AAa	Alterations to an Electric Arc Furnace.
0600082	NSPS	A, J	Alternative Monitoring Plan for Hydrogen Production Facility.
M060001	MACT	MMM	Compliance Test Waiver Request.
M060002	MACT	MMMM	Post Vulcanized Rubber-to-Metal Parts Bonding.

Control	Category	Subpart	Title
M060003	MACT	DDDDD	Common Duct Testing and Acid Rain Program Opt-in.
M060004	MACT	DDDDD	Firetube Boilers.
M060005	MACT	EEE	Liquid-to-Gas Ratio Operating Parameter Limit.
M060006	MACT	IIII	Use of Previously Conducted Transfer Efficiency Test.
M060007	MACT	MM	Alternative Monitoring for Scrubber.
M060008	MACT	A, EEE	Alternative Monitoring Locations and Parameters.
M060009	MACT	A, EEE	Alternative Monitoring Plan for Hazardous Waste Combustor.
Z060001	NESHAP	FF, V	Alternative Monitoring Plan for Dual Purpose Valves.
0600009	NSPS	WWW	Landfill Gas Processing System as Treatment.
0600010	NSPS	WWW	Landfill Gas Processing System as Treatment.
0600011	NSPS	WWW	Landfill Gas Processing System as Treatment.
0600012	NSPS	WWW	Landfill Gas Processing System as Treatment.
0600013	NSPS	WWW	Landfill Gas Processing System as Treatment.
0600014	NSPS	WWW	Temperature Monitors in Gas Turbines.
0600015	NSPS	VV	Liquid Urea Manufacturing Operations.
A060001	Asbestos	M	Demolition under Control of Same Owner or Operator.
A060002	Asbestos	M	Removal of Floor Mastic Using a Mechanical Buffer.
A060003	Asbestos	M	Applicability of 260 Linear Feet Requirement.
A060004	Asbestos	M	Test Method for Spray-applied Acoustical Materials.
A060005	Asbestos	M	Regulated Asbestos Containing Material.
A060006	Asbestos	M	Meaning of Preclude Access and Dripping.
M060010	MACT	HH, HHH	Clarification of Ownership and Co-location.
M060011	MACT	NNN	Metal Building Insulation.
M060012	MACT	MMMM	Post Vulcanized Rubber-to-Metal Parts Bonding.
M060013	MACT	PPP	Use of Tetrahydrofuran (THF) as Raw Material.
M060014	MACT	H	Nitrile Stripper Column System.
M060015	MACT	FFFF, HHHHH	Non-Dedicated Mixing Vessels.
0600016	NSPS	A, G	Modification of Nitric Acid Plant.
0600017	NSPS	UUU	Tile Dryers.
0600018	NSPS	SS	Coating of Dishwasher Racks.
0600019	NSPS	A, KKKK	Commencement of Construction.
0600020	NSPS	UUU	Opacity Monitoring Exemption.
0600021	NSPS	A, KKKK	Commencement of Construction.
0600022	NSPS	Dc	Reporting Frequency Requirements.
0600023	NSPS	OOO	Air Classifiers.
0600024	NSPS	UUU	Titanium Dioxide Ore Dryers and Product Dryers.
0600025	NSPS	A, D	State Monitoring Requirements in Lieu of 40 CFR Part 60.
0600026	NSPS	Dc	Alternative Opacity Monitoring.
0600027	NSPS	A, CC	Modification and Capital Expenditure Calculations.
0600028	NSPS	A, CC	Modification and Capital Expenditure Calculations.
0600029	NSPS	A	SIP-mandated Expenditures and Reconstruction.
M060016	MACT	G	Once In/Always In Rule.
M060017	MACT	YY	Dry Spinning Spandex Production Process Units.
M060018	MACT	HHHHH, MMMM	Coating of Test Panels Not Used in Final Product.
M060019	MACT	MM	Alternative Monitoring of Smelt Dissolving Tank Scrubber.
M060020	MACT	JJJJ, OOOO	Point of Determination for Group of Coating Lines.
M060021	MACT	NNNNN	Alternative Monitoring Plan for HCL Scrubber.
M060022	MACT	S	Alternative Monitoring Parameters for a Dual Control System.
M060023	MACT	S	Clean Condensate Alternative & Creditable Reductions.
M060024	MACT	S	Applicability of White Liquor Oxidation System.
M060025	MACT	EEEEE	Molding and Core Making.
M060026	MACT	S	Clean Condensate Alternative & Creditable Reductions.
Z060003	NESH	FF	Benzene Emissions from Exchange Leaks.

Summary of Headers and Abstracts

Abstracts

Abstract for [A060001]

Q: Are residential structures that are demolished as part of a larger project, such as highway expansion, subject to the asbestos requirements under 40 CFR part 61, subpart M?

A: Yes. EPA finds, pursuant to 40 CFR 61.145, that if two or more residences under the control of the same owner or operator are part of a larger demolition project, such as highway expansion, they are subject to the asbestos regulation, NESHAP subpart M.

Abstract for [A060002]

Q1: Is floor mastic a Category 1 asbestos-containing material under 40 CFR part 61, subpart M?

A1: No. EPA finds that floor mastic is not a Category 1 asbestos-containing material under the Asbestos NESHAP. However, pursuant to 40 CFR 61.141, it is a Category II asbestos-containing material.

Q2: Does the use of a mechanical buffer with an abrasive pad on floor mastic cause the floor mastic to become friable, and thus a Regulated Asbestos-Containing Material (RACM) under 40 CFR part 61, subpart M?

A2: Yes. EPA finds that pursuant to 40 CFR 61.141, the use of a mechanical buffer with an abrasive pad causes floor mastic to become friable and, thus, it is considered a RACM under the asbestos NESHAP.

Abstract for [A060003]

Q: Does the regulatory threshold of 260 linear feet on pipes apply to caulking and roof flashing materials that qualify as regulated asbestos-containing material (RACM) under 40 CFR part 61, subpart M?

A: No. EPA finds the 260 linear feet threshold is applicable only to pipes

under the asbestos NESHAP. Other materials, such as caulking or roof flashing, are subject to the 160 square foot standard as specified in 40 CFR 61.145.

Abstract for [A060004]

Q1: Has EPA issued guidance specifically about spray-applied acoustical materials under 40 CFR part 61, subpart M?

A1: No. EPA has not issued guidance under the asbestos NESHAP specifically about spray-applied acoustical materials.

Q2: Does EPA recommend that the public assure spray-applied acoustical materials to contain asbestos without testing, and, what method(s) should be used to test these materials under 40 CFR part 61, subpart M?

A2: No. EPA is not recommending that the public assure spray-applied acoustical materials to contain asbestos without testing. In regards to testing spray-applied acoustical materials, Polarized Light Microscopy (PLM) is specified in 40 CFR part 63 as the approved testing method; however, Transmission Electron Microscopy (TLM) is also an acceptable method.

Abstract for [A060005]

Q: Does 40 CFR part 61, subpart M, require that all asbestos-containing materials be removed before the demolition of a facility?

A: No. The asbestos NESHAP does not require all asbestos-containing materials to be removed before demolition. However, all Regulated Asbestos Containing Material (RACM) must be removed from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal.

Abstract for [A060006]

Q: Could EPA clarify the meaning of the words ''preclude access'' and ''dropping'' in 40 CFR 61.145(c)(1) and 61.145(c)(6) of the asbestos NESHAP, subpart M?

A: EPA finds that the use of the term ''preclude access'' in 40 CFR 61.145(c)(1) of the asbestos NESHAP is intended to ensure that all Regulated Asbestos Containing Material (RACM) expected to be disturbed during the demolition or renovation is removed from the facility before any action is taken that could prevent safe removal of the RACM during a later phase of the project. The use of the term ''dropping'' is intended to prevent RACM from falling (instead of being ''placed'') on the floor and to ensure that RACM is moved in a careful way to minimize asbestos fiber release.

Abstract for [M060001]

Q: Does EPA waive the Method 5 test requirement for a second process vent, under 40 CFR part 63, subpart MMM, at the Arkema facility in Riverview, Michigan?

A: Yes. EPA waives the Method 5 test because information submitted by the facility shows that it is impractical to test the second vent due to short operating time, low flow rate, and low pressure drop. Dust emissions will be drawn through the first vent which will be tested, and any remaining dust will be trapped in the vent collection tank or in the mineral oil scrubbers.

Abstract for [M060002]

Q: Does EPA find that a coating being applied at the Cooper Tire & Rubber facility in Findlay, Ohio, that uses the same methodology, composition, and function as a rubber-to-metal coating, but that is bonded during a heating process not involving the vulcanization of rubber, is a rubber-to-metal coating under 40 CFR part 63, subpart MMMM?

A: No. EPA finds that because the bonding process is not performed during the vulcanization process, it is not considered a rubber-to-metal coating and should not be included in that category. Instead, the coating is subject to the general use coating subcategory emission limit in 40 CFR 63.3890(b)(1).

Abstract for [M060003]

Q1: Can the required emission tests, under 40 CFR part 63, subpart DDDDD, be conducted in the common duct for boilers 1, 2, and 3 at the Dairyland Power Cooperative Alma Station in LaCrosse, Wisconsin?

A1: No. 40 CFR 63.7510 requires that each unit be tested, and the language in Section II.F of the September 13, 2004 Preamble to the Final Rule reinforces this requirement. The facility is required to submit an alternative test procedure request with appropriate technical justification, if it wants to conduct common duct testing. However, testing in a common duct is considered a minor change to a test method; thus, EPA Regions and delegated States may approve such a request.

Q2: Does EPA find that boilers 1, 2, and 3 would be exempt from the boiler MACT, under 40 CFR part 63, subpart DDDDD, if they opt into the Acid Rain Program?

A2: No. EPA finds that 40 CFR 63.7491 includes no such exemption. A source cannot avoid controlling mercury emissions by agreeing to control sulfur dioxide and nitrogen oxides.

Abstract for [M060004]

Q: Does EPA find that the two 250-horsepower firetube boilers planned for installation at Green Bay Packaging in Green Bay, Wisconsin, should be regulated within the ''small gaseous fuel subcategory'' as defined in MACT subpart DDDDD, 40 CFR 63.7575, even if each boiler's heat input rating at 100 percent efficiency may reach 10.5 million BTU per hour?

A: Yes. EPA finds that these boilers are regulated within the ''small gaseous fuel subcategory'' as that term is defined in MACT subpart DDDDD, 40 CFR 63.7575. In response to comments, the Agency agreed to add firetube boilers to the definition of small liquid fuel and gaseous fuel subcategories in the final rule.

Abstract for [M060005]

Q: Does EPA approve a request from Minnesota Mining & Manufacturing Company (3M), under 40 CFR part 63, subpart EEE, to establish a high energy wet scrubber's hydrogen chloride/chlorine liquid-to-gas ratio operating parameter limit for a hazardous waste incinerator unit that is equal to 20.4 gallons per 1,000 dry standard cubic feet based upon the data from 3M's September 1 and 2, 2004, comprehensive performance test and not upon the data from 3M's July 2001, Resource Conservation and Recovery Act Trial Burn?

A: No. EPA does not approve the request because the company has not demonstrated that the proposed hydrogen chloride/chlorine liquid-to-gas ratio operating parameter limit also corresponds to compliance with the particulate matter, semi-volatile metal, and low volatile metals emission standards.

Abstract for [M060006]

Q: Does EPA approve at the General Motors (GM) Orion Assembly Plant in Orion, Michigan, the use of the results of a transfer efficiency test conducted in December 2004 for the primer surfacer and topcoat operations in lieu of performing another transfer efficiency test, under 40 CFR part 63, subpart IIII?

A: Yes. EPA approves the use of the December 2004 test results for the primer surfacer and the topcoat operations in lieu of performing an initial test to determine transfer efficiency. The test meets the requirements of MACT subpart IIII, 40 CFR 63.3160(c). There have been no process or equipment changes since the test that would trigger retesting, and the required operating parameters and transfer efficiency were established during the test.

Abstract for [M060007]

Q: Does EPA approve the continuous monitoring of fan amps and total scrubbing liquid flow rate as an alternative to the scrubber monitoring parameters required by NSPS Subpart BB and NESHAP Subpart MM, at the Weyerhaeuser Company facility in Bennettsville, South Carolina?

A: Yes. EPA approves this alternative continuous monitoring plan under MACT subpart MM and NSPS subpart BB because the dynamic scrubber operates near atmospheric pressure and the proposed monitoring is an acceptable alternative. Consistent with the requirements of 40 CFR 63.864, fan amps and scrubber liquid flow rate must be monitored at least once each successive 15-minute period, and continuous compliance must be determined based on a 3-hour average.

Abstract for [M060008]

Q1: Does EPA approve the request for an alternative monitoring location to continuously monitor total hydrocarbons and carbon monoxide, under 40 CFR part 63, subpart EEE, at the Ash Grove Cement Company facility in Overland Park, Kansas?

A1: Yes. EPA approves the request to monitor hydrocarbons in the by-pass and between stages numbers 2 and 3 of the preheater instead of in the main stack, pursuant to MACT subpart EEE, 40 CFR 63.1209(g)(1) and 63.8(f). Both the bypass and preheater gas streams must have a hydrocarbon limit of 10 ppmv on an hourly rolling average basis as defined in MACT subpart EEE. The location of the hydrocarbon monitors must be as specified in the Comprehensive Performance Test Plan, downstream of the bypass baghouse, while the preheater monitor shall be located in the gas stream between stages numbers 2 and 3 of the pre-heater in a manner that ensures a representative sample of gas will be monitored.

Q2: Does EPA also approve the request for an alternative method to calculate the maximum gas temperature at the inlet to the facility's particulate matter control device, under 40 CFR part 63, subpart EEE?

A2: Yes. EPA approves this request for an alternative calculation pursuant to MACT subpart EEE, 40 CFR 63.1209(g)(1) and 63.8(f) due to the potential danger associated with operating the coal mill baghouse at an elevated temperature. The facility will establish that the maximum gas temperature at the inlet of the coal mill baghouse does not exceed 200 degrees Fahrenheit. Establishing the maximum gas temperature at the inlet is an alternative for the coal mill baghouse only.

Q3: Does EPA also approve the request for an alternative to calculate the minimum combustion chamber temperature limit as required by 40 CFR 63.1209(j)(1) and (k)(2)?

A3: No. EPA does not approve the request to set the minimum combustion chamber temperature as the average of the highest hourly rolling averages measured in each trial run burn. However, EPA finds the source could establish a minimum combustion chamber temperature by matching the combustion chamber temperature profile during the comprehensive performance test using the specific procedures described in EPA's response as an alternative to establishing the minimum combustion chamber temperature.

Abstract for [M060009]

Q: Does EPA approve the alternative monitoring request to continuously monitor oxygen and temperature instead of carbon monoxide or total hydrocarbons, under 40 CFR part 63, subpart EEE, at the Holcim facility in Clarksville, Montana?

A: Yes. EPA approves this alternative monitoring request pursuant to MACT subpart EEE, 40 CFR 63.1209(g)(1) and 63.8(f), provided the facility meets the conditions established for the performance test for destruction and removal efficiency (DRE) that demonstrates compliance with the DRE standard found in 40 CFR 63.1204(c), and carbon monoxide and total hydrocarbon standards found in 40 CFR 63.1204(a)(5), as indicated in EPA's response.

Abstract for [M060010]

Q: Could EPA clarify the relationship between ownership and co-location in regards to the applicability of 40 CFR part 63, subpart HH, to the Mocane Cryogenic/Compressor Station located near Forgan, Oklahoma, and owned by Regency Gas Services and Colorado Interstate Gas?

A: EPA finds that all the facility operations are located at a single site, as defined in 40 CFR 63.761 of MACT subpart HH, and, because the transmission and storage source category begins where natural gas enters the transmission pipeline, the site is subject to MACT subpart HH. EPA also finds the equipment qualifies as a single Title V source with all equipment subject to Title V permitting. Because of separate ownership, individual Title V permits will be issued to the owner of the specific equipment.

Abstract for [M060011]

Q: Does 40 CFR part 63, subpart NNN, apply to the metal building insulation produced at CertainTeed's facility in Kansas City, Kansas?

A: Yes. EPA finds that metal building insulation meets the definition of building insulation for purposes of MACT subpart NNN, and that production of this insulation at the CertainTeed facility is subject to MACT subpart NNN.

Abstract for [M060012]

Q: Does EPA find that an autoclave should be included in the rubber-to-metal or general use subcategory, under 40 CFR part 63, subpart MMMM, if a partial vulcanization occurs in the first heating step and the part is submitted fully vulcanized in the autoclave, as is the case of the Cooper Standard Automotive facility in Michigan?

A: EPA finds that the autoclave should be included in the rubber-to-metal subcategory under MACT subpart MMMM. EPA has determined that the second coating step of a metal insert bonded to rubber does involve vulcanization based on the stress test results done on two metal parts coated with the same adhesive, and should be included in such subcategory.

Abstract for [M060013]

Q: Does EPA find that the substantive control, testing, and monitoring requirements of 40 CFR part 63, subpart PPP, apply to the 3M process using tetrahydrofuran (THF) as a raw material at the Specialty Material Manufacturing facility in Cottage Grove, Minnesota?

A: Yes. EPA finds that the language at 40 CFR 63.1420(d)(3) only exempts those processes which produce polyether polyols from epoxide polymerization, and, by its terms, does not extend the exemption under MACT subpart PPP to processes which produce polyether polyols from THF. The facility did not provide the Agency sufficient information to determine whether only the recordkeeping or demonstration requirements at 40 CFR 63.1420(b)(1) would apply to the process.

Abstract for [M060014]

Q1: Does EPA find that the nitrile stripper column (NSC) system at the INVISTA S.a.r.l. (INVISTA) Victoria plant should be classified as a waste management unit or a recovery device, under 40 CFR part 63, subpart PPP, or can it be subject to two sets of requirements at the same time because it may qualify both as a waste management and a recovery device under the Hazardous Organic National Emissions Standard for Hazardous Air

Pollutants (HON) rule, 40 CFR part 63, subpart F?

A1: EPA finds that the NSC system cannot be subject to two sets of standards under the HON rule and that it should be classified as a waste management unit under that rule. Based on the concept of ''discarded'' within the terms ''point of determination'' and ''wastewater'' in the HON rule, the NSC system must either be a recovery device within the CMPU or a waste management unit outside of the CMPU. The fact that the NSC system is receiving the stormwater stream from the Victoria plant, in addition to the stream from the ADN unit for which it was originally designed, clarifies for the Agency that the NSC system is outside of the CMPU. The liquid stream transferred from the ADN process to the NSC system is, therefore, ''discharged'' to the NSC system. This makes the NSC system a ''waste management unit'' and the ADN stream ''wastewater'', subject to the performance standards of 40 CFR 63.138 of the HON rule.

Q2: What is the appropriate classification for the NSC system if the stormwater runoff is no longer routed to the ADN unit?

A2: When the stormwater runoff is removed from the NSC system, the NSC system should be evaluated as a recovery device because the NSC system potentially serves the purpose of recovering chemicals for fuel value, use, reuse or for sale for fuel value, use or reuse.

Abstract for [M060015]

Q: Could EPA clarify the applicability of the Miscellaneous Organic Chemical Manufacturing NESHAP (MON rule) and the Miscellaneous Coating Manufacturing NESHAP (MCM rule), under 40 CFR part 63, subparts FFFF and HHHHH respectively, to non-dedicated mixing vessels which support coatings manufacturing in three different areas at the Cytec Industries facility in Havre de Grace, Maryland?

A: EPA determines that in area one the non-dedicated HAP mixing vessels are used in the production of ''pre-react'' isolated intermediates which are stored below ambient temperature until further processing to produce a coating occurs, and therefore, are subject to the MON. The pre-react is similar to a synthesis operation producing a MON chemical described by SIC code 289, rather than a coating. EPA agrees that since the ''pre-react'' meets all of the criteria specified in EPA's response, it is a MON product and therefore the mixing vessel that produces it is subject to the MON. In area two, the MON chemical is mixed with curing systems, fillers, and other additives, and a coating is produced. Since the non dedicated HAP mixing vessels in area two are associated with the production of a coating, they are part of the miscellaneous coating manufacturing subject to the MCM rule. Area three consists of the application of the coating produced in area two. Neither the MON nor the MCM apply to the application of coatings.

Abstract for [M060016]

Q: Does MACT subpart G, pursuant to 40 CFR 63.100(b)(4), provide minor source status to International Specialty Products' butanediol facility in Lima, Ohio, given that the facility is no longer part of the BP Amoco Chemical Company (BP) major source; has actual emissions of less than 2 tpy of individual hazardous air pollutants (HAP) and less than 4 tpy of total HAP; shares no common control or ownership with BP; and is a discrete facility that is not contiguous with any BP property or any of the remaining sources listed on the current BP Title V permit?

A: No. EPA finds that the facility is not eligible for minor source status under MACT subpart G. It was constructed and permitted as a major source on the compliance date for new sources in the HON. Thus, according to the ''once in, always in'' policy, it remains subject to the HON rule, even if it subsequently reduces its emissions below major source thresholds.

Abstract for [M060017]

Q: Does 40 CFR part 63, subpart YY, apply to the spandex production equipment at the Invista facility in Waynesboro, Virginia, where the equipment is part of one or more dry spinning spandex production process units?

A: No. EPA finds that the spandex production equipment is not subject to MACT subpart YY. 40 CFR 63.1103(h)(1)(ii) defines emission points, listed in paragraphs (h)(1)(i)(A) through (C), that are associated with a dry spinning spandex production process unit that are not subject to the requirements of 40 CFR 63.1103(h)(3) even though the process is part of the spandex production source category.

Abstract for [M060018]

Q: Does 40 CFR part 63, subpart MMMM, apply to a spray booth at the PPG Industries, Inc. (PPG) facility in Springdale, Pennsylvania, that would be used to prepare painted sample panels to be tested at a laboratory?

A: No. EPA determines that PPG's proposed new spray booth would not be subject to NESHAP subpart MMMM, the Surface Coating of Miscellaneous Metal Parts and Products rule, since the spray booth would not be used to apply surface coating of ''miscellaneous metal parts or products,'' which include certain various ''industrial, household, and consumer products,'' or their ''metal components,'' i.e., parts, as defined in 40 CFR 63.3881. The sample panels that PPG plans to prepare in its new spray booth do not qualify as ''industrial, household, and consumer products'' because they will be prepared solely to allow coatings to be tested in a laboratory, will not be sold in commerce, and will eventually be recycled as scrap metal. The sample panels also do not qualify as ''metal components'' of ''industrial, household, and consumer products'' because the panels will never become part of an industrial, household, or consumer product.

Abstract for [M060019]

Q: Does EPA approve continuous monitoring of fan amperage and scrubbing liquid flow rate in lieu of scrubber pressure drop under 40 CFR part 63, subpart MM, for the smelt dissolving tank scrubber at the Smurfit-Stone Container Hopewell Mill in Hopewell, Virginia?

A: Yes. EPA finds that pressure drop is not the best indicator of control device performance for low-energy entrainment scrubbers. Compliance with MACT subpart MM could be demonstrated by verifying ID fan operation, maintaining a scrubber liquid flow rate, and maintaining a scrubbing liquid supply pressure based on established parameters from the facility's performance test.

Abstract for [M060020]

Q: Does EPA agree that the Point of Determination (POD) for the predominant use ratio (e.g., 90 percent/10 percent) which, according to 40 CFR 63.4281(e), would determine whether part 63, subpart OOOO (''Fabric NESHAP'') or subpart JJJJ (''Paper and Other Web Coating NESHAP, POWC NESHAP'') would apply, can be located at the entry point to the common control device for the Cytec Engineered Materials Inc. facility in Havre de Grace, Maryland?

A: No. EPA does not approve Cytec's request to consider the entry point to the common control device for the four coaters/dryers as a POD for purposes of establishing the MACT subpart OOOO predominant use ratio. 40 CFR 63.4281(e) states that ''any web coating line must comply with the subpart of this part that applies to the predominant use activity conducted at the affected

source.'' This indicates that a predominant use determination under the Fabric NESHAP can be made only with respect to a single coating line, not groups of coating lines. Therefore, Cytec, Inc. must assure ensure that its three coaters/dryers subject to POWC NESHAP comply with all of the POWC NESHAP's requirements, and that its one coater/dryer subject to the Fabric NESHAP complies with all of the Fabric NESHAP's requirements.

Abstract for [M060021]

Q: Does EPA approve, under 40 CFR part 63, subpart NNNNN, the monitoring of alternative operating limit parameters (scrubber base temperature and indicators of proper liquid flow) at the DuPont Washington Works facility in Washington, West Virginia?

A: Yes. EPA finds that DuPont has demonstrated that the scrubber monitoring specified under MACT subpart NNNNN is not appropriate for its process, and that the proposed alternative monitoring meets the requirements for approval in 40 CFR 63.9025(b) and 63.8(f).

Abstract for [M060022]

Q: Does EPA approve monitoring the secondary power from the electrostatic precipitator (ESP) as an alternative monitoring parameter to monitoring pressure drop on the scrubber, under 40 CFR part 63, subpart S, for a dual-control device consisting of an ESP followed by a packed tower scrubber at the International Paper Georgetown Mill, in Georgetown, South Carolina?

A: No. EPA does not approve monitoring secondary power from the ESP in-lieu-of monitoring the pressure drop on the scrubber because there is no demonstration to show that the negative electric charge on particles exiting the ESP will have anything more than negligible effects on the efficiency of the scrubber.

Abstract for [M060023]

Q: Does EPA approve that emission reductions achieved as a result of upgrades to a wastewater lagoon at the Buckeye facility in Perry, Florida, are creditable to demonstrate compliance with the condensate collection requirements in 40 CFR 63.446(c) of the Pulp and Paper MACT, 40 CFR part 63, subpart S?

A: EPA determines that the reductions may be creditable provided that Buckeye can provide the necessary data to satisfactorily demonstrate continuous compliance with the lb/ODTP compliance option for condensate collection and treatment, beginning at the initial compliance date, as described in EPA's response. The data would be generally considered creditable if it demonstrates that such emission reductions resulted from efficiency improvements to a control device that can be verified; are clearly from additional improvements in technology; and are not otherwise needed to meet regulatory requirements.

Abstract for [M060024]

Q: Does EPA find that the White Liquor Oxidation (WLO_x) system portion of a pulp and paper mill's oxygen delignification system subject to the requirements of the Pulp and Paper MACT, 40 CFR part 63, subpart S, at the Palatka Mill in Palatka, Florida?

A: No. EPA finds that the WLO_x system is not named as one of the pieces of process equipment in the regulatory definition of an oxygen delignification system and therefore is not subject to the MACT subpart S requirements in 40 CFR 63.443.

Abstract for [M060025]

Q: Does EPA find that mold and core making lines that use the ''Expandable Pattern Casting'' (or ''Lost Foam'') process at the Mueller Company's facility in Albertville, Alabama subject to the MACT requirements for Iron and Steel Foundries under 40 CFR part 63, subpart EEEEE?

A: Yes. The pouring, cooling, and shakeout operations of Mueller's Expendable Pattern Casting process are not significantly different than a conventional sand casting operation, and therefore should be considered as such for 40 CFR part 63, subpart EEEEE purposes. In addition, Mueller's pouring operations would be classified as pouring stations, not pouring areas. The main distinctions between a pouring station and a pouring area are that pouring stations are automated and that the pouring can reasonably be assumed to occur at distinct points.

Abstract for [M060026]

Q: Does EPA approve that emission reductions resulting from improvements to the pulp washer line fans, under 40 CFR part 63, subpart S, creditable for the Pulp & Paper MACT Clean Condensate Alternative (CCA) at the Smurfit-Stone facility in Fernandina Beach, Florida?

A: No. Generally, a mill can make efficiency improvements to a control device and then use the incremental improvements for CCA credit if the emission changes are verifiable and clearly from additional improvements in technology. The modifications described for this facility are not additional improvements in technology, but rather equipment upgrades to meet proper operating levels and result in HAP reductions from emissions that should never have been emitted.

Abstract for [Z060001]

Q: Does EPA approve an alternative monitoring plan for pressure/vacuum relief valves, under 40 CFR part 61, subpart FF, for the wastewater treatment plant tanks and oil-water separator at the Flint Hills Resources refinery in Saint Paul, Minnesota?

A: Yes. EPA concludes that the pressure/vacuum relief valves function as both pressure relief devices and dilution air openings. Further, the Agency recognizes that the requirements of 40 CFR 61.343(a)(1)(i)(B) and (C) do not account for this dichotomy, and it approves the proposed alternative monitoring plan under NESHAP subpart FF to resolve the conflicting requirements.

Abstract for [0600001]

Q: Does EPA approve an alternative monitoring plan altering the required daily monitoring, under 40 CFR part 60, subpart Dc, 40 CFR 60.48c(g), to a monthly monitoring schedule for natural gas fuel usage at the Ypsilanti Community Utilities Authority facility in Ypsilanti, Michigan?

A: Yes. EPA conditionally approves the alternative monitoring request to record natural gas usage for two new boilers on a monthly, rather than a daily basis. EPA finds that compliance with NSPS Subpart Dc can be adequately verified by keeping fuel usage records on a monthly basis if only natural gas is burned. The facility must also specify how the total fuel usage will be apportioned to individual boilers.

Abstract for [0600002]

Q: Does EPA approve an exemption from the Total Reduced Sulfur (TRS) standard in NSPS subpart BB, 40 CFR 60.283(a)(1)(iv), for the brown stock washer (BSW) system at the Buckeye Florida Limited Partnership facility in Perry, Florida?

A: Yes. Based on cost information supplied and recent cost estimates from other facilities, EPA finds that the BSW system qualifies for a temporary exemption under NSPS subpart BB. Should future changes make the control of TRS emissions from the Number 2 Mill BSW system cost effective, this exemption will no longer apply, and it will be necessary for Buckeye to control TRS emissions.

Abstract for [0600003]

Q: Does EPA approve the continuous monitoring of fan amps and the total

scrubbing liquid flow rate as an alternative to the scrubber monitoring parameters required by 40 CFR part 60, subpart BB, and 40 CFR part 63, subpart MM, for a smelt dissolving tank dynamic scrubber at the Weyerhaeuser Company facility in Bennettsville, South Carolina?

A: Yes. EPA approves these alternative monitoring parameters. The dynamic scrubber operates near atmospheric pressure and thus the proposed monitoring, in combination with monitoring of scrubber liquid flow rate, is an acceptable alternative to the NESHAP subpart MM requirement to monitor the pressure loss of the gas stream and the scrubbing liquid flow rate. In addition, EPA approves the request to monitor scrubbing liquid flow rate as an alternative to the NSPS subpart BB requirement to monitor scrubber liquid supply pressure.

Abstract for [0600004]

Q: Does EPA exempt facilities which use very low sulfur oil from the requirement to obtain certifications of sulfur content for each shipment of fuel oil delivered, under 40 CFR part 60, subparts Db and Dc, and permit them to provide only receipts indicating the type of fuel delivered?

A: No. EPA does not exempt facilities from the requirement to obtain certifications of sulfur content for shipments of fuel oil. The requirements of NSPS subparts Db and Dc regarding certification of fuel sulfur content must be met.

Abstract for [0600006]

Q: Does EPA approve a request for an exemption from the requirement in NSPS subpart J, 40 CFR 60.105(a)(2)(ii), to install, calibrate, operate, and maintain a carbon monoxide continuous emission monitor with a 1,000-ppmv span gas for a fluid catalytic cracking unit at the Flint Hills Resources facility in Saint Paul, Minnesota?

A: Yes. EPA finds that the facility qualifies for the exemption set forth in 40 CFR 60.105(a)(2)(ii) because the company has met the following requirements: calibrated a CO CEM with a span value of 100 parts per million by volume, dry basis (PPMVD); demonstrated that the relative accuracy is 10 percent of the average CO emissions or 5 PPM CO, whichever is greater; and demonstrated that the average CO emissions during a 30-day period are less than 50 PPMVD with the CO CEM. The facility still must comply with a state air permit requirement to install and maintain a CO CEM with a 100 PPMV span.

Abstract for [0600007]

Q: Does EPA approve an alternative monitoring plan for a zinc thermal oxidizer flare used during periods of maintenance or malfunction of a vapor recovery unit at a gasoline loading rack, under 40 CFR part 60, subpart J, at the Flint Hills Resources facility in Saint Paul, Minnesota?

A: Yes. EPA finds that the company has demonstrated that this refinery fuel gas meets the criteria in EPA's guidance for refinery fuel gas stream alternative monitoring plans and approves the alternative monitoring plan.

Abstract for [0600008]

Q1: Does EPA find that the alterations made in 1985 to electric arc furnace (EAF) number 2 at Oregon Steel Mill's facility in Portland, Oregon, meet the definition of ''modification'' under 40 CFR part 60, subpart AAa?

A1: No. Based on the information provided, EPA finds that the alterations made in 1985 to EAF number 2 do not constitute a modification under NSPS subpart AAa. Although the alterations increased the production rate of steel from 25 tons per hour to 50 tons per hour, they did not increase particulate matter emissions.

Q2: Does EPA find that the alterations meet the definition of ''reconstruction'' under 40 CFR part 60, subpart AAa?

A2: No. Based on the information provided, EPA finds that the changes made in 1985 to EAF number 2 do not constitute a reconstruction under NSPS subpart AAa. Reconstruction is based on a comparison of the fixed capital cost of the new components and a comparable entirely new facility, that is, a new eccentric bottom tap EAF capable of producing 50 tons of steel per hour. The EAF consists of the furnace shell and roof and the transformer. The cost of the 1985 alterations was 31.8 percent of the cost of the comparable entirely new facility, which is less than the 50 percent reconstruction cost threshold.

Q3: Does EPA find that the other changes made to the EAF number that resulted in an increase on the potential emission rate was accomplished with a ''capital expenditure'' as defined under 40 CFR part 60, subpart AAa?

A3: No. EPA finds that the changes made in 1987, 1990, 1991, 1993, 1997 and 1998 to EAF number 2 did not require capital expenditures as defined in 40 CFR 60.2. The annual asset guideline repair allowance percentage for an EAF is 18 percent. The changes that enabled increases in production rate included the purchase of a transformer and the installation of oxy-fuel burners, a post combustion system, aluminum current arms, and other changes, all of which did not cost more than 18 percent of the basis for an EAF.

Abstract for [0600009]

Q: Does EPA find that the gas processing system at the Bethel Landfill in Hampton, Virginia, qualifies as treatment under NSPS subpart WWW, pursuant to 40 CFR 60.752(b)(2)(iii)(C)?

A: Yes. EPA considers compression, filtration, and moisture removal from a landfill gas for use in eight reciprocating internal combustion engines to be treatment pursuant to 40 CFR 60.752(b)(2)(iii)(C). Because the engines will be exempt from monitoring, they do not have to be included in the Startup, Shutdown, and Malfunction Plan (SSM Plan) required by 40 CFR part 63, subpart AAAA. However, the treatment system supplying gas to the turbines will have to be included in the SSM Plan.

Abstract for [0600010]

Q: Does EPA consider the gas processing system that includes the three turbines at the Grand Central Landfill in Pen Argyl, Pennsylvania, to be treatment under 40 CFR part 60, subpart WWW, pursuant to 40 CFR 60.752(b)(2)(iii)(C)?

A: Yes. EPA considers compression, filtration, and moisture removal from a landfill gas for use in an energy recovery device to be treatment under NSPS subpart WWW, pursuant to 40 CFR 60.752(b)(2)(iii)(C). Because the engines will be exempt from monitoring, they do not have to be included in the Startup, Shutdown, and Malfunction Plan (SSM Plan) required by 40 CFR part 63, subpart AAAA. However, the treatment system supplying gas to the turbines will have to be included in the SSM Plan. Also, Pennsylvania may include state enforceable requirements in any permit it issues, based on its review of state laws and regulations.

Abstract for [0600011]

Q: Does EPA consider the gas processing system at Keystone Potato Products' facility in Hegins, Pennsylvania, to be treatment under 40 CFR part 60, subpart WWW?

A: Yes. EPA considers compression, filtration, and moisture removal from a landfill gas for use in an energy recovery device to be treatment under NSPS subpart WWW, pursuant to 40 CFR 60.752(b)(2)(iii)(C). Because the engines will be exempt from monitoring, they do not have to be included in the Startup, Shutdown, and Malfunction Plan (SSM Plan) required by 40 CFR Part 63, subpart AAAA. However, the treatment system supplying gas to the turbines

will have to be included in the SSM Plan. Also, Pennsylvania may include state enforceable requirements in any permit it issues, based on its review of state laws and regulations.

Abstract for [0600012]

Q: Does EPA consider the gas processing system at the Lake View Landfill in Philadelphia, Pennsylvania, to be treatment under 40 CFR part 60, subpart WWW?

A: Yes. EPA considers compression, filtration, and moisture removal from a landfill gas for use in an energy recovery device to be treatment under NSPS subpart WWW, pursuant to 40 CFR 60.752(b)(2)(iii)(C). Because the engines will be exempt from monitoring, they do not have to be included in the Startup, Shutdown, and Malfunction Plan (SSM Plan) required by 40 CFR Part 63, subpart AAAA. However, the treatment system supplying gas to the turbines will have to be included in the SSM Plan.

Abstract for [0600013]

Q: Does EPA consider gas processing system to be treatment as specified under 40 CFR part 60, subpart WWW at the Modern Landfill facility in York, Pennsylvania?

A: Yes. EPA considers compression, filtration, and moisture removal from a landfill gas for use in an energy recovery device to be treatment under NSPS subpart WWW, pursuant to 40 CFR 60.752(b)(2)(iii)(C). Because the engines will be exempt from monitoring, they do not have to be included in the Startup, Shutdown, and Malfunction Plan (SSM Plan) required by 40 CFR Part 63, subpart AAAA. However, the treatment system supplying gas to the turbines will have to be included in the SSM Plan.

Abstract for [0600014]

Q: Does EPA approve the use of post-combustion chamber temperature monitors as an alternative to combustion chamber temperature monitors in turbines at the Pottstown Landfill facility in Pottstown, Pennsylvania, required by 40 CFR part 60, subpart WWW?

A: Yes. EPA has determined that the location of the temperature monitors on these turbines is acceptable as an alternative to being located in the combustion zone of the turbines.

Abstract for [0600015]

Q: Does 40 CFR part 60, subpart VV, apply to liquid urea manufacturing operations?

A: EPA has not provided a site-specific determination in this case because the source has not been identified. Additionally, EPA is not prepared to issue a blanket exemption for liquid urea manufacturing operations as none was issued during the rulemaking process. In addition, a liquid urea facility must look to the same criteria in 40 CFR 60.480(a) and (b) as other manufacturers of listed chemicals to determine whether it is subject to NSPS subpart VV. The facility must then consider whether it might be exempted under 40 CFR 60.480(d).

Abstract for [0600016]

Q: Will plant changes to increase production capacity result in a modification of the C–1 Nitric Acid Plant located at the PCS Nitrogen Fertilizer facility in Augusta, Georgia? Is the use of pre-change and post-change emission testing the appropriate means of determining whether the change results in an increase in the NO_X emission rate that will trigger the finding of a modification?

A: Yes. EPA finds that the plant changes do constitute a modification under the NSPS, and the unit would become subject to NSPS subpart G. EPA also finds that the manner in which the Masar emission control system has been operated in the past and its improper maintenance makes it impossible to establish rational pre-change test conditions for purposes of determining whether the plant changes will cause an increase in NO_X emission rate. In this case, emission factors are the most appropriate method to determine if an emission increase occurs, and the appropriate factors show that the increase in nitric acid production capacity will result in an emission increase. Thus, the plan will be subject to NSPS subpart G requirements following the proposed production rate increase.

Abstract for [0600017]

Q: Does 40 CFR part 60, subpart UUU, apply to a tile dryer at the Florim USA facility in Clarksville, Tennessee, that dries formed tiles by convection?

A: No. EPA finds that the tile dryer operates in a manner that is typical of tunnel dryers, which are exempt from NSPS subpart UUU.

Abstract for [0600018]

Q: Does 40 CFR part 60, subpart SS, apply to surface coating operations at the Nestaway facility in McKenzie, Tennessee, which fabricates and coats wire racks that are sold for use in new dishwashers of various manufacturers and as aftermarket replacements?

A: No. EPA finds that because the facility is not part of a large appliance assembly plant, NSPS subpart SS does not apply to its surface coating operation.

Abstract for [0600019]

Q: What requirements under 40 CFR part 60, subpart KKKK, would apply to a simple cycle combustion turbine to be operated at the Stock Island Power Plant in Key West, Florida, since the Florida Municipal Power Agency and GE Packaged Power entered into a contract for the fabrication and construction of the turbine on February 18, 2005, the final date by which a unit must have commenced construction to be treated as an existing unit not subject to NSPS subpart KKKK?

A: EPA finds that additional documentation must be submitted to make a determination. Without adequate documentation that the February 18, 2005 contract for the fabrication and construction of the turbine will result in a continuous program of construction, the combustion turbine in question would be considered subject to NSPS subpart KKKK requirements for new affected facilities. Refer to ADI determination 0600021.

Abstract for [0600020]

Q: Does EPA approve an exemption from opacity monitoring under 40 CFR part 60, subpart UUU, for a flash dryer that uses baghouses to control emissions as it dries product at the DuPont DeLisle titanium dioxide production facility in Pass Christian, Mississippi?

A: Yes. EPA finds that because the dryer has a particulate matter emission rate of less than 11 tons/year, an exemption from the opacity monitoring requirement of NSPS subpart UUU is appropriate.

Abstract for [0600021]

Q: What requirements under 40 CFR part 60, subpart KKKK, would apply to a simple cycle combustion turbine to be operated at the Stock Island Power Plant in Key West, Florida, since the Florida Municipal Power Agency and GE Packaged Power entered into a contract for the fabrication and construction of the turbine on February 18, 2005, the final date by which a unit must have commenced construction to be treated as an existing unit not subject to NSPS subpart KKKK. The facility has provided follow-up information in response to EPA's request for more information. Refer to ADI determination 0600019.

A: Based on the information submitted, EPA concludes that the combustion turbine, construction of which commenced on February 18,

2005, will not be subject to NSPS subpart KKKK, provided that a continuous program of construction is maintained and construction is completed within a reasonable time.

Abstract for [0600022]

Q: Does EPA allow the owners or operators of certain affected facilities under 40 CFR part 60, subpart Dc to submit reports annually instead of each six-month period, as required by 40 CFR 60.48(c)(j), if a facility is not required to obtain a Title V permit?

A: No. EPA finds that the reporting frequency in NSPS subpart Dc is intended to apply to owners and operators of affected facilities regardless of whether they are required to obtain a Title V permit.

Abstract for [0600023]

Q: Does 40 CFR part 60, subpart OOO, apply to air classifiers at nonmetallic mineral processing plants?

A: EPA finds that air classifiers are regulated by NSPS subpart OOO if they are part of a grinding mill. A grinding mill is the only affected facility under NSPS subpart OOO that includes air classifiers. If air classifiers are not part of a grinding mill, then they are not regulated by the standard since these are not identified as a separate category in the rule.

Abstract for [0600024]

Q: Does EPA find that 40 CFR part 60, subpart UUU, applies to the Line 2 ore dryer and product dryer at the DuPont DeLisle Plant in Pass Christian, Mississippi, where the facility uses a chlorination-oxidation process to manufacture titanium dioxide pigment?

A: Yes. EPA finds that although the chlorination-oxidation process is exempt from NSPS subpart UUU, the ore dryer and product dryer at the DuPont plant are not part of the chlorination-oxidation process. Thus, the dryers are subject to NSPS subpart UUU.

Abstract for [0600025]

Q: Does EPA find that the requirements of the 25 Pennsylvania (PA) Code Chapter 139 and the PA Department of Environmental Protection (PADEP) Continuous Source Monitoring Manual can be applied in lieu of the requirements in 40 CFR part 60, subparts A and D, and 40 CFR part 60.13, for sulfur dioxide (SO_2) emissions for two power boilers at Weyerhaeuser's Johnsonburg Mill in Johnsonburg, Pennsylvania?

A: Yes. EPA finds that the requirements of 25 PA Code Chapter 139 and PADEP's Continuous Source Monitoring Manual can be applied in lieu of corresponding NSPS requirements in CFR part 60, subparts A and D and 40 CFR part 60.13, provided that SO_2 emissions from the two power boilers remain less than 0.20 lbs/mmBtu and provided that, for validating hourly averages, the source computes one hour averages from 6 or more data points equally spaced over the one-hour period.

Abstract for [0600026]

Q: Does EPA approve EPA Method 9 visible emissions observations as an alternative to installing and certifying a continuous opacity monitoring system (COMS) when oil is burned in a boiler subject to 40 CFR part 60, subpart Dc, at the Penreco plant in Karns City, Pennsylvania?

A: Yes. EPA finds that the alternative opacity monitoring can be performed in lieu of installing and certifying a COMS. However, specific procedures outlined in EPA's response must be followed to ensure compliance with this approval under NSPS subpart Dc. The procedures are consistent with those that EPA has approved for other Subpart Dc boilers that burn gas as a primary fuel and that have an annual capacity factor of 10 percent or less for oil when used as a backup fuel.

Abstract for [0600027]

Q: Do the changes at the glass melting furnace, Furnace 52, cause an emissions increase at the Flat River Glass facility in Park Hills, Missouri, and if so, was the increase accomplished through a capital expenditure such that it would be considered a modification pursuant to 40 CFR part 60, subparts A and CC? Refer to ADI Control No. 0600028.

A: Yes. EPA finds that the changes at the furnace constitute a capital expenditure and therefore, the furnace has been modified for purposes of NSPS subparts A and CC. This determination provides further detail on the equipment considered in the calculations, the estimated cost of the changes, and the results of the calculation that show a capital expenditure.

Abstract for [0600028]

Q1: Do the physical or operational changes to Furnace 52 at the Flat River Glass facility in Park Hills, Missouri, result in an emissions increase pursuant to 40 CFR part 60, subparts A and C? Refer to ADI determination 0600027.

A1: Yes. Based on evaluation of the AP–42 factors, historical test data, and 40 CFR part 60, Appendix C calculations, EPA has determined that Furnace 52 has been modified since a kilogram per hour emission increase did occur as a result of the change, and that such modification was accomplished with a capital expenditure.

Q2: Was the emissions increase accomplished through a capital expenditure pursuant to 40 CFR 60.14(e) at the Flat River Glass facility in Park Hills, Missouri?

A2: Yes. EPA finds that there was a capital expenditure made for purposes of NSPS subpart CC. Based on the information submitted, EPA has determined that the cost of the changes made to the furnace exceeded 12 percent of the facility's basis, the threshold for a capital expenditure. Because the company did not include any cost data for the initial installation of the glass furnace, the existing facility's basis was calculated by using the current cost of a new glass furnace and back-calculating the cost to the year of installation.

Abstract for [0600029]

Q: Does EPA find that a source's intent in incurring costs of component replacement as a result of SIP control requirements should be a factor in determining whether a source has exceeded the 50 percent cost threshold of the NSPS reconstruction provisions under 40 CFR part 60, subpart A?

A: EPA finds that replacement costs may not be disregarded based on the owner's intent in incurring them. Creating an intent-based exemption for owners whose SIP-related expenditures pass the 50 percent threshold in Section 60.15 would be inconsistent with Section 111. However, EPA could conclude in the future that only certain facilities should be considered new once the 50 percent threshold for reconstruction is surpassed. Alternatively, EPA could determine that it is appropriate to exempt sources in individual cases or to exempt identifiable groups of sources where NSPS compliance is not ''technologically or economically feasible,'' which is consistent with section 111 of the Clean Air Act.

Abstract for [Z060003] and [M060035]

Q: Does EPA find that benzene emissions that occur from heat exchanger leaks at a facility, located in Texas and represented by Baker Botts, are to be included in the calculation of the Total Annual Benzene (TAB) quantity from facility waste water under the NESHAP for Benzene Waste Operations, 40 CFR part 61, subpart FF?

A: Yes. EPA finds that neither benzene emissions occurring from non-contact heat exchanger leaks into cooling tower water nor benzene

quantities from ''contact heat exchangers'' qualify for the exemption or exclusion from the required benzene calculation (TAB) under the NESHAP for Benzene Waste Operations, 40 CFR part 61, subpart FF. Therefore, waste in the form of gases or vapors that is emitted from process fluids is required to be part of the calculation of the total annual benzene quantity in facility waste generation. This determination is based on the fact that the benzene emissions are directly generated by the respective process, and are neither the result of leakage nor of process offgas.

Abstract for [0600082]

Q: Does EPA approve a request for an alternative monitoring plan for a hydrogen production facility to allow grab sampling of refinery fuel gas combusted in the two reformer furnaces on a staggered schedule, as opposed to installing a continuous emissions monitoring system (CEMS), under 40 CFR part 60, subpart J, at the Air Products and Chemicals hydrogen production facility at the Exxon Mobil refinery in Joliet, Illinois?

A: Yes. EPA conditionally approves the request for an alternative monitoring plan under NSPS subpart J, provided the facility meets the conditions and terms of approval specified in EPA's response. This AMP approval is consistent with the EPA guidance entitled ''Alternative Monitoring Plan for NSPS Subpart J Refinery Fuel Gas: Conditions for Approval of the Alternative Monitoring Plan for Miscellaneous Refinery Fuel Gas Streams.''

Dated: November 22, 2006.

Lisa C. Lund,

Acting Director, Office of Compliance.

[FR Doc. E6–20440 Filed 12–1–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 2, 2007.

ADDRESSES: You may submit comments, identified by FR 4004 (OMB No. 7100–0112), by any of the following methods:

- Agency Web Site: *http://www.federalreserve.gov*. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E–mail: *regs.comments@federalreserve.gov*. Include the OMB control number in the subject line of the message.
- FAX: 202–452–3819 or 202–452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission, supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Michelle Long, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

Report title: Written Security Program for State Member Banks

Agency form number: FR 4004

OMB control number: 7100–0112

Frequency: On occasion

Reporters: State member banks

Annual reporting hours: 35 hours

Estimated average hours per response: 0.5 hours

Number of respondents: 70

General description of report: This recordkeeping requirement is mandatory pursuant to section 3 of the Bank Protection Act [12 U.S.C. § 1882(a)] and Regulation H [12 CFR § 208.61]. Because written security programs are maintained at state member banks, no issue of confidentiality under the Freedom of Information Act normally arises. However, copies of such documents included in examination work papers would, in such form, be confidential pursuant to exemption 8 of the Freedom of Information Act [5 U.S.C. § 552(b)(8)].

Abstract: Each state member bank must develop and implement a written security program and maintain it in the

bank's records. This program should include a requirement to install security devices and should establish procedures that satisfy minimum standards in the regulation, with the security officer determining the need for additional security devices and procedures based on the location of the banking office. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Board of Governors of the Federal Reserve System, November 29, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–20424 Filed 12–1–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 19, 2006.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Charles Patrick Larsh, Yucaipa, California; Jeffrey Scott Larsh, Indianapolis, Indiana; Lorene Stuart Larsh, Oklahoma City, Oklahoma; Steven Stuart Larsh, Libby, Montana; Mary Katherine McCarson, Kannapolis, North Carolina; Krista Marie Gomez, Arlington, Virginia; Thelma Stuart Stevens, Billings, Montana; Douglas Grant Stuart, Wagoner, Oklahoma; Douglas Grant Stuart, Jr., Austin, Texas; Elizabeth Allison Stuart, Silver Spring, Maryland; Ellen Rothermel Stuart, Dallas, Texas; Emily Anne Stuart, Columbia, Missouri; John Arthur Stuart, Jr., M.D., Dallas, Texas; John Arthur Stuart, III, Chandler, Arizona; Katherine Allison Stuart, West Lafayette, Indiana; Margaret Elizabeth Stuart, Chicago, Illinois; Monica Ann Stuart, Wagoner, Oklahoma; Sarah Rothermel Stuart, Nashville, Tennessee; as a group acting in concert; and Ellen Rothermel Stuart and John Arthur Stuart, Jr., M.D., both of Dallas, Texas; as individuals, to acquire voting shares of Pawhuska Financial Corp., and thereby indirectly acquire voting shares of First National Bank in Pawhuska, both in Pawhuska, Oklahoma.

Board of Governors of the Federal Reserve System, November 29, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–20443 Filed 12–1–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center 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 29, 2006.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. LINCO Bancshares Inc., St. Louis, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Centennial Bancshares, Inc., Elsberry, Missouri, and thereby indirectly acquire Bank of Lincoln County, Elsberry, Missouri.

Board of Governors of the Federal Reserve System, November 29, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–20442 Filed 12–1–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 19, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. Iberiabank Corporation, La Fayette, Louisiana; to acquire 100 percent of the voting shares of Southern Mortgage Corporation, Tulsa, Oklahoma, and thereby engage in making, acquiring, brokering, or servicing loans or other extensions of credit, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, November 29, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.E6–20441 Filed 12–1–06; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Federal Travel Regulation (FTR) Maximum Per Diem Rates for Florida and Virginia

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of Per Diem Bulletin 07–02, revised continental United States (CONUS) per diem rates.

SUMMARY: The General Services Administration (GSA) has reviewed the lodging rate of a certain location in the State of Florida. Also, GSA is adding Greene County, Virginia to the County column for Charlottesville, Virginia, and will begin to receive Charlottesville's maximum per diem rate. The per diems prescribed in Bulletin 07–02 may be found at *www.gsa.gov/perdiem*.

DATES: This notice is effective December 4, 2006, and applies to travel performed on or after December 14, 2006.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Cy Greenidge, Office of Governmentwide Policy, Travel Management Policy, at (202) 219–2349. Please cite FTR Per Diem Bulletin 07–02.

SUPPLEMENTARY INFORMATION:

A. Background

After an analysis of the per diem rates established for FY 2007 (see the **Federal Register** notice at 71 FR 43772, August 2, 2006), the per diem rate is being changed in the following locations:

State of Florida

- Brevard County

State of Virginia

- Greene County

Per diem rates are published on the Internet at *www.gsa.gov/perdiem* as an FTR Per Diem Bulletin and published in the **Federal Register** on a periodic basis. This process ensures timely increases or decreases in per diem rates established by GSA for Federal employees on official travel within CONUS. Notices published periodically in the **Federal Register**, such as this one, now constitute the only notification of revisions in CONUS per diem rates to agencies.

Dated: November 22, 2006.

Russ H. Pentz,

Assistant Deputy Associate Administrator, Office of Transportation and Personal Property.

[FR Doc. E6–20407 Filed 12–01–06; 8:45 am]

BILLING CODE 6820–14–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–06AU]

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

Formative Research on Issues Related to the Use of Mass Media in African-American Women: Phase II—New—National Center for Chronic Disease Prevention and Control (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Women's health programs, including the National Breast and Cervical Cancer Early Detection Program (NBCCEDP), offer low-cost or free breast cancer screening to uninsured, low-income women. In 1991, CDC established the NBCCEDP to increase breast and cervical cancer screening among uninsured, underserved, low-income women. To date, over 1.5 million women have received services from NBCCEDP-sponsored programs, yet NBCCEDP-sponsored programs are estimated to reach only 18% of women 50 years old and older who are eligible for screening services. Why women do not participate in this screening is not well understood. A research priority for the NBCCEDP is to identify effective strategies to increase enrollment among eligible women who have never received breast or cervical cancer screening.

CDC conducted a phase I study (OMB number 0920–0652) to investigate, through a series of eight focus groups in Macon and Savannah, Georgia, the reasons why women who were eligible for NBCCEDP services did or did not participate in the program. Respondents were low-income, African American women aged 40 to 64 years. The study also investigated viable sources, messages, and channels through which to reach this population with promotional messages about breast cancer screening.

The proposed phase II data collection will build on phase I activities. Eight additional focus groups will be conducted in Macon and Savannah, Georgia, to (1) test consumer response to concepts that arose in the Phase I formative research related to breast cancer screening, and (2) test a series of radio and print health messages aimed at increasing mammography screening among low-income African American women for cultural appropriateness. Respondents will be NBCCEDP-eligible African-American women aged 40–64 years. There are no costs to the respondents other than their time. The total estimated annualized burden hours are 175.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
African American women, aged 40–64 years, GA residents.	Recruitment Screener (initial)	150	1	5/60
	Recruitment Screener (spot-check)	24	1	5/60
	Pre-discussion Information Sheet	80	1	30/60

ESTIMATED ANNUALIZED BURDEN TABLE—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
	Informed Consent and Focus Group Discussion.	80	1	90/60

Dated: November 27, 2006.

Deborah Holtzman,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–20413 Filed 12–1–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–0582]

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

Youth Media Campaign Awareness and Reaction Tracking Study—Extension (0920–0582)—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention (CDC). Specifically, the House Appropriations Language said: *The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages.* CDC coordinated the planning, implementation, and evaluation of a campaign, VERB. It's what you do., designed to encourage tweens (children aged 9 to 13 years old) to be physically active everyday. The campaign was based on principles that have been shown to enhance success, including: Designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of campaign planning and implementation; enlisting the involvement and support of parents and other influencers; tracking the campaign's effectiveness; and revising Campaign messages and strategies as needed. The campaign was implemented June 2002 through September 30, 2006.

As part of the monitoring of the VERB brand awareness and understanding of its messages, the CDC conducted a tracking study (YMC Tracking Survey). In accordance with the original OMB approval (OMB NO. 0920–0582; Exp. May 2007), the data collection was done by telephone survey on a monthly, then quarterly, basis through out the campaign, surveying 300 tweens at each data collection. The survey measured VERB awareness and understanding, various attributes of the brand (coolness, likeability) and appeal of the advertising.

All VERB advertising ended September 30, 2006. The purpose of this collection is to examine the tween audience's retention of the brand and its meaning 1-year post campaign. Results will inform future planners of health marketing and communication campaigns on how a campaign's awareness and understanding diminish over time. There is no cost to the respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Parent	YMC Tracking Survey Screening	600	1	2/60	20
Tween	YMC Tracking Survey	600	1	15/60	150
Total					170

Dated:November 28, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–20417 Filed 12–1–06; 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 a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an existing SOR, ''Medicare Beneficiary Database (MBD),'' System No. 09–70–0536, established at 66 **Federal Register** (FR) 63392 (December 6, 2001), and modified at 71 FR 11420 (March 7, 2006). The Medicare Prescription Drug, Improvement, and Modernization Act (MMA) authorizes Medicare payment to Part D sponsors (including Medicare Advantage prescription drug plan sponsors) that contract with CMS to provide qualified Part D prescription drug coverage as described in 42 CFR Parts 417, 422 and 423. The MBD will include data necessary to process certain activities associated with the new Part D benefit including, but not limited to, the following activities: (1) Determination of the status of Medicare beneficiaries who are eligible for the Low Income Subsidy Program (LIS) and are deemed to receive certain drug benefits; and (2) auto-assignment/auto-enrollment of beneficiaries as required by the MMA, and regulation, to include all LIS and deemed individuals who are not voluntarily enrolled in a drug plan, will automatically be assigned to a Prescription Drug Plan (PDP) or Medicare Advantage (MA) Prescription Drug Plan (MA–PD).

We propose to broaden the scope of the disclosure provisions of this system by adding a new routine use to permit the release of Part D enrollment data maintained in the MBD to support Patient Assistance Programs (PAP) and other groups providing pharmaceutical assistance to the Medicare beneficiary. The new routine use will be published as routine use number 8. Specifically, the new routine use will facilitate the sharing of information between PAPs and Part D plans to meet the MMA provisions for drug utilization reviews, drug medication therapy management, and quality of care that can only be addressed through the cooperation between the PAP and the Part D Plan. Information may be released to these organizations upon a specific request, and only if the requester meets the following requirements. They must (1) Provide an attestation or other qualifying information that they are providing pharmaceutical assistance to Medicare beneficiaries; (2) submit a finder file identifying Medicare beneficiaries receiving pharmaceutical assistance and/or services; (3) safeguard the confidentiality of any CMS data received and prevent unauthorized access; and, (4) complete a written statement attesting to the information recipient's understanding of and willingness to abide by CMS provisions regarding Privacy protections and information security. Recipients of CMS data must complete the Coordination of Benefits PAP Data Sharing Agreement prior to the release of CMS data. The finder file submitted by the PAP must provide the following data elements: (a) First initial of the first name, (b) first 6 letters of the last name, (c) social security number or health insurance claims number, (d) date of birth, and (e) sex. Part D data maintained in the MBD that will be released to a PAP or a group providing pharmaceutical assistance will consist of the verification of Medicare status and the identification of the current Part D Plan selected by the Medicare beneficiary.

We will delete published routine use number 8 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 published routine uses number 10 and 11 authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating ''waste'' which shall refer to specific beneficiary/recipient practices that result in unnecessary cost to all federally-funded health benefit programs.

The primary purpose of this modified system is to provide CMS with a singular, authoritative, database of comprehensive enrollment data on individuals in the Medicare program to support ongoing and expanded program administration, service delivery modalities, and payment coverage options. This collection will contain a complete ''beneficiary insurance profile'' that reflects the individual's Medicare health insurance coverage and Medicare health plan and demonstration enrollment. Information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant or a CMS grantee; (2) assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) support providers and suppliers of services for administration of Title XVIII; (4) assist third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs; (5) support Quality Improvement Organizations (QIO); (6) assist other insurers for processing individual insurance claims; (7) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (8) support Patient Assistance Programs and other groups providing pharmaceutical assistance or services to Medicare beneficiaries; (9) support litigation involving the agency; and (10) 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 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 SOR 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 11/28/2006. To ensure that all parties have adequate time in which to comment, the new system will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and the Congress, whichever is later. We may defer implementation of this system or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

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: Danielle Moon, Director, Division of Enrollment and Eligibility Policy, Medicare Enrollment and Appeals Group, Center for Beneficiary Choices, CMS, Mail Stop S1–05–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Her telephone number is 410–786–5724, and via e-mail at *Danielle.Moon@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under §§ 226, 226A, 1811, 1818, 1818A, 1831, 1833(a)(1)(A), 1836, 1837, 1838, 1843, 1866, 1876, 1881, and 1902(a)(6) of the Act and Title 42 United States Code (U.S.C.) 426, 426–1, 1395c, 1395cc, 1395i–2, 1395i–2a, 1395j, 13951, 1395mm, 1395o, 1395p, 1395q, 1395rr, 1395v, 1396a, and Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173) (Regulations at 42 CFR Parts 403, 411, 417 and 423).

B. Collection and Maintenance of Data in the System

This system contains information on individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under Title XVIII of the Social Security Act (the Act) or under provisions of the Railroad Retirement Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less that 24 months to disability benefits under Title II of the Act or under the Railroad Retirement Act; individuals who have been, or currently are, entitled to such benefits because they have End-Stage Renal Disease (ESRD); individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month or entitlement to such benefits and those populations that are dually eligible for both Medicare and Medicaid (Title XIX of the Act).

Information maintained in the system include, but are not limited to: Standard data for identification such as health insurance claim number, social security number, gender, race/ethnicity, date of birth, geographic location, Medicare enrollment and entitlement information, MSP data necessary for appropriate Medicare claim payment, hospice election, MA plan elections and enrollment, End Stage Renal Disease (ESRD) entitlement, historic and current listing of residences, and Medicare eligibility and Managed Care institutional status.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

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 MBD information that can be associated with an individual 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.

We will only collect the minimum personal data necessary to achieve the purpose of MBD. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to provide CMS with a singular, authoritative, database of comprehensive data on individuals in the Medicare program to support ongoing and expanded program administration, service delivery modalities, and payment coverage options.

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. Modified Routine Use Disclosures of Data in the System

A. The Privacy Act allows 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 compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are modifying/altering the routine use disclosures of information maintained in the system so that the routine uses include the following:

1. To support agency contractors, consultants or grantees who have been engaged by the agency to assist in the performance of a service related to this system and who need to have access to the records in order to perform the activity.

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 CMS function relating to purposes for this system.

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 contractors, consultants or grantees 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 to:

a. Contribute to the accuracy of CMS' 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 the State.

Other Federal or State agencies in their administration of a Federal health program may require MBD information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

The Internal Revenue Service may require MBD 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).

In addition, other State agencies in their administration of a Federal health program may require MBD information for the purpose of determining, evaluating and/or assessing cost effectiveness, and/or the quality of health care services provided in the State.

The Railroad Retirement Board requires MBD information to administer provisions of the Railroad Retirement Act and Social Security Act relating to railroad employment and/or the administration of the Medicare program.

The Social Security Administration requires MBD data to enable them to assist in the implementation and maintenance of the Medicare program.

Disclosure under this routine use shall be used by State Medicaid agencies pursuant to agreements with HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the administration of the Medicaid program. Data will be released to the State only on those individuals who are patients under the services of a Medicaid program within the State who are residents of that State.

3. To assist providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Act.

Providers and suppliers of services require MBD information in order to establish the validity of evidence or to verify the accuracy of information presented by the individual, as it concerns the individual's entitlement to benefits under the Medicare program, including proper reimbursement for services provided.

4. To assist third party contact in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and;

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: the individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

Third parties contacts require MBD information in order to provide support for the individual's entitlement to benefits under the Medicare program; to establish the validity of evidence or to verify the accuracy of information presented by the individual, and assist in the monitoring of Medicare claims information of beneficiaries, including proper reimbursement of services provided.

5. 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. As established by the Part D Program, QIOs will conduct reviews of prescription drug events data, or in connection with studies or other review activities conducted pursuant to Part D of Title XVIII of the Act.

QIOs will work to implement quality improvement programs, provide consultation to CMS, MA–PD, PDPs, and State agencies, to assist CMS in prescription drug event assessments, and prepare summary information for release to CMS.

QIOs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to State agencies. QIOs will assist State agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

6. To other insurers, underwriters, third party administrators (TPAs), self-insurers, group health plans, employers, health maintenance organizations, health and welfare benefit funds, Federal agencies, a State or local government or political subdivision of either (when the organization has assumed the role of an insurer, underwriter, or third party administrator, or in the case of a State that assumes the liabilities of an insolvent insurers pool or fund), multiple-employers trusts, no-fault medical, automobile insurers, workers' compensation carriers plans, liability insurers, and other groups providing protection against medical expenses who are primary payers to Medicare in accordance with 42 U.S.C. 1395y(b), or any entity having knowledge of the occurrence of any event affecting:

a. An individual's right to any such benefit or payment, or

b. The initial or continued right to any such benefit or payment (for example, a State Medicaid Agency, State Workers' Compensation Board, or Department of Motor Vehicles) for the purpose of coordination of benefits with the Medicare program and implementation of the MSP provisions at 42 U.S.C. 1395y(b). The information CMS may disclose will be:

- Beneficiary Name
- Beneficiary Address
- Beneficiary Health Insurance Claim Number
- Beneficiary Social Security Number
- Beneficiary Gender
- Beneficiary Date of Birth
- Amount of Medicare Conditional Payment
- Provider Name and Number
- Physician Name and Number
- Supplier Name and Number
- Dates of Service

- Nature of Service
- Diagnosis

To administer the MSP provision at 42 U.S.C. 1395y(b) (2), (3), and (4) more effectively, CMS would receive (to the extent that it is available) and may disclose the following types of information from insurers, underwriters, third party administrator, self-insurers, etc.:

- Subscriber Name and Address
- Subscriber Date of Birth
- Subscriber Social Security number
- Dependent Name
- Dependent Date of Birth
- Dependent Social Security Number
- Dependent Relationship to Subscriber
- Insurer/Underwriter/TPA Name and Address
- Insurer/Underwriter/TPA Group Number
- Insurer/Underwriter/Group Name
- Prescription Drug Coverage
- Policy Number
- Effective Date of Coverage
- Employer Name, Employer Identification Number (EIN) and Address
- Employment Status
- Amounts of Payment

To administer the MSP provision at 42 U.S.C. 1395y(b)(1) more effectively for entities such as Workers' Compensation carriers or boards, liability insurers, no-fault and automobile medical policies or plans, CMS would receive (to the extent that it is available) and may disclose the following information:

- Beneficiary's Name and Address
- Beneficiary's Date of Birth
- Beneficiary's Social Security Number
- Name of Insured
- Insurer Name and Address
- Type of coverage; automobile medical, no-fault, liability payment, or workers' compensation settlement
- Insured's Policy Number
- Effective Date of Coverage
- Date of accident, injury or illness
- Amount of payment under liability, no-fault, or automobile medical policies, plans, and workers' compensation settlements
- Employer Name and Address (Workers' Compensation Only)
- Name of insured could be the driver of the car, a business, the beneficiary (*i.e.*, the name of the individual or entity which carries the insurance policy or plan)

In order to receive this information the entity must agree to the following conditions:

c. To utilize the information solely for the purpose of coordination of benefits with the Medicare program and other third party payer in accordance with Title 42 U.S.C. 1395y(b);

d. To safeguard the confidentiality of the data and to prevent unauthorized access to it; and,

e. To prohibit the use of beneficiary-specific data for the purposes other than for the coordination of benefits among third party payers and the Medicare program.

This agreement would allow the entities to use the information to determine cases where they or other third party payers have primary responsibility for payment. Examples of prohibited uses would include but are not limited to: creation of a mailing list, sale or transfer of data.

To administer the MSP provisions more effectively, CMS may receive or disclose the following types of information from or to entities including insurers, underwriters, TPAs, and self-insured plans, concerning potentially affected individuals:

- Subscriber HICN
- Dependent Name
- Funding arrangements of employer group health plans, for example, contributory or non-contributory plan, self-insured, re-insured, HMO, TPA insurance
- Claims payment information, for example, the amount paid, the date of payment, the name of the insurers or payer
- Dates of employment including termination date, if appropriate
- Number of full and/or part-time employees in the current and preceding calendar years
- Employment status of subscriber, for example, full or part time or self-employed

Other insurers, HMO, and Health Care Prepayment Plans may require MBD information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

1860D–23 and 1860D–24 of the Act require that the Secretary establish requirements for prescription drug plans (Part D plans) to ensure the effective coordination between a Part D plan and a State Pharmaceutical Assistance Program (SPAP), as well as other payers of prescription drug benefits, including enrollment file sharing. CMS, using its coordination of benefits contractor, allows this to happen by having payers that will be secondary to Part D submit their enrollment data in exchange for Part D enrollment data. The data shared is mainly enrollment information (date of enrollment into Part D, what Part D plan they are enrolled with). SPAPs, but not other payers, will also receive data indicating whether the beneficiary qualifies for a low-income subsidy to pay for drug costs.

7. To assist an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

The MBD data will provide for research or in support of evaluation projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use this data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

8. To support Patient Assistance Programs and other groups providing pharmaceutical assistance to a Medicare beneficiary. Medicare Part D enrollment information may be released to these organizations upon specific request, and then only if they meet the following requirements, they must:

a. Provide an attestation or other qualifying information that they are providing pharmaceutical assistance to Medicare beneficiaries;

b. Submit a finder file to CMS to identify Medicare beneficiaries receiving pharmaceutical assistance and/or services consisting of the following data elements:

(1) First initial of the first name,

(2) First 6 letters of the last name,

(3) Social security number or health insurance claims number,

(4) Date of birth, and

(5) Sex;

c. Safeguard the confidentiality of any data received and prevent unauthorized access to the data; and,

d. Complete a written statement attesting to the information recipient's understanding of and willingness to abide by CMS provisions regarding Privacy protections and information security. Recipients of CMS data must complete the PAP Data Sharing Agreement prior to the release of CMS data.

Part D data maintained in the MBD that will be released to PAPs or a group providing pharmaceutical assistance will consist of the verification of Medicare status and the name of the current Part D Plan selected by the Medicare beneficiary.

9. To 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, and occasionally when another party is involved in litigation and CMS' 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.

10. To a CMS contractor (including, but not necessarily 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 contractual relationship 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 and makes grants 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.

11. To 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 MBD information for the purpose of combating fraud, waste or abuse in such Federally-funded programs.

B. Additional Provisions 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 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 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 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 24, 2006.

John R. Dyer,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

System No. 09–70–0536

SYSTEM NAME:

''Medicare Beneficiary Database (MBD), HHS/CMS/CBC.''

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

The Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under

Title XVIII of the Social Security Act (the Act) or under provisions of the Railroad Retirement Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less that 24 months to disability benefits under Title II of the Act or under the Railroad Retirement Act; individuals who have been, or currently are, entitled to such benefits because they have End-Stage Renal Disease (ESRD); individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month or entitlement to such benefits and those populations that are dually eligible for both Medicare and Medicaid (Title XIX of the Act).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information maintained in the system include, but are not limited to: Standard data for identification such as health insurance claim number, social security number, gender, race/ethnicity, date of birth, geographic location, Medicare enrollment and entitlement information, MSP data necessary for appropriate Medicare claim payment, hospice election, MA plan elections and enrollment, End Stage Renal Disease (ESRD) entitlement, historic and current listing of residences, and Medicare eligibility and Managed Care institutional status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

Authority for maintenance of the system is given under §§ 226, 226A, 1811, 1818, 1818A, 1831, 1833(a)(1)(A), 1836, 1837, 1838, 1843, 1866, 1876, 1881, and 1902(a)(6) of the Act and Title 42 United States Code (U.S.C.) 426, 426–1, 1395c, 1395cc, 1395i-2, 1395i-2a, 1395j, 13951, 1395mm, 1395o, 1395p, 1395q, 1395rr, 1395v, 1396a, and Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173) (Regulations at 42 CFR Parts 403, 411, 417 and 423).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this modified system is to provide CMS with a singular, authoritative, database of comprehensive enrollment data on individuals in the Medicare program to support ongoing and expanded program administration, service delivery modalities, and payment coverage options. This collection will contain a complete ''beneficiary insurance profile'' that reflects the individual's Medicare health insurance coverage and Medicare health plan and demonstration enrollment. Information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant or a CMS grantee; (2) assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) support providers and suppliers of services for administration of Title XVIII; (4) assist third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs; (5) support Quality Improvement Organizations (QIO); (6) assist other insurers for processing individual insurance claims; (7) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (8) support Patient Assistance Programs and other groups providing pharmaceutical assistance or services to Medicare beneficiaries; (9) support litigation involving the agency; and (10) 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. The Privacy Act allows 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 compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are modifying/altering the routine use disclosures of information maintained in the system so that the routine uses include the following:

1. To support agency contractors, consultants or grantees who have been engaged by the agency to assist in the performance of a service related to this system and who need to have access to the records in order to perform the activity.

2. To assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent to:

a. Contribute to the accuracy of CMS' 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 the State.

3. To assist providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Act.

4. To assist third party contact in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and;

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: The individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: The individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

5. 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. As established by the Part D Program, QIOs will conduct reviews of prescription drug events data, or in connection with studies or other review activities conducted pursuant to Part D of Title XVIII of the Act.

6. To other insurers, underwriters, third party administrators (TPAs), self-insurers, group health plans, employers, health maintenance organizations, health and welfare benefit funds, Federal agencies, a State or local government or political subdivision of either (when the organization has assumed the role of an insurer, underwriter, or third party administrator, or in the case of a State that assumes the liabilities of an insolvent insurers pool or fund), multiple-employers trusts, no-fault medical, automobile insurers, workers' compensation carriers plans, liability insurers, and other groups providing protection against medical expenses who are primary payers to Medicare in accordance with 42 U.S.C. 1395y(b), or any entity having knowledge of the occurrence of any event affecting;

a. An individual's right to any such benefit or payment, or

b. The initial or continued right to any such benefit or payment (for example, a State Medicaid Agency, State Workers' Compensation Board, or Department of Motor Vehicles) for the purpose of coordination of benefits with the Medicare program and implementation of the MSP provisions at 42 U.S.C. 1395 y(b). The information CMS may disclose will be:

- Beneficiary Name
- Beneficiary Address
- Beneficiary Health Insurance Claim Number
- Beneficiary Social Security Number
- Beneficiary Gender
- Beneficiary Date of Birth
- Amount of Medicare Conditional Payment
- Provider Name and Number
- Physician Name and Number
- Supplier Name and Number
- Dates of Service
- Nature of Service
- Diagnosis

To administer the MSP provision at 42 U.S.C. 1395 y(b)(2), (3), and (4) more effectively, CMS would receive (to the extent that it is available) and may disclose the following types of information from insurers, underwriters, third party administrator, self-insurers, etc.:

- Subscriber Name and Address
- Subscriber Date of Birth
- Subscriber Social Security number
- Dependent Name
- Dependent Date of Birth
- Dependent Social Security Number
- Dependent Relationship to Subscriber
- Insurer/Underwriter/TPA Name and Address
- Insurer/Underwriter/TPA Group Number
- Insurer/Underwriter/Group Name
- Prescription Drug Coverage
- Policy Number
- Effective Date of Coverage
- Employer Name, Employer Identification Number (EIN) and Address
- Employment Status
- Amounts of Payment

To administer the MSP provision at 42 U.S.C. 1395y(b)(1) more effectively for entities such as Workers' Compensation carriers or boards, liability insurers, no-fault and automobile medical policies or plans, CMS would receive (to the extent that it is available) and may disclose the following information:

- Beneficiary's Name and Address
- Beneficiary's Date of Birth
- Beneficiary's Social Security number
- Name of Insured
- Insurer Name and Address
- Type of coverage; automobile medical, no-fault, liability payment, or workers' compensation settlement
- Insured's Policy Number
- Effective Date of Coverage
- Date of accident, injury or illness
- Amount of payment under liability, no-fault, or automobile medical policies, plans, and workers' compensation settlements
- Employer Name and Address (Workers' Compensation Only)
- Name of insured could be the driver of the car, a business, the beneficiary (*i.e.*, the name of the individual or entity which carries the insurance policy or plan)

In order to receive this information the entity must agree to the following conditions;

c. To utilize the information solely for the purpose of coordination of benefits with the Medicare program and other third party payer in accordance with Title 42 U.S.C. 1395y(b);

d. To safeguard the confidentiality of the data and to prevent unauthorized access to it; and

e. To prohibit the use of beneficiary-specific data for the purposes other than for the coordination of benefits among third party payers and the Medicare program. This agreement would allow the entities to use the information to determine cases where they or other third party payers have primary responsibility for payment. Examples of prohibited uses would include but are not limited to; creation of a mailing list, sale or transfer of data.

To administer the MSP provisions more effectively, CMS may receive or disclose the following types of information from or to entities including insurers, underwriters, TPAs, and self-insured plans, concerning potentially affected individuals:

- Subscriber HICN
- Dependent Name
- Funding arrangements of employer group health plans, for example, contributory or non-contributory plan, self-insured, re-insured, HMO, TPA insurance
- Claims payment information, for example, the amount paid, the date of payment, the name of the insurers or payer
- Dates of employment including termination date, if appropriate
- Number of full and/or part-time employees in the current and preceding calendar years
- Employment status of subscriber, for example, full or part time or self-employed

7. To assist an individual or organization for a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

8. To support Patient Assistance Programs and other groups providing pharmaceutical assistance to a Medicare beneficiary. Medicare Part D enrollment information may be released to these organizations upon specific request, and then only if they meet the following requirements, they must:

a. Provide an attestation or other qualifying information that they are providing pharmaceutical assistance to Medicare beneficiaries;

b. Submit a finder file to CMS to identify Medicare beneficiaries receiving pharmaceutical assistance and/or services consisting of the following data elements:

(1) First initial of the first name,

(2) First 6 letters of the last name,

(3) Social security number or health insurance claims number,

(4) Date of birth,

(5) Sex;

c. Safeguard the confidentiality of any data received and prevent unauthorized access to the data; and

d. Complete a written statement attesting to the information recipient's understanding of and willingness to abide by CMS provisions regarding Privacy protections and information security. Recipients of CMS data must complete the PAP Data Sharing Agreement prior to the release of CMS data.

9. To 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.

10. To a CMS contractor (including, but not necessarily 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.

11. To 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 Provisions 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 electronically.

RETRIEVABILITY:

All Medicare records are accessible by HICN, and SSN search. This system supports both on-line and batch access.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against 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:

Records are maintained in the active files for a period of 15 years. The records are then retired to archival files maintained at the Health Care Data Center. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Enrollment and Eligibility Policy, Medicare Enrollment and Appeals Group, Center for Beneficiary Choices, CMS, Mail Stop S1–05–06, 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, HICN, address, date of birth, and gender, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and SSN. Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORDS PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the records 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.)

RECORDS SOURCE CATEGORIES:

The data contained in this system of records are extracted from other CMS systems of records: Enrollment Database, Medicare Advantage Prescription Drug System, and the Medicaid Statistical Information System. Information will also be provided from the application submitted by the individual through State Medicaid agencies, the Social Security Administration and through other entities assisting beneficiaries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6–20408 Filed 12–1–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the Privacy Act of 1974, we are proposing to modify or alter an existing SOR, ''Medicare Supplier Identification File (MSIF),'' System No. 09–70–0530, last published at 67 **Federal Register** 48184 (July 23, 2002). The system will facilitate the identification of business owners who have been sanctioned by the Office of Inspector General and/or have questionable business practices within the Medicare program. The carriers will be able to review questionable claims before payment that has been found to be more effective than post-payment reviews. We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged 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 remain as routine use number 1.

We will delete routine use number 2 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 4 and 5, 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 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 this modified system is to identify supplier businesses that are eligible to receive Medicare payments for items and services furnished to Medicare beneficiaries as well as owners, managing employees, and subcontractors in those suppliers. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant, or grantee; (2) support litigation involving the agency; and (3) combat fraud, waste, and abuse in Federally-funded 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 modified or altered 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 28, 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: Barry Bromberg, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, CMS, Mail Stop N3–02–16, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. He can also be reached by telephone at 410–786–9953, or via e-mail at *Barry.Bromberg@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: CMS established a new SOR, in 1992, under the authority of sections 1124, 1124A, 1126, and 1833(e) of Title XVIII of the Social Security Act (the Act) (Title 42 United States Code (U.S.C.) §§ 405, 426, 1395c, and 1395k). Notice of this system, MSIF, was most recently published in the **Federal Register** (Fed. Reg.) 67 FR 48184 (July 23, 2002), deleting 2 routine uses and updating the security classification, two fraud and abuse routine uses were revised and one deleted at 65 FR 50552 (August 18, 2000), one routine use was added at 61 FR 6645 (February 21, 1996), and at 57 FR 23420 (June 3, 1992).

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under sections 1124, 1124A, 1126, and 1833(e) of the Social Security Act (Title 42 United States Code (U.S.C.) §§ 1320a–3, 1320a–3a, 1320a–5, and 13951(e)).

B. Collection and Maintenance of Data in the System

MSIF contains information on owners and managing employees of suppliers of Durable Medicare Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS), which provide service or supplies to Medicare beneficiaries. The system contains, but is not limited to: Business names and addresses, owner's name, owner's social security number, Unique Physician/Practitioner Identification Number, managing employee's name, employer identification number or other tax reporting number, and the carrier assigned billing numbers.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

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 MSIF information that can be associated with an individual 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.

We will only collect the minimum personal data necessary to achieve the purpose of MSIF. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to identify supplier businesses that are eligible to receive Medicare payments for items and services furnished to Medicare beneficiaries as well as owners, managing employees, and subcontractors in those suppliers.

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. The Privacy Act allows 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 compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants, or to a grantee of a CMS-administered grant program who have been engaged by the agency to assist in the accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing this 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 system.

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, consultant or grantee 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 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, and occasionally when another party is involved in litigation and CMS' 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.

3. To a CMS contractor (including, but not necessarily 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 contractual relationship or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste, and abuse.

CMS occasionally contracts out certain of its functions and makes grants 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.

4. To 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 MSIF information for the purpose of combating fraud, waste, and abuse in such federally-funded programs.

B. Additional Provisions 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 an individual 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 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 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 24, 2006.

John R. Dyer,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0530

SYSTEM NAME:

''Medicare Supplier Identification File (MSIF),'' HHS/CMS/OFM

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data

SYSTEM LOCATION:

National Supplier Clearing House, Palmetto Government Benefits Administrators, Interstate 20 at Alpine Road, Columbia, South Carolina 29219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

MSIF contains information on owners and managing employees of suppliers of Durable Medicare Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS), which provide service or supplies to Medicare beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains, but is not limited to: business names and addresses, owner's name, owner's social security number (SSN), Unique Physician/Practitioner Identification Number (UPIN), managing employee's name, employer identification number or other tax reporting number, and the carrier assigned billing numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 1124, 1124A, 1126, and 1833(e) of the Social Security Act (Title 42, United States Code (U.S.C.) §§ 1320a–3, 1320a–3a, 1320a–5, and 13951(e)).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this modified system is to identify supplier businesses that are eligible to receive Medicare payments for items and services furnished to Medicare beneficiaries as well as owners, managing employees, and subcontractors in those suppliers. The information retrieved from this system of records will also be disclosed to: (1) support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant, or grantee; (2) support litigation involving the agency; and (3) combat fraud, waste, and abuse in Federally-funded health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

B. The Privacy Act allows 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 compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants, or to a grantee of a CMS-administered grant program who have been engaged by the agency to assist in the accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To 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.

3. To a CMS contractor (including, but not necessarily 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.

4. To 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.

C. Additional Provisions 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 an individual 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 computer diskette and magnetic storage media.

RETRIEVABILITY:

Information can be retrieved by the business names and addresses, owner's name, owner's SSN, UPIN, managing employee's name, employer identification number or other tax reporting number, and the Medicare contractor assigned billing numbers.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against 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:

Records are maintained by CMS for a period not to exceed 15 years. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, CMS, Mail Stop C3–02–16, 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, address, date of birth, and gender, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and SSN. Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORDS PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the records 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.)

RECORDS SOURCE CATEGORIES:

Sources of information contained in this records system include data collected from the application which the supplier completes to obtain Medicare billing numbers. (CMS Form 192—prior to August 1996, CMS Form 888—April 1996 through May 1997, and CMS Form 855S—after May 1997).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6–20409 Filed 12–1–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Form OCSE–396A: Financial Report;

Form OCSE–34A: Quarterly Report of Collections.

OMB No.: 0970–0181.

Description: State agencies administering the Child Support Enforcement Program under title IV–D of the Social Security Act are required to provide information each fiscal quarter to the Office of Child Support Enforcement (OCSE) concerning administrative expenditures and the receipt and disposition of child support payments from non-custodial parents. Together with a third quarterly report, ''Itemized Undistributed Collections'' (Schedule UDC—OMB No. 0970–0268), these forms provide information from each State that is used to compute the quarterly grant awards, the annual incentive payments and provide valuable information on program

finances. This information is also included in a published annual statistical and financial report, available to the general public.

Pub. L. 109–171, the Deficit Reduction Act of 2005, contains a number of provisions that will impact the States' completion and submission of these quarterly financial reports. These changes become effective in fiscal years 2006, 2007 and 2008. These changes require revisions to some of the data entry lines and reporting instructions currently contained on these forms. In addition, a periodic review of the data currently requested on these forms will assure that OCSE collections the information needed in the most efficient format feasible.

Respondents: State agencies administering the Child Support Enforcement Program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–396A	54	4	8	1,728
OCSE–34A	54	4	8	1,728
Estimate Total Annual Burden Hours:				3,456

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 28, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–9503 Filed 12–1–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Third Grade Follow-up to the Heat Start Impact Study.

OMB No.: 0970–0229.

Description: The Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS) is requesting comments on plans to implement a third grade follow-up to the Head Start Impact Study. This study will collect information for determining, on a national basis, how Head Start affects outcomes in the third grade for children who participated in the program as compared to children not enrolled in Head Start and to determine under which conditions Head Start Works best and for which children.

The Head Start Impact Study was longitudinal study that involved approximately 5,000 first-time-enrolled, three- and four-year-old preschool children across 84 nationally representative grantee/delegate agencies (in communities where there were more eligible children and families than can be served by the program). The participating children were randomly assigned to either a Head Start group (that could enroll in Head Start services) or a control group (that could not enroll in Head Start services but could enroll in other available services selected by their parents). Data collection for the study began in the fall of 2002 and extended through spring 2006.

It is the intention of the Administration for Children and Families to examine outcomes for this sample of children and families during the spring of the children's third grade year. Data will be collected in the spring of 2007 (for the four-year-old cohort) and the spring of 2008 (for the three-year-old cohort). The domains of development to be assessed include demographic characteristics of the children and families, as well as children's cognitive development, school achievement and adjustment, socio-emotional functioning, heath and access to health care, and relationships with peers. Information will also be collected on parents' involvement in educational activities, mental health and well-being, and monitoring and other parenting practices, and information related to the characteristics and quality of the schools and classrooms that children attend.

Respondents: Individuals or households and school districts (principals and teachers).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Year 1 (spring 2007):				
Parent Tracking Interview	2,559	1	0.166	426
Parent Interview	1,720	1	1.00	1,720

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Assessment	1,720	1	1.00	1,720
Teacher Survey/TCR	2,580	1	0.50	1,290
Principal Survey	1,462	1	0.33	487
Year 2 (fall 2007):				
Parent Tracking Interview	4,667	1	0.166	778
Year 2 (spring 2008):				
Parent Tracking Interview	2,108	1	0.166	351
Parent Interview	2,042	1	1.00	2,042
Child Assessment	2,042	1	1.00	2,042
Teacher Survey/TCR	3,063	1	0.50	1,532
Principal	1,736	1	0.33	579

Estimated Total Annual Burden Hours: 6,484

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@ach.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, E-mail address: *Karen_T._Matsuoka@omb.eop.gov*, Attn: Desk Officer for ACF.

Dated: November 28, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–9504 Filed 12–1–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0472]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed

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 extending OMB approval on the existing recordkeeping requirements for this information collection, regarding animal proteins prohibited in ruminant feed.

DATES: Submit written or electronic comments on the collection of information by February 2, 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.

Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed—21 CFR 589.2000(e)(1)(iv) (OMB Control Number 0910–0339)—Extension

This information collection was established because epidemiological evidence gathered in the United Kingdom suggested that bovine spongiform encephalopathy (BSE), a progressively degenerative central nervous system disease, is spread to ruminant animals by feeding protein derived from ruminants infected with BSE. This regulation places general requirements on persons that manufacture, blend, process, and

distribute products that contain or may contain protein derived from mammalian tissue, and feeds made from such products.

The respondents for this collection of information are manufacturers and or distributors of products that contain or may contain protein derived from mammalian tissues and feeds made from such products.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
589.2000 (e)(1)(iv)	400	1	400	14	5,600

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: November 28, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy

[FR Doc. E6–20476 Filed 12–01–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0475]

Agency Information Collection Activities; Proposed Collection; Comment Request; Human Tissue Intended for Transplantation

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 the information collection requirements relating to FDA regulations for human tissue intended for transplantation.

DATES: Submit written or electronic comments on the collection of information by February 2, 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: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: 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.

Human Tissue Intended for Transplantation—21 CFR Part 1270 (OMB Control Number 0910–0302)—Extension

Under section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264), FDA issued regulations to prevent the transmission of human immunodeficiency virus (HIV), hepatitis B, and hepatitis C, through the use of human tissue for transplantation. The regulations provide for inspection by FDA of persons and tissue establishments engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue. These facilities are required to meet provisions intended to ensure appropriate screening and testing of human tissue donors and to ensure that records are kept documenting that the appropriate screening and testing have been completed.

Sections 1270.31(a) through (d) (21 CFR 1270.31(a) through (d)) require written procedures to be prepared and followed for the following steps: (1) All significant steps in the infectious disease testing process; (2) all significant steps in obtaining, reviewing, and assessing the relevant medical records of the donor; (3) designating and identifying quarantined tissue; and (4) for prevention of infectious disease contamination or cross-contamination by tissue during processing. Sections 1270.31(a) and (b) also require recording and justification of any deviation from the written procedures. Section 1270.33(a) (21 CFR 1270.33(a)) requires records to be maintained concurrently with the performance of each significant step in the procedures of infectious disease screening and testing of human tissue donors. Section 1270.33(f) requires records to be retained regarding the determination of the suitability of the donors and such records required under § 1270.21 (21 CFR 1270.21). Section 1270.33(h) requires all records be retained at least 10 years beyond the date of transplantation, distribution, disposition, or expiration of the tissue, whichever is the latest. Section 1270.35 (21 CFR 1270.35) requires specific

records be maintained to document the following: (1) The results and interpretation of all required infectious disease tests, (2) information on the identity and relevant medical records of the donor, (3) the receipt and/or distribution of human tissue, and (4) the destruction or other disposition of human tissue.

Respondents to this collection of information are manufacturers of human tissue intended for transplantation. Based on information from the Center for Biologics Evaluation and Research's (CBER's) database system, FDA estimates that there are approximately 190 tissue establishments of which 105 are conventional tissue banks and 85 are eye tissue banks. Based on information provided by industry, there are an estimated total of 1,500,000 conventional tissue products and 84,789 eye tissue products recovered per year with an average of 25 percent of the tissue discarded due to unsuitability for transplant. In addition, there are an estimated 23,295 donors of conventional tissue and 42,649 donors of eye tissue each year.

Accredited members of the American Association of Tissue Banks (AATB) and Eye Bank Association of America (EBAA) adhere to standards of those organizations that are comparable to the recordkeeping requirement in 21 CFR part 1270. Based on information provided by CBER's database system, 76 percent of the conventional tissue banks are members of AATB (105 X 76 percent = 80), and 96 percent of eye tissue banks are members of EBAA (85 X 96 percent = 82). Therefore, recordkeeping by these 162 establishments (80 + 82 = 162) is excluded from the burden estimates as usual and customary business activities (5 CFR 1320.3(b)(2)). The recordkeeping burden, thus, is estimated for the remaining 28 establishments, which is 15 percent of all establishments (190 - 162 = 28, or 28/190 = 15 percent).

Based on CBER's database system and information provided by industry, FDA estimates an average of two new tissue banks annually, which may be non-members of a trade association. Each new tissue bank requires an estimated 64 hours to prepare standard operating procedures (SOPs) under § 1270.31(a) through (d). The requirement for the development of these written procedures is considered an initial one-time burden. FDA assumes that all current tissue establishments have developed written procedures in compliance with part 1270. Therefore, their information collection burden is for the general review and update of written procedures estimated to take an annual average of 24 hours, and for the recording and justifying of any deviations from the written procedures for § 1270.31(a) and (b), estimated to take an annual average of 1 hour. The information collection burden for maintaining records concurrently with the performance of each significant screening and testing step and for retaining records for 10 years under § 1270.33(a), (f), and (h), include documenting the results and interpretation of all required infectious disease tests and results and the identify and relevant medical records of the donor required under § 1270.35(a) and (b). Therefore, the burden under these provisions is calculated together in table 1 of this document. The recordkeeping estimates for the number of total annual records and hours per record are based on information provided by industry and FDA experience.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
1270.31(a), (b), (c), and (d)	2	1	2	64	128
1270.31(a), (b), (c), and (d)[2]	28	1	28	24	672
1270.31(a) and 1270.31(b)[3]	28	2	46	1	46
1270.33(a), (f), and (h), and 1270.35(a) and (b)	28	8,843	247,610	1	247,610
1270.35(c)	28	16,980	475,436	1	475,436
1270.35(d)	28	2,123	59,430	1	59,430
Total					783,322

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Review and update of SOPs.
[3]Documentation of deviations from SOPs.

Dated: November 28, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20477 Filed 12–01–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0494]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Cosmetic Labeling Regulations

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 January 3, 2007.

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: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Cosmetic Labeling Regulations—21 CFR Part 701

The Federal Food, Drug, and Cosmetic Act (the act) and the Fair Packaging and Labeling Act (the FPLA) require that cosmetic manufacturers, packers, and distributors disclose information about themselves or their products on the labels or labeling of their products. Sections 201, 502, 601, 602, 603, 701, and 704 of the act (21 U.S.C. 321, 352, 361, 362, 363, 371, and 374) and sections 4 and 5 of the FPLA (15 U.S.C. 1453 and 1454) provide authority to FDA to regulate the labeling of cosmetic products. Failure to comply with the requirements for cosmetic labeling may render a cosmetic adulterated under section 601 of the act or misbranded under section 602 of the act.

FDA's cosmetic labeling regulations are published in part 701 (21 CFR part 701). Four of the cosmetic labeling regulations have information collection provisions. Section 701.3 requires the label of a cosmetic product to bear a declaration of the ingredients in descending order of predominance. Section 701.11 requires the principal display panel of a cosmetic product to bear a statement of the identity of the product. Section 701.12 requires the label of a cosmetic product to specify the name and place of business of the manufacturer, packer, or distributor. Section 701.13 requires the label of a cosmetic product to declare the net quantity of contents of the product.

FDA's cosmetic labeling regulations, as published in the **Federal Register** on March 15, 1974 (39 FR 10054 at 10056), and subsequently amended, most recently on March 17, 1999 (64 FR 13254 at 13297), remain unchanged by this notice. FDA is publishing this notice in compliance with the PRA. This notice does not represent any new regulatory initiative.

In the **Federal Register** of January 18, 2006 (71 FR 2947), 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
701.3	1,518	21	31,600	1	31,600
701.11	1,518	24	36,340	1	36,340
701.12	1,518	24	36,340	1	36,340
701.13	1,518	24	36,340	1	36,340
Total					140,620

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The hour burden is the additional or incremental time that establishments need to design and print labeling that includes the following required elements: A declaration of ingredients in decreasing order of predominance, a statement of the identity of the product, a specification of the name and place of business of the establishment, and a declaration of the net quantity of contents. These requirements increase the time establishments need to design labels because they increase the number of label elements that establishments must take into account when designing labels. These requirements do not generate any recurring burden per label because establishments must already print and affix labels to cosmetic products as part of normal business practices.

According to the 2001 census, there are 1,518 cosmetic product establishments in the United States (U.S. Census Bureau, *http://www.census.gov/epcd/susb/2001/us/US32562.HTM*). FDA calculates label design costs based on stock keeping units (SKUs) because each SKU has a unique product label. Based on data available to the agency and on communications with industry, FDA estimates that cosmetic establishments offered 94,800 SKUs for retail sale in 2005. This corresponds to an average of 62 SKUs per establishment.

One of the four provisions that FDA discusses in this information collection, § 701.3, applies only to cosmetic products offered for retail sale. However, the other three provisions, §§ 701.11, 701.12, and 701.13, apply to all cosmetic products, including non-retail professional-use-only products. FDA estimates that including professional-use-only cosmetic products increases the total number of SKUs by 15 percent to 109,020. This corresponds to an average of 72 SKUs per establishment.

Finally, based on the agency's experience with other products, FDA estimates that cosmetic establishments may redesign up to one-third of SKUs per year. Therefore, FDA estimates that the annual frequency of response will be 21 (31,600 SKUs) for § 701.3 and 24 each (36,340 SKUs) for §§ 701.11, 701.12, and 701.13.

FDA estimates that each of the required label elements may add approximately 1 hour to the label design process. FDA bases this estimate on the hour burdens the agency has previously estimated for food, drug, and medical device labeling and on the agency's knowledge of cosmetic labeling. Therefore, FDA estimates that the total hour burden on members of the public for this information collection is 140,620 hours per year.

Dated: November 28, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20478 Filed 12–01–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notice of Approval of Original Abbreviated New Animal Drug Application; Pyrantel Pamoate Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that it has approved an original abbreviated new animal drug

application (ANADA) filed by First Priority, Inc. The ANADA provides for oral use of pyrantel pamoate suspension in horses and ponies as an over-the-counter (OTC) animal drug product for the removal and control of various internal parasites.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: First Priority, Inc., 1585 Todd Farm Dr., Elgin, IL 60123, filed ANADA 200–445 providing for oral use of PRIMEX (pyrantel pamoate) Horse Wormer in horses and ponies as an OTC animal drug product for the removal and control of various internal parasites. First Priority, Inc.'s, PRIMEX Horse Wormer is approved as a generic copy of Pfizer, Inc.'s, PAMOBAN Horse Wormer, approved under NADA 91–739. In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(i)) and part 514 (21 CFR part 514), in §§ 514.105(a) and 514.106(a), the Center for Veterinary Medicine is providing notice that this ANADA is approved as of November 3, 2006. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: November 17, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E6–20399 Filed 11–01–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

National Communications System

[Docket No. NCS–2006–0009]

National Security Telecommunications Advisory Committee

AGENCY: National Communications System, DHS.

ACTION: Notice of Partially Closed Advisory Committee Meeting

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet in a partially closed session.

DATES: Tuesday, December 19, 2006, from 1 p.m. until 4 p.m.

ADDRESSES: The meeting will take place at the U.S. Chamber of Commerce, 1615 H St. NW., Washington, DC. If you desire to submit comments, they must be submitted by December 12, 2006. Comments must be identified by Docket Number NCS–2006–0009 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: NSTAC1@dhs.gov.* Include docket number in the subject line of the message.
- *Mail:* Office of the Manager, National Communications System (N5), Department of Homeland Security, Washington, DC, 20529.
- *Fax:* 866–466–5370.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and NCS–2006–0009, the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the NSTAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Kiesha Gebreyes, Chief, Industry Operations Branch at (703) 235–5525, e-mail: *Kiesha.Gebreyes@dhs.gov* or write the Deputy Manager, National Communications System, Department of Homeland Security, CS&T/NCS/N5.

SUPPLEMENTARY INFORMATION: The NSTAC advises the President on issues and problems related to implementing national security and emergency preparedness telecommunications policy. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Pub. L. 92–463, as amended (5 U.S.C. App.1 *et seq.*).

Between 1 p.m. and 3 p.m., the NSTAC will receive comments from government stakeholders, discuss the work of the NSTAC's Emergency Communications and Interoperability Task Force (ECITF), and discuss the work of the Telecommunications and Electric Power Interdependency Task Force (TEPITF). This portion of the meeting will be open to the public.

Between 3 p.m. and 4 p.m., the committee will discuss the Global Infrastructure Resiliency (GIR) Report. This portion of the meeting will be closed to the public.

Basis for Closure: The GIR discussion will likely involve sensitive infrastructure information concerning system threats and explicit physical/cyber vulnerabilities related to current communications capabilities. Public disclosure of such information would heighten awareness of potential vulnerabilities and increase the likelihood of exploitation by terrorists or other motivated adversaries. Pursuant to Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*), the Department has determined that this discussion will concern matters which, if disclosed, would be likely to frustrate significantly the implementation of a proposed agency action. Accordingly, this portion of the meeting will be closed to the public pursuant to the authority set forth in 5 U.S.C. 552b(c)(9)(B).

Information on Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact Kiesha Gebreyes as soon as possible.

Dated: November 20, 2006.

Peter M. Fonash,

Deputy Manager National Communications System.

[FR Doc. E6–20403 Filed 12–1–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2006–0063]

Privacy Act; Background Check Services System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records notice.

SUMMARY: Pursuant to the Privacy Act of 1974, the Department of Homeland

Security, U.S. Citizenship and Immigration Services, proposes to add a new system of records to the Department's inventory, entitled Background Check Service. The U.S. Citizenship and Immigration Services, Office of Field Operations operates the Background Check Service. U.S. Citizenship and Immigration Services conducts background checks on petitioners and applicants who are seeking immigration related benefits. To facilitate the background check process and to improve efficiency, U.S. Citizenship and Immigration Services developed the Background Check Service as a centralized repository that contains the consolidated data on all background check requests and results. The Background Check Service allows authorized U.S. Citizenship and Immigration Services representatives to request background checks and access the data stored in the Background Check Service during the adjudication process in order to facilitate informed decision-making.

DATES: The established system of records will be effective January 3, 2007 unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by Docket Number DHS–2006–0063 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 571–227–4171 (This is not a toll-free number).
- *Mail:* Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202–4220

FOR FURTHER INFORMATION CONTACT: For system related questions please contact: Greg Collett, Branch Chief of Application Support for Office of Field Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529. For privacy issues please contact: Hugo Teufel III, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) is congressionally tasked with processing all immigration benefit applications and petitions. In order to assist in this task, USCIS established a new system of records that will consolidate all background check requests and results on immigration benefit applicants/petitioners. This new system of records is called the Background Check Service (BCS). USCIS conducts three different background checks on applicants/petitioners applying for USCIS benefits: (1) A Federal Bureau of Investigation (FBI) Fingerprint Check, (2) a FBI Name Check, and (3) a Customs and Border Protection (CBP) Treasury Enforcement Communication System/Interagency Border Inspection System (TECS/IBIS) Name Check. BCS will maintain the requests and results of all background check activity for USCIS.

As a centralized repository containing all background check activity, BCS will provide the status and results of background checks required for completion of immigration eligibility petitions and application determinations from one web-based system to geographically dispersed field offices. This system supports USCIS's initiatives to reduce immigration benefit/petition case backlog and provide significant efficiencies in vetting and resolving the background checks that are required for USCIS benefits. Prior to BCS, information relating to the FBI Fingerprint Checks and the FBI Name Checks were stored in the FD–258 system and FBI Query system respectively. Information relating to the TECS/IBIS Name Checks was not stored in any system.

The information maintained in BCS is initially collected and maintained in one of the following USCIS case management systems and then it is transferred to BCS:

- Computer-Linked Application Information Management System (CLAIMS) 3, which is used to process applications including, but not limited to, an Adjustment of Status (Green Card) and Temporary Protective Status (TPS);
- CLAIMS 4, which is used to process applications for Naturalization;
- Refugee Asylum Parole System (RAPS), which is used to process Asylum applications; and
- Marriage Fraud Assurance System (MFAS), which is used for processing information relating to investigations of marriage fraud.

The benefit applicant/petitioner do not have direct interaction with BCS.

The above systems will send necessary and relevant information to BCS in order to generate a Name Check Request for both the FBI Name Check and TECS/IBIS Name Check. Both the requests and results will be stored in BCS.

Fingerprint information is collected from the applicant at the time the fingerprints are taken in order to conduct the FBI Fingerprint Check. Fingerprints are taken electronically at a USCIS Application Support Centers (ASC) or taken from hard copy fingerprint cards (FD–258) that are submitted for those applicants who are unable to go to an ASC. The fingerprints are currently stored in the Benefit Biometric Support System (BBSS), which interfaces directly with FBI's Integrated Automated Fingerprint Identification System (IAFIS). The responses to the FBI Fingerprint Check are collected electronically from the FBI and stored in BCS.

All information is currently collected as part of the established USCIS application/petition process and is required to verify the applicant/petitioner's eligibility for the benefit being sought. The FBI Fingerprint Check is a search of the FBI's Criminal Master File via the Integrated Automated Fingerprint Identification System (IAFIS). This search will identify applicants/petitioners who have an arrest record. The FBI Name Check is a search of the FBI's Universal Index that consists of administrative, applicant, criminal, personnel, and other files compiled for law enforcement purposes. The TECS/IBIS Name Check is a search of a multi-agency database containing information from 26 different agencies. The information in TECS/IBIS includes records of known and suspected terrorists, sex offenders, and other people that may be of interest to the law enforcement community. USCIS will use TECS/IBIS to access National Crime Information Center (NCIC) records on wanted persons, criminal histories, and previous Federal inspections.

The information collected in BCS as part of the background check process provides USCIS with information about an applicant/petitioner that has National Security or Public Safety implications or indicia of fraud. Having this information and taking action to prevent potentially undesirable and often dangerous people from staying in this country clearly supports two primary missions of DHS: preventing terrorist attacks within the United States and reducing America's vulnerability to terrorism, while facilitating the adjudication of lawful benefit applications.

The results of these background checks will be used to make eligibility determinations, which will result in the approval or denial of a benefit. If fraudulent or criminal activity is detected as a result of the background check, information will be forwarded to appropriate law enforcement agencies including Immigration and Customs Enforcement (ICE), FBI, CBP, and/or local law enforcement.

The Privacy Act embodies fair information principles in a statutory

framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system to make agency recordkeeping practices transparent, to notify individuals reading the uses to which personally identifiable information is put, and to assist the individual to more easily find such files within the agency.

In accordance with 5 U.S.C. 552a(r), a report on this system has been sent to Congress and to the Office of Management and Budget.

DHS–2006–0063

SYSTEM NAME:

Background Check Service (BCS).

SECURITY CLASSIFICATION:

Sensitive but Unclassified.

SYSTEM LOCATION:

The primary BCS system is located at a Department of Homeland Security (DHS) approved data center in the Washington, DC, Metropolitan area. Backups are maintained offsite. BCS will be accessible world-wide from all USCIS field offices, service centers, and application support centers that are part of the DHS Network.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this notice consist of:

A. All individuals who are applying for benefits and or who are petitioning on behalf of individuals applying/petitioning for benefits pursuant to the Immigration and Nationality Act Sec. 101. [8 U.S.C. 1101] (a)(b).

CATEGORIES OF RECORDS IN THE SYSTEM:

BCS maintains three general categories of records: applicant/petitioner identification information, Background Check Request information, and Background Check Result information.

A. Applicant/Petitioner information includes biographic information associated with each applicant/petitioner including, but not limited to; Name, Date of Birth, Country of Birth, Address, and employment status. The applicant/petitioner information also includes uniquely identifiable numbers, including but not limited to: Alien Number, Z-number, Receipt Number, Social Security Number, Armed Forces Identification Number, etc. This information would be derived from newly created benefit applications in USCIS Systems of Records or an update to previously submitted benefit applications.

B. Background Check Request information contains data necessary to perform a background check through the FBI Fingerprint Check, FBI Name Check and CBP IBIS Name Check services. This data may include: Transaction Control Numbers associated with FBI Fingerprint Checks, Receipt Numbers, date/time of submission, physical description of subject, and a reason for the submission of the application (*i.e.* USCIS Form Code). This category also covers logs associated with the requests of background checks, which may include: requesting location and requesting person.

C. Background Check Result information encompasses data received from the FBI and CBP. This data may include: identifying transactional information (*i.e.* transaction control number), biographical information, a subject's FBI Information Sheet (informally known as a RAP Sheet) as a result of an FBI Fingerprint Check, an FBI Name Check Report, and information from the CBP IBIS Database. The CBP IBIS Database includes data from TECS and NCIC databases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. Sections 1103 (a).

PURPOSE(S):

BCS is a single centralized system that records, reconciles, and stores Background Check Requests and Results of applicants and petitioners seeking USCIS benefits. The following types of Background Checks will be recorded by BCS: FBI Name Checks, TECS/IBIS Name Checks, and FBI Fingerprint Checks. The collection of information is required to verify the applicant/petitioner's eligibility for USCIS benefits. A background check of varying degree, determined by the benefit/petition, is required for any individual applying for USCIS benefits. The applicant/petitioner could not seek the benefits provided by USCIS without the information collected from the applications/petitions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the United States Department of Justice (including United States Attorney offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation: (a) DHS, or (b) any employee of DHS in his/her official capacity, or (c) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent said employee, or (d) the United States or any agency thereof;

B. To another federal agency (including the Merit Systems Protection Board and the Equal Employment Opportunity Commission), or to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

C. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law.

D. To a Congressional office, for the record of an individual in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains.

E. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish a DHS mission function related to this system of records, in compliance with the Privacy Act of 1974, as amended.

G. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where

USCIS believes the information would assist enforcement of civil or criminal laws;

H. To Federal and foreign government intelligence or counterterrorism agencies or components where USCIS becomes aware of an indication of a threat or potential threat to national or international security, or where such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure;

I. To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a Department of Homeland Security decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in the system will be stored in a central computer database.

RETRIEVABILITY:

A combination of the following BCS data elements may be used to initiate a query in order to retrieve data from the BCS User Interface. These data elements include, an individual's Alien File Number; Name and Date of Birth; and Receipt Number.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws and policies, including the DHS Information Technology Security Program Handbook. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know, using locks, and password protection identification features. The system is also protected through a multi-layer security approached. The protective strategies are physical, technical, administrative and environmental in nature and provide access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, authentication of sending parties, and personnel screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

RETENTION AND DISPOSAL:

The following USCIS proposal for retention and disposal is pending approval by the National Archives and Records Administration. Records are stored and retained in the BCS Repository for 75 years, during which time the records will be archived. Background checks are conducted on individuals/petitioners from the age of 14 and up. The 75 year retention rate comes from the length of time USCIS may interact with a customer. Further, retaining the data for this period of time will enable USCIS to fight identity fraud and misappropriated benefits.

SYSTEM MANAGER(S) AND ADDRESS:

Greg Collett, Branch Chief of Application Support for Office of Field Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529

NOTIFICATION PROCEDURE:

All individuals applying for Immigration benefits are presented with both Privacy Act notices and a Signature Certification and Authorization for Release of personally identifiable information on all USCIS forms, which must be signed. These two notices supply individuals with information regarding uses of the data.

RECORD ACCESS PROCEDURES:

To determine whether this system contains records relating to you, write the USCIS Freedom of Information Act/ Privacy Act officer. Mail requests to: Elizabeth S. Gaffin, Privacy Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Room 4210,Washington, DC 20529.

CONTESTING RECORD PROCEDURES:

See the ''Notification Procedure'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from USCIS Systems of Records; including, CLAIMS3, CLAIMS4, RAPS, and MFAS. Information contained in the system is also obtained from the Federal Bureau of Investigation, and the United States Customs and Border Protection Services. All information contained in BCS is derived from the above systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 22, 2006.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E6–20289 Filed 11–30–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning Disaster Assistance Registration applications.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), Public Law 93–288, as amended, is the legal basis for the Federal Emergency Management Agency (FEMA) to provide financial assistance and services to individuals who apply for disaster assistance benefits in the event of a major disaster. 44 CFR, Subpart D, Federal Assistance to Individuals and Households, section 206.110 *et seq.*, implements the policy and procedures set forth in section 408 of the Stafford Act, 42 U.S.C. 5174, as amended by the Disaster Mitigation Act of 2000. This program provides financial assistance and, if necessary, direct assistance to eligible individuals and households who, as a direct result of a major disaster or emergency, have uninsured or under-insured, necessary expenses and serious needs and are unable to meet such expenses or needs through other means.

Collection of Information

Title: Disaster Assistance Registration.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0002.

Form Numbers: FEMA Forms 90–69 (English) and 90–69A (Spanish), Application/Registration for Disaster Assistance, FEMA Forms 90–69B (English) and 90–69(C) Spanish, Declaration and Release.

Abstract: After a major disaster or emergency is declared by the President, a Tele-Registration 800 number is

published for individuals, to call so that they may apply for emergency assistance. FEMA service representatives will interview applicants over the telephone using an Intranet script, and record applicants' information directly into the electronic copy of FEMA Forms 90–69 (English) and 90–69A (Spanish) Application/Registration for Disaster Assistance in the National Emergency Management Information System (NEMIS) computer system. In rare circumstances, when the system is not accessible, or when phone lines are down, FEMA representatives will record information using the paper versions of FEMA Forms 90–69 (English) and 90–69A (Spanish) Application/Registration for Disaster Assistance. The paper versions of these forms are entered into NEMIS by FEMA representatives.

In order to be eligible to receive FEMA Disaster Assistance, a member of the household must be a citizen, non-citizen national, or qualified alien of the United States. FEMA Forms 90–69B (English) and 90–69C (Spanish), Declaration and Release form is used to certify respondents' information and eligibility, after the application process. FEMA Forms 90–69B and 90–69C further informs the respondent of the Privacy Act and Paperwork Burden Disclosure Notice. Once applicants have completed the Declaration and Release form FEMA will notify contract firms for inspection of damaged properties.

Affected Public: Individuals and Households.

Estimated Total Annual Burden Hours:

ANNUAL BURDEN HOURS

Project/activity (survey, form(s), focus group, etc.)	No. of respondents	Frequency of responses	Burden hours per respondent	Annual responses	Total annual burden hours
	(A)	(B)	(C)	(AxB)	(AxBxC)
Tele-Registration Application Registration for Disaster Assistance (English and Spanish).	1,151,255	1	18 min.	1,151,255	345,377
Internet Application Registration for Disaster Assistance (English and Spanish).	515,487	1	18 min.	515,487	154,646
Paper version of FEMA Form 90–69 and 90–69A (English and Spanish).	51,549	1	18 min.	51,549	15,465
TOTAL	1,718,291	.....	18 minutes	1,718,291	515,488
FEMA Form 90–69B and 90–69C, Declaration and Release (English and Spanish).	1,099,706	1	2 min.	1,099,706	36,657
Receipt for Government Property (Temporary Housing Unit) (English and Spanish).	17,183	1	20 min.	17,183	5,728
	.....	.....	.....	.....	557,873

Estimated Cost: It is estimated that the annualized cost to respondents for the hour burdens will be approximately $10,543,799 for completing the Disaster Assistance Registration applications for this collection of information. Respondents are individuals and families.

Comments: Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments must be submitted on or before February 2, 2007.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact George Fraley, Processing Service Analyst, Recovery Division, (301) 891–8696 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

Dated: November 28, 2006.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–20415 Filed 12–1–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5030–FA–21]

Announcement of Funding Awards for the Section 811 Supportive Housing for Persons With Disablilities Program—Fiscal Year 2006

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Super Notice of Funding Availability (SuperNOFA) for the Supportive Housing for Persons With Disabilities Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, 451 Seventh Street,

SW., Washington, DC 20410–8000; telephone (202) 708–3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at (800) 877–8339. For general information on this and other HUD programs, visit the HUD Web site at *http://www.hud.gov.*

SUPPLEMENTARY INFORMATION: The Section 811 Supportive Housing for Persons With Disabilities Program is authorized by section 811 of the National Affordable Housing Act (42 U.S.C. 8013). The competition was announced in the SuperNOFA published in the **Federal Register** on March 8, 2006 (71 FR 12030). Applications were rated and selected for funding on the basis of selection criteria contained in that notice.

The Catalog of Federal Domestic Assistance number for this program is 14.181.

The Section 811 Supportive Housing for Persons With Disabilities Program is designed to provide capital advance funds to nonprofit organizations for the development of independent living projects, group homes and condominium units with the availability of supportive services for very low-income adults 18 years or older with disabilities. Project rental assistance contract funds are also provided to cover the difference between the HUD-approved operating costs of the project and the tenants' contributions for rent.

A total of $110,232,600 of capital advance funds and $11,142,300 of project rental assistance contract funds was awarded to 99 projects for 1,063 units nationwide. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A of this document.

Dated: November 20, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

Alabama

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Bay Minette, AL
Non-Profit Sponsor: VOA Southeast, Inc.
Capital Advance: $1,620,100
Three-year rental subsidy: $122,400
Number of units: 15

Project Location: Birmingham, AL
Non-Profit Sponsor: UCP of Greater Birmingham
Capital Advance: $654,100
Three-year rental subsidy: $52,500
Number of units: 6

Project Location: Birmingham, AL
Non-Profit Sponsor: Eastside Mental Health Center
Capital Advance: $393,400
Three-year rental subsidy: $26,400
Number of units: 3

Alaska

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Wasilla, AK
Non-Profit Sponsor: Valley Residential Services
Capital Advance: $1,500,700
Three-year rental subsidy: $143,400
Number of units: 8

Arizona

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Mesa, AZ
Non-Profit Sponsor: Accessible Space, Inc.
Capital Advance: $1,462,400
Three-year rental subsidy: $157,800
Number of units: 18

Alabama

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Phoenix, AZ
Non-Profit Sponsor: New Arizona Family, Inc.
Capital Advance: $1,462,600
Three-year rental subsidy: $130,200
Number of units: 14

Arkansas

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Little Rock, AR
Non-Profit Sponsor: Easter Seals Arkansas
Capital Advance: $1,135,900
Three-year rental subsidy: $114,000
Number of units: 15

Project Location: Little Rock, AR
Non-Profit Sponsor: Integrity, Inc.
Capital Advance: $639,900
Three-year rental subsidy: $65,100
Number of units: 8

Project Location: Monticello, AR
Non-Profit Sponsor: Delta Counseling Associates, Inc.
Capital Advance: $767,000
Three-year rental subsidy: $81,300
Number of units: 10

California

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Escondido, CA
Non-Profit Sponsor: T.E.R.I., Inc.
Capital Advance: $538,100
Three-year rental subsidy: $81,600
Number of units: 6

Project Location: North Highlands, CA
Non-Profit Sponsor: VOA—Greater Sac & Northern NV
Capital Advance: $1,778,400
Three-year rental subsidy: $165,600
Number of units: 15

Project Location: Redding, CA
Non-Profit Sponsor: No. Valley Catholic Social Services, Inc.
Capital Advance: $1,783,900
Three-year rental subsidy: $165,600
Number of units: 15

Project Location: San Francisco, CA
Non-Profit Sponsor: Satellite Housing, Inc.
Co-Sponsor: West Bay Housing Corporation
Capital Advance: $2,080,300
Three-year rental subsidy: $235,200
Number of units: 15

Colorado

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Greeley, CO
Non-Profit Sponsor: ASI Inc
Capital Advance: $2,945,500
Three-year rental subsidy: $221,100
Number of units: 23

Connecticut

Section 811—Supportive Housing for Persons With Disabilities

Project Location: New Haven, CT
Non-Profit Sponsor: Continuum of Care, Inc.
Capital Advance: $1,394,600
Three-year rental subsidy: $128,100
Number of units: 10

Delaware

Section 811—Supportive Housing for Persons With Disabilities

Project Location: New Castle, DE
Non-Profit Sponsor: Krysti Bingham CP Foundation, Inc.
Co-Sponsor: Carelink Community Support Services
Capital Advance: $422,300
Three-year rental subsidy: $52,500
Number of units: 4

Project Location: Wilmington, DE
Non-Profit Sponsor: UCP of DE, Inc.
Capital Advance: $789,900
Three-year rental subsidy: $91,500
Number of units: 7

Florida

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Lehigh Acres, FL
Non-Profit Sponsor: Goodwill Industries of SW Florida, Inc.
Capital Advance: $1,616,300
Three-year rental subsidy: $129,900
Number of units: 14

Project Location: St. Petersburg, FL
Non-Profit Sponsor: Boley Centers, Inc.
Capital Advance: $1,404,900
Three-year rental subsidy: $114,900
Number of units: 14

Georgia

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Mableton, GA
Non-Profit Sponsor: Cobb ARC
Capital Advance: $341,000
Three-year rental subsidy: $36,000
Number of units: 4

Project Location: Marietta, GA
Non-Profit Sponsor: Cobb ARC
Capital Advance: $341,000
Three-year rental subsidy: $36,000
Number of units: 4

Illinois

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Crest Hill, IL
Non-Profit Sponsor: Cornerstone Ser Inc
Capital Advance: $582,900
Three-year rental subsidy: $68,400
Number of units: 6

Project Location: Harvard, IL
Non-Profit Sponsor: Over the Rainbow Association
Capital Advance: $2,167,700
Three-year rental subsidy: $170,700
Number of units: 16

Project Location: Quincy, IL
Non-Profit Sponsor: Transitions of Western Illinois Inc.
Capital Advance: $959,600
Three-year rental subsidy: $136,500
Number of units: 12

Project Location: Rock Island, IL
Non-Profit Sponsor: Disciples Uniting in the Quad Cities Inc.
Co-Sponsor: United Church Homes
Capital Advance: $1,529,700
Three-year rental subsidy: $159,300
Number of units: 15

Project Location: Springfield, IL
Non-Profit Sponsor: United Cerebral Palsy Land of Lincoln
Capital Advance: $878,800
Three-year rental subsidy: $114,000
Number of units: 10

Indiana

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Jasper, IN
Non-Profit Sponsor: The Southern Hills Counseling Center, Inc.
Capital Advance: $508,300
Three-year rental subsidy: $60,900
Number of units: 6

Project Location: South Bend, IN
Non-Profit Sponsor: Madison Center, Inc.
Capital Advance: $1,379,000
Three-year rental subsidy: $141,600
Number of units: 15

Iowa

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Council Bluffs, IA
Non-Profit Sponsor: Mosaic
Capital Advance: $1,341,500
Three-year rental subsidy: $92,400
Number of units: 10

Project Location: Missouri Valley, IA
Non-Profit Sponsor: Crossroads of Western Iowa
Capital Advance: $1,315,000
Three-year rental subsidy: $92,400
Number of units: 10

Kansas

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Shawnne, KS
Non-Profit Sponsor: Accessible Space Inc
Capital Advance: $1,623,900
Three-year rental subsidy: $165,000
Number of units: 17

Kentucky

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Louisville, KY
Non-Profit Sponsor: New Directions Housing Corporation
Co-Sponsor: Wellspring
Capital Advance: $693,700
Three-year rental subsidy: $76,200
Number of units: 8

Project Location: Louisville, KY
Non-Profit Sponsor: Dreams With Wings Inc.
Capital Advance: $693,700
Three-year rental subsidy: $76,200
Number of units: 8

Louisiana

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Arcadia, LA
Non-Profit Sponsor: Macon Ridge Community Development Corp.
Capital Advance: $1,122,800
Three-year rental subsidy: $122,400
Number of units: 15

Project Location: Ferriday, LA
Non-Profit Sponsor: Macon Ridge Community Development Corp.
Capital Advance: $1,137,800
Three-year rental subsidy: $122,400
Number of units: 15

Maine

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Belfast, ME
Non-Profit Sponsor: Group Home Foundation, Inc.
Capital Advance: $644,200
Three-year rental subsidy: $55,500
Number of units: 5

Project Location: Lewiston, ME
Non-Profit Sponsor: John F. Murphy Homes, Inc.
Capital Advance: $773,000
Three-year rental subsidy: $55,500
Number of units: 6

Maryland

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Gaithersburg, MD
Non-Profit Sponsor: St. Luke's House Inc.
Capital Advance: $1,518,200
Three-year rental subsidy: $123,300
Number of units: 11

Project Location: Lanham, MD
Non-Profit Sponsor: Guide Program Inc.
Capital Advance: $916,900
Three-year rental subsidy: $134,400
Number of units: 12

Project Location: Silver Spring, MD
Non-Profit Sponsor: Montgomery County Coalition for the Homeless
Capital Advance: $672,800
Three-year rental subsidy: $89,700
Number of units: 8

Massachusetts

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Pittsfield, MA
Non-Profit Sponsor: Berkshire County Arc
Capital Advance: $576,200
Three-year rental subsidy: $84,900
Number of units: 6

Project Location: Topsfield, MA
Non-Profit Sponsor: North Shore Arc Inc.
Capital Advance: $509,500
Three-year rental subsidy: $56,700
Number of units: 4

Michigan

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Westland, MI
Non-Profit Sponsor: Liberty Hill Housing Corporation
Capital Advance: $1,195,100
Three-year rental subsidy: $102,000
Number of units: 9

Minnesota

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Red Lake, MN
Non-Profit Sponsor: Red Lake Homeless Shelter, Inc.
Capital Advance: $1,738,800
Three-year rental subsidy: $154,200
Number of units: 14

Project Location: Sartell, MN
Non-Profit Sponsor: National Handicap Housing Institute, Inc.
Capital Advance: $1,675,800
Three-year rental subsidy: $165,000
Number of units: 16

Missouri

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Kansas City, MO
Non-Profit Sponsor: Center for the Developmentally Disabled
Capital Advance: $1,401,600
Three-year rental subsidy: $144,300
Number of units: 15

Project Location: St. Joseph, MO
Non-Profit Sponsor: Progressive Connections
Capital Advance: $1,401,600
Three-year rental subsidy: $15,300
Number of units: 15

Nebraska

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Lincoln, NE
Non-Profit Sponsor: CenterPointe
Capital Advance: $882,100
Three-year rental subsidy: $93,000
Number of units: 10

Nevada

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Henderson, NV
Non-Profit Sponsor: Accessible Space, Inc.
Capital Advance: $3,272,200
Three-year rental subsidy: $255,600
Number of units: 25

New Jersey

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Roosevelt, NJ
Non-Profit Sponsor: Community Options, Inc.
Capital Advance: $444,600

Three-year rental subsidy: $54,300
Number of units: 3

Project Location: Roosevelt, NJ
Non-Profit Sponsor: Community Options, Inc.
Capital Advance: $444,600
Three-year rental subsidy: $54,300
Number of units: 3

Project Location: Stillwater, NJ
Non-Profit Sponsor: SCARC, Inc
Capital Advance: $1,014,000
Three-year rental subsidy: $180,600
Number of units: 10

Project Location: Whippany, NJ
Non-Profit Sponsor: Jewish Services for Dev.Disabled of MetroWest Inc.
Capital Advance: $538,100
Three-year rental subsidy: $108,300
Number of units: 6

Project Location: Woodstown, NJ
Non-Profit Sponsor: Collaborative Support Program of NJ
Capital Advance: $1,172,500
Three-year rental subsidy: $84,600
Number of units: 6

New Mexico

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Farmington, NM
Non-Profit Sponsor: Mosaic
Capital Advance: $881,700
Three-year rental subsidy: $93,000
Number of units: 10

Project Location: Las Vegas, NM
Non-Profit Sponsor: Albuquerque Mental Health Housing Coalition
Co-Sponsor: The Samaritan House Inc.
Capital Advance: $1,183,000
Three-year rental subsidy: $130,200
Number of units: 15

New York

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Hamburg, NY
Non-Profit Sponsor: Community Services for the Developmentally Disabled
Capital Advance: $1,281,700
Three-year rental subsidy: $135,300
Number of units: 12

Project Location: Hicksville, NY
Non-Profit Sponsor: Nassau AHRC
Capital Advance: $951,700
Three-year rental subsidy: $166,800
Number of units: 8

Project Location: Nanuet, NY
Non-Profit Sponsor: Rockland Co. Chapter, NYSARC, Inc.
Capital Advance: $1,521,000
Three-year rental subsidy: $312,900
Number of units: 15

Project Location: Patchogue, NY
Non-Profit Sponsor: Options for Community Living, Inc.
Capital Advance: $1,717,000
Three-year rental subsidy: $250,200
Number of units: 12

Project Location: Selden, NY
Non-Profit Sponsor: Options for Community Living, Inc.
Capital Advance: $1,717,000
Three-year rental subsidy: $250,200
Number of units: 12

North Carolina

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Fayetteville, NC
Non-Profit Sponsor: Abilities of Florida, Inc.
Capital Advance: $1,522,800
Three-year rental subsidy: $132,900
Number of units: 14

Project Location: Salisbury, NC
Non-Profit Sponsor: Arc of North Carolina, Inc.
Capital Advance: $800,800
Three-year rental subsidy: $76,200
Number of units: 8

Project Location: Wilmington, NC
Non-Profit Sponsor: MHA in NC, Inc.
Co-Sponsor: NC Mental Health Consumers Organization, Inc.
Capital Advance: $483,100
Three-year rental subsidy: $47,700
Number of units: 5

North Dakota

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Bismarck, ND
Non-Profit Sponsor: Community Homes of Bismarck Inc.
Capital Advance: $892,000
Three-year rental subsidy: $68,400
Number of units: 8

Ohio

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Burton, OH
Non-Profit Sponsor: Famicos Foundation
Capital Advance: $898,800
Three-year rental subsidy: $90,900
Number of units: 8

Project Location: Cincinnati, OH
Non-Profit Sponsor: The Resident Home Corporation
Capital Advance: $872,400
Three-year rental subsidy: $81,600
Number of units: 8

Project Location: Cleveland Heights, OH
Non-Profit Sponsor: Jewish Community Housing Inc.
Co-Sponsor: Jewish Family Service Association
Capital Advance: $1,024,800
Three-year rental subsidy: $124,800
Number of units: 11

Project Location: Cleveland Heights, OH
Non-Profit Sponsor: Jewish Family Service Association
Co-Sponsor: Jewish Community Housing Inc.
Capital Advance: $418,100
Three-year rental subsidy: $68,100
Number of units: 6

Project Location: Gahanna, OH
Non-Profit Sponsor: Creative Housing, Inc
Capital Advance: $857,300
Three-year rental subsidy: $100,500
Number of units: 10

Project Location: Medina, OH
Non-Profit Sponsor: Medina Creative Housing Inc.
Capital Advance: $745,300
Three-year rental subsidy: $90,900
Number of units: 8

Project Location: Oak Harbor, OH
Non-Profit Sponsor: Luther Home of Mercy
Capital Advance: $1,171,700
Three-year rental subsidy: $136,200
Number of units: 12

Oklahoma

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Shawnee, OK
Non-Profit Sponsor: Faith 7 Activity Center
Capital Advance: $1,213,100
Three-year rental subsidy: $131,100
Number of units: 16

Pennsylvania

Section 811—Supportive Housing for Persons with Disabilities

Project Location: Aliquippa, PA
Non-Profit Sponsor: Passavant Memorial Homes
Capital Advance: $388,600
Three-year rental subsidy: $41,100
Number of units: 4

Project Location: Erie, PA
Non-Profit Sponsor: HANDS Inc.
Capital Advance: $561,900
Three-year rental subsidy: $61,800
Number of units: 6

Project Location: Erie, PA
Non-Profit Sponsor: HANDS Inc.
Capital Advance: $749,300
Three-year rental subsidy: $82,200
Number of units: 8

Project Location: Jeanette, PA
Non-Profit Sponsor: Passavant Memorial Homes
Capital Advance: $777,200
Three-year rental subsidy: $82,200
Number of units: 8

Project Location: Mercer, PA
Non-Profit Sponsor: Arc of Mercer County Foundation
Capital Advance: $388,600
Three-year rental subsidy: $41,100
Number of units: 4

Project Location: Philadelphia, PA
Non-Profit Sponsor: Ken Crest Centers
Capital Advance: $1,734,200
Three-year rental subsidy: $169,800
Number of units: 12

Puerto Rico

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Patillas, PR
Non-Profit Sponsor: CATPI, Inc.
Capital Advance: $457,400
Three-year rental subsidy: $52,500
Number of units: 6

Project Location: Patillas, PR
Non-Profit Sponsor: CATPI, Inc.
Capital Advance: $1,315,900
Three-year rental subsidy: $105,000
Number of units: 13

Rhode Island

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Bristol, RI
Non-Profit Sponsor: Operation Stand Down Rhode Island
Capital Advance: $1,500,800
Three-year rental subsidy: $132,000
Number of units: 10

South Carolina

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Orangeburg, SC
Non-Profit Sponsor: Mental Health Association of SC
Capital Advance: $1,470,800
Three-year rental subsidy: $122,400
Number of units: 14

Project Location: Spartanburg, SC
Non-Profit Sponsor: Spartanburg Leased Housing Corporation
Capital Advance: $1,582,400
Three-year rental subsidy: $122,400
Number of units: 15

South Dakota

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Sioux Falls, SD
Non-Profit Sponsor: VOA National Services
Capital Advance: $2,327,800
Three-year rental subsidy: $169,500
Number of units: 21

Tennessee

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Columbia, TN
Non-Profit Sponsor: Place of Hope, Inc.
Capital Advance: $1,211,600
Three-year rental subsidy: $117,900
Number of units: 15

Project Location: Crossville, TN
Non-Profit Sponsor: Creative Compassion, Inc.
Capital Advance: $852,300
Three-year rental subsidy: $87,600
Number of units: 10

Project Location: Lebanon, TN
Non-Profit Sponsor: Prospect, Inc.
Capital Advance: $950,500
Three-year rental subsidy: $75,900
Number of units: 9

Project Location: Nashville, TN
Non-Profit Sponsor: Spruce Street Baptist Community Development Inc.
Capital Advance: $1,292,400
Three-year rental subsidy: $129,300
Number of units: 16

Texas

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Austin, TX
Non-Profit Sponsor: UCP of TX Inc.
Capital Advance: $713,600
Three-year rental subsidy: $87,300
Number of units: 10

Project Location: Houston, TX
Non-Profit Sponsor: UCP of Greater Houston, Inc.
Capital Advance: $573,700
Three-year rental subsidy: $47,400
Number of units: 5

Project Location: Houston, TX
Non-Profit Sponsor: UCP of Greater Houston, Inc.
Capital Advance: $1,130,300
Three-year rental subsidy: $132,000
Number of units: 15

Project Location: Orange, TX
Non-Profit Sponsor: Plan of South East Texas
Capital Advance: $1,502,000
Three-year rental subsidy: $179,100
Number of units: 20

Utah

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Brigham City, UT
Non-Profit Sponsor: Neighborhood Non-Profit Housing Corp.
Capital Advance: $2,161,000
Three-year rental subsidy: $176,400
Number of units: 21

Virginia

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Danville, VA
Non-Profit Sponsor: Danville-Pittsylvania Community Services
Capital Advance: $758,200
Three-year rental subsidy: $88,500
Number of units: 9

Project Location: Martinsville, VA
Non-Profit Sponsor: Piedmont Regional Community Services Board
Capital Advance: $399,100
Three-year rental subsidy: $59,100
Number of units: 6

Washington

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Spokane, WA
Non-Profit Sponsor: Spokane Mental Health
Capital Advance: $2,008,200
Three-year rental subsidy: $200,700
Number of units: 19

Wisconsin

Section 811—Supportive Housing for Persons With Disabilities

Project Location: Wisconsin Rapids, WI
Non-Profit Sponsor: Impact Seven, Inc.
Capital Advance: $972,500
Three-year rental subsidy: $82,500
Number of units: 9

[FR Doc. E6–20381 Filed 12–1–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Okefenokee National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Final Comprehensive Conservation Plan and Finding of No Significant Impact for Okefenokee National Wildlife Refuge in Charlton, Ware, and Clinch Counties, Georgia, and Baker County, Florida.

SUMMARY: The Fish and Wildlife Service announces that a Final Comprehensive Conservation Plan and Finding of No Significant Impact for Okefenokee National Wildlife Refuge are available for distribution. The plan was prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997, and in accordance with the National Environmental Policy Act of 1969, and describes how the refuge will be managed for the next 15 years.

ADDRESSES: A copy of the plan may be obtained by writing to George Constantino, Refuge Manager, Okefenokee National Wildlife Refuge, Route 2, Box 3330, Folkston, Georgia 31537; or by calling 912/496–7366. The plan may also be accessed and downloaded from the Service's Internet Web site *http://southeast.fws.gov/planning/.*

SUPPLEMENTARY INFORMATION: The availability of the draft comprehensive conservation plan and environmental assessment for a 45-day review period was announced in the **Federal Register** on August 2, 2005 (70 FR 44355). The draft plan and environmental assessment evaluated four alternatives for managing the refuge and Alternative 2, ''Integrated Landscape Management,'' was selected as the preferred alternative to guide management direction over the next 15 years.

Under Alternative 2, landscape management will be emphasized. Threats to the refuge are more prominent as development increases in northeast Florida and southeast Georgia. Although Okefenokee Refuge is a large system in itself, it can be greatly compromised by activities a distance away from its boundary. Under this alternative, the staff will extend beyond the immediate neighbors to address issues associated with the aquifer, air shed, and biota exchange pathways. Extensive resources sharing and networking with other refuges, state agencies, organizations, specialists, researchers, and private citizens will expand the knowledge base and assist in developing cooperation between interest groups. Restoration of natural systems, native communities, and healthy environments will be emphasized, thus promoting a high quality of life regionally. Within the refuge, the original refuge purpose, natural processes, and the wilderness philosophy will be strongly considered in all decisions. Monitoring environmental parameters, fauna, and flora will be incorporated into an integrated study to gain knowledge on the health of the Okefenokee ecosystem. The refuge and surrounding area will be promoted, linking recreational and educational avenues. Education and outreach will be expanded with an emphasis on the health of the whole ecosystem and the links between the components.

Approximately 371,000 acres of the Okefenokee Swamp wetlands are incorporated into the refuge; and 353,981 acres within the swamp were designated as wilderness by the Okefenokee Wilderness Act of 1974, making it the third largest National Wilderness Area east of the Mississippi River. In 1986, Okefenokee Refuge was designated by the Wetlands Convention as a Wetland of International Importance.

The swamp is considered the headwaters of the Suwannee and St. Marys Rivers. Habitats provide for threatened and endangered species, such as red-cockaded woodpeckers, wood storks, indigo snakes, and a wide variety of other wildlife species. It is world renowned for its amphibian populations that are bio-indicators of global health. By combining Okefenokee Refuge with Osceola National Forest, private timberlands, and state-owned forests, more than 1 million contiguous acres provide wildlife habitat and recreational opportunities. Nearly 400,000 people visit Okefenokee Refuge each year making it the 16th most visited refuge in the National Wildlife Refuge System. In 1999, the economic impact of tourists in Charlton, Ware, and Clinch Counties in Georgia was more than $67 million.

Implementing the comprehensive conservation plan will enable the refuge to fulfill its critical role in the conservation and management of fish and wildlife resources within southeast Georgia, maintain wilderness qualities, and provide quality environmental education and wildlife-dependent recreation opportunities for refuge visitors.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: February 23, 2006.

Cynthia K. Dohner,

Acting Regional Director.

Editorial Note: This document was received at the Office of the Federal Register November 29, 2006.

[FR Doc. 06–9495 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Invitation for Coal Exploration License Application Westmoreland Savage Corporation, MTM 95948 Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation.

SUMMARY: Pursuant to Section 2(b) of the Mineral Leasing Act of 1920, as amended by Section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 Code of Federal Regulations (CFR) 3410, all interested Qualified parties, as provided in 43 CFR 3472.1, are hereby invited to participate with Westmoreland Savage Corporation on a pro rata cost sharing basis in a program for the exploration of coal deposits owned by the United States of America in the following-described lands in Richland County, Montana:

T. 20 N., R. 57 E., PM, Montana
Sec. 26.

Containing 640 acres, more or less.

DATES: Any party electing to participate in this exploration program must send written notice referring to serial number MTM 95948 to both the Bureau of Land Management (BLM) and Westmoreland Savage Corporation as provided in the **ADDRESSES** section below. The notice must be received by them within 30 days after publication of this Notice of Invitation in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Ranger Review newspaper, whichever is later. This Notice will be published once a week for two (2) consecutive weeks in The Ranger Review, Glendive, Montana.

ADDRESSES: Copies of the exploration plan as submitted by the applicant is available for public review at the BLM, 5001 Southgate Drive, Billings, Montana, during regular business hours (9 a.m. to 4 p.m.), Monday through Friday. The written notice should be sent to the following addresses: State Director, BLM, 5001 Southgate Drive, Billings, Montana 59101–4669, and Westmoreland Savage Corporation, P.O. Box 30, Savage, Montana 59262.

FOR FURTHER INFORMATION CONTACT: Connie Schaff, Land Law Examiner, Branch of Solid Minerals (MT–921), Bureau of Land Management (BLM), Montana State Office, Billings, Montana 59101–4669, telephone.

SUPPLEMENTARY INFORMATION: The proposed exploration program will be conducted pursuant to an exploration plan which must be approved by the Bureau of Land Management.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Glenwood F. Kerestes,

Acting Chief, Branch of Solid Minerals.

[FR Doc. E6–20458 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–020–1610–DO]

Notice of Intent To Prepare a Supplement to the Northeast National Petroleum Reserve-Alaska Amended Integrated Activity Plan/Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: The Bureau of Land Management (BLM), Alaska State Office, is preparing a supplemental Integrated Activity Plan/Environmental Impact Statement (IAP/EIS) for the Northeast portion of the National Petroleum Reserve-Alaska (NPR–A).

DATES: Comments regarding the concerns of the public on issues of interest, particularly recommended mitigation measures, should be received in writing by January 8, 2007.

ADDRESSES: Written comments regarding additional mitigation measures should be submitted to: Northeast NPR–A Planning Team Leader, 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7599.

Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. Individual respondents may request confidentiality. If you wish to request that the Bureau of Land Management (BLM) consider withholding your name, street address, and other contact information (such as: Internet address, fax or phone number) from public review or disclosure under the Freedom of Information Act, you should prominently state at the beginning of your comment that you wish to request confidentiality. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION, CONTACT: Jim Ducker (907–271–3130) by phone or by mail at 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

SUPPLEMENTARY INFORMATION: The BLM published the Northeast NPR–A Amended IAP/EIS in January 2005 and issued a Record of Decision (ROD) for Northeast NPR–A planning area based upon the IAP/EIS on January 11, 2006. On September 25, 2006, the U.S. District Court for the District of Alaska vacated

the January 2006 ROD and enjoined the Secretary from further action in the Northeast NPR–A under that ROD. The primary deficiency identified by the court concerned the failure to adequately address certain cumulative impacts associated with development in the adjacent Northwest NPR–A. The supplemental IAP/EIS will provide additional analysis necessary to fully address the deficiencies noted by the court and update relevant sections of the document with any new information. Any final decision will consider the full range of alternatives contained in the January 2005 Amended IAP/EIS, as informed by this new analysis.

While scoping is not required for supplements to environmental impact statements (40 CFR 1502.9(c)(4)), BLM is inviting comments on the supplement. Commenters are especially encouraged to identify measures that could reduce impacts to resources or uses that could be impacted by oil and gas and other activities in both the Northeast and Northwest NPR–A planning areas. The agency seeks specific, rather than general, recommendations as to stipulations, operating procedures, and other mitigating measures that the BLM could consider to further its goal of reducing impacts.

Authority: Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as amended; Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 *et seq.*), as amended by the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1981, Pub. L. 96–514, 94 Stat. 2957, 2964 (codified in 42 U.S.C. 6508); the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, 94 Stat. 2371, section 810, 16 U.S.C. 3120; and the regulations governing protection of resources in the NPR–A at 43 CFR parts 2360 and the regulations governing oil and gas leasing in the NPR–A at 43 CFR part 3130.

Julia Dougan,

Acting State Director.

[FR Doc. E6–20468 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV912–07–1020 PH–006F]

Notice of Public Meetings, Mojave Southern Great Basin Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Resource Advisory Council meetings, locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Mojave Southern Great Basin Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Mojave Southern Great Basin RAC meetings will be held January 11–12, 2007; March 8–9, 2007; June 14–15, 2007; and August 16–17, 2007.

ADDRESSES: The Mojave Southern Great Basin RAC meetings will be held January 11–12, and March 8–9 at the BLM Las Vegas Field Office, located at 4701 N. Torrey Pines Drive, Las Vegas, NV; June 14–15, 2007 at the (Meeting location TBD), Ely, NV; August 16–17, 2007, (Meeting location TBD) Tonopah, NV. Generally Mojave Southern Great Basin RAC meetings begin at 8 and 9 a.m. and adjourn at approximately 4–5 p.m.

SUPPLEMENTARY INFORMATION: The Mojave Southern Great Basin RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of public land issues in Nevada.

Topics of discussion during Mojave Southern Great Basin RAC meetings will likely include: Recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, water, wilderness, wild horse herd management, cultural resource management, the Southern Nevada Public Lands Management Act, and other issues as appropriate.

Final agendas, with any additions/corrections to agenda topics, the starting and ending times of each meeting, and details of any planned field trips, will be determined/posted at least two weeks before each two-day meeting on the BLM-Nevada State Office Web site at *http://www.nv.blm.gov/rac;* hard copies of the agendas can also be mailed or sent via fax. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or those who wish a hard copy of the agenda, should contact Hillerie C. Patton, Las Vegas Field Office, 4701 N. Torrey Pines Dr, Las Vegas, NV 89130, 702–515–5046, or *hillerie_c_patton@blm.gov* no later than two weeks before each two-day meeting.

These meetings are open to the public. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Also, the public may present written comments to the RAC.

FOR FURTHER INFORMATION CONTACT: Hillerie C. Patton, Mojave Southern Great Basin RAC Coordinator at 702–515–5046 or *hillerie_c_patton@blm.gov.*

Dated: November 24, 2006.

Angie Lara,

Las Vegas Associate Field Manager.

[FR Doc. 06–9494 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1430–ET; MNES 17056]

Public Land Order No. 7672; Extension of Public Land Order No. 6630; Minnesota

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends Public Land Order No. 6630 for an additional 20-year period. This extension is necessary to allow the National Park Service to continue to manage the land as part of the Voyageurs National Park.

DATES: Effective Date: November 18, 2006.

FOR FURTHER INFORMATION CONTACT: Ida Doup, BLM Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, 703–440–1541.

SUPPLEMENTARY INFORMATION: Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting; Minnesota was published in the **Federal Register** on September 1, 2006 (71 FR 52143).

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Public Land Order No. 6630 (51 FR 41627, November 18, 1986), which withdrew 49.26 acres of public land comprised of 61 islands and one waterfront lot in St. Louis County, Minnesota from surface entry and transferred jurisdiction from the Bureau of Land Management to the National Park Service, is hereby extended for an additional 20-year period.

2. This Public Land Order will expire on November 17, 2026, unless, as a result of a review conducted prior to the

expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended. (Authority: 43 CFR 2310.4)

Dated: November 15, 2006.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

[FR Doc. E6–20455 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0142).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR 250, Subpart Q, ''Decommissioning Activities.''

DATES: Submit written comments by February 2, 2007.

ADDRESSES: You may submit comments by any of the following methods listed below. Please use the Information Collection Number 1010–0142 as an identifier in your message.

- Public Connect online commenting system, *https://ocsconnect.mms.gov*. Follow the instructions on the Web site for submitting comments.
- E-mail MMS at *rules.comments@mms.gov*. Identify with Information Collection Number 1010–0142 in the subject line.
- Fax: 703–787–1093. Identify with Information Collection Number 1010–0142.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Process Team (RPT); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0142'' in your comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 250, Subpart Q, Decommissioning Activities.

OMB Control Number: 1010–00142.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and other techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.''

MMS uses the information collected under subpart Q primarily for the following reasons:

- To determine the necessity for allowing a well to be temporarily abandoned, the lessee/operator must demonstrate that there is a reason for not permanently abandoning the well and the temporary abandonment will not constitute a significant threat to fishing, navigation, or other uses of the seabed. We use the information and documentation to verify that the lessee is diligently pursuing the final disposition of the well, and the lessee has performed the temporary plugging of the wellbore.
- The information submitted in ''initial'' decommissioning plans in the Alaska and Pacific OCS Regions will permit MMS to become involved on the ground floor planning of the world-class platform removals anticipated to occur in these OCS regions.
- Site clearance and platform or pipeline removal information ensures that all objects (wellheads, platforms, etc.) installed on the OCS are properly removed using procedures that will protect marine life and the environment during removal operations, and the site cleared so as not to conflict with or harm other uses of the OCS.
- Decommissioning a pipeline in place is needed to ensure that it will not constitute a hazard to navigation and commercial fishing operations, unduly interfere with other uses of the OCS, or have adverse environmental effects.
- The information is necessary to verify that decommissioning activities comply with approved applications and procedures and are satisfactorily completed.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion, annually and varies by requirement.

Estimated Number and Description of Respondents: Approximately 236 Federal OCS oil, gas, and sulphur lessees and holders of pipeline rights-of-way.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting burden for this collection is 8,579 hours. The following chart details the individual components and respective hour burden estimates and fees of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 Subpart Q	Reporting requirement	Hour burden
		Fees
1703; 1704	Request approval for decommissioning	Burden included below.
1704(g); 1712; 1716; 1717; 1721(a), (d), (f), (g); 1722(a), (b), (d); 1723(b); 1743(a).	Submit form MMS–124 to plug wells; provide subsequent report; request alternate depth departure; request procedure to protect obstructions above seafloor; report within 30 days, results of trawling; certify area cleared of obstructions; remove casing stub or mud line suspension equipment and subsea protective covering; or other departures.	Burden included under 1010–00141.
1713	Notify MMS 48 hours before beginning operations to permanently plug a well.	.25
1721(e); 1722(e), (h)(1); 1741(c)	Identify and report subsea wellheads, casing stubs, or other obstructions; mark wells protected by a dome; mark location to be cleared as navigation hazard.	U.S. Coast Guard requirements.
1722(c), (g)(2)	Notify MMS within 5 days if trawl does not pass over protective device or causes damages to it; or if inspection reveals casing stub or mud line suspension is no longer protected.	.25
1722(f), (g)(3)	Submit annual report on plans for re-entry to complete or permanently abandon the well and inspection report.	2
1722(h)	Request waiver of trawling test	2
1726; 1704(a)	Submit initial decommissioning application in the Pacific OCS Region and Alaska OCS Region.	20
1725; 1727; 1728; 1730; 1704(b)	Submit final application and appropriate data to remove platform or other subsea facility structures (including alternate depth departure) or approval to maintain, to conduct other operations, or to convert to artificial reef.	10
		$4,100 fee per submission.
1725(e)	Notify MMS 48 hours before beginning removal of platform and other facilities.	.25
1729; 1704(c)	Submit post platform or other facility removal report	8
1740	Request approval to use alternative methods of well site, platform, or other facility clearance.	8
1743(b)	Verify permanently plugged well, platform, or other facility removal site cleared of obstructions and submit certification letter.	12
1751; 1752; 1704(d)	Submit application to decommission pipeline in place or remove pipeline (L/T or ROW).	8
		$1,000 L/T fee per submission.
		$1,900 ROW fee per submission.
1753	Submit post pipeline decommissioning report	2
1700 thru 1754	General departure and alternative compliance requests not specifically covered elsewhere in subpart Q regulations.	2

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: The currently approved ''non-hour cost'' burdens for this collection is a total of $1,032,006. These cost burdens are for filing fees associated with submitting requests for approval to remove a platform or other facility or decommission a pipeline. We have not identified any other non-hour cost burdens associated with this collection of information. See the above table for the specific non-hour cost burdens associated with this ICR.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A)

requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: The MMS's practice is to make comments, including names and addresses of respondents, available for public review. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. The MMS will honor this request to the extent allowable by law; however, anonymous comments will not be considered. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure ''would constitute an unwarranted invasion of privacy.'' Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: November 27, 2006.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E6–20425 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Establishment of a New Fee Area at Voyageurs National Park

AGENCY: National Park Service, Interior.

SUMMARY: This notice is to comply with section 804 of the Federal Lands Recreation Enhancement Act of 2004 (Pub. L. No. 108–447). The Act requires agencies to give the public advance notice (6 months) of the establishment of a new recreation fee area. Voyageurs National Park in northern Minnesota plans to collect an expanded amenity recreation fee of $35 per night for two group camp sites beginning the summer of 2007. Revenue will be used to support deferred maintenance in the campsites, to cover the cost of collections at the park, and to pay for contractor-provided reservation services.

DATES: Collection of fees will be effective 6 months from the posting of this notice.

ADDRESSES: Information requests may be submitted to Rick DeLappe; Reservation Service Program Manager by any of the following methods:

E-mail: rick_delappe@nps.gov.

Fax: 202–371–2401, Attention: Rick DeLappe

Mail: Rick DeLappe, Reservation Service Program Manager, National Park Service, 1849 C Street, NW., ORG CODE 2608, Washington, DC 20240

FOR FURTHER INFORMATION CONTACT: Kathleen Przybylski, Chief of Visitor Education and Planning, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649. (218) 283–9821 ext 6145.

SUPPLEMENTARY INFORMATION: Voyageurs National Park in northern Minnesota plans to implement expanded amenity recreation fees for two group campsites at Rainy Lake and Kabetogama Lake. These group sites are accessible only by boat and were designed to accommodate up to 30 people. Visitors will be able to reserve these sites in advance through the National Park Reservation Service (NPRS) or in person at the park on a space available basis for same day arrivals. Advanced reservation services will allow groups to guarantee that sites will be available and will provide them the ability to plan ahead. Advance reservations will also help the park manage use in a way that minimizes conflicts between visitors and increases the likelihood that these sites will be used by the large groups for which they were designed. Under the current first-come-first-served arrangement, small groups often occupy these sites displacing the larger groups who have few alternatives. The $35 fee was determined through a comparability study of similar sites in the area at both Federal and state recreation areas and will only be charged for these two group sites. The park will not charge an additional reservation fee on top of the $35 for visitors making advanced reservations through the NPRS. Individual campsites in Voyageurs National Park will remain free of charge on a first-come-first-served basis. In accordance with NPS public involvement guidelines, the park engaged numerous individuals, organizations, and local, state, and Federal government representatives while planning for the implementation of this fee.

Dated: October 30, 2006.

Mary A. Bomar,

Director National Park Service.

[FR Doc. E6–20416 Filed 12–1–06; 8:45 am]

BILLING CODE 4310–H5–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Privacy Act of 1974; Systems of Records

AGENCY: Foreign Claims Settlement Commission; Justice.

ACTION: Revisions of Notice of Privacy Act Systems of Records; correction.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, the Foreign Claims Settlement Commission gave notice by publication in the **Federal Register** on November 14, 2006 (71 FR 66347) of a proposal to modify all of its systems of records to include a new routine use. This Notice also included an updated Table of Contents of the Commission's Privacy Act Systems of Records, in order to reflect the deletion of four of its records systems due to the release of the records in those systems to the National Archives for permanent retention.

This Table of Contents erroneously included two Privacy Act Systems of Records which had previously been deleted. Accordingly, the Foreign Claims Settlement Commission hereby deletes from the revised Table of Contents of its Privacy Act Systems of Records published on November 14, 2006, the following two items: ''Justice/FCSC–6, Correspondence (General),'' and ''Justice/FCSC–7, Correspondence (Inquiries Concerning Claims in Foreign Countries).'' In all other respects, this revised Table of Contents continues in effect as replacement for the Table of Contents included as part of the Privacy Act Systems of Records Notice published by the Foreign Claims Settlement Commission in the **Federal Register** on June 10, 1999 (64 FR 31296), the information in which remains accurate and up-to-date.

Mauricio J. Tamargo,

Chairman.

[FR Doc. E6–20454 Filed 12–1–06; 8:45 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Prohibited Transaction Exemption for Provision of Investment Advice to Individual Retirement and Similar Plans

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Request for information.

SUMMARY: Section 601 of the Pension Protection Act of 2006 (the PPA) (Pub. L. 109–280) amended section 408 of the Employee Retirement Security Act of 1974 (ERISA) and section 4975 of the Internal Revenue Code of 1986 (the Code) to add an exemption from certain prohibited transactions restrictions of ERISA and from certain taxes imposed by the Code for the provision of ''investment advice'' to participants and beneficiaries of covered employee benefit plans, and certain related transactions, if the investment advice is provided under an ''eligible investment advice arrangement.'' The exemption conditions relief upon satisfaction of a number of requirements more fully described in the statutory provisions. In particular, to be covered, the investment advice must be provided under an eligible investment advice arrangement that uses a computer model, which meets the requirements of the exemption. The purpose of this document is to solicit information from the public concerning the feasibility of the application of computer model investment advice programs for Individual Retirement Accounts and similar types of plans (hereinafter, IRAs).[1] The PPA directs the Secretary of Labor, in consultation with the Secretary of the Treasury, to determine, based on the information received from the solicitation, whether there is any computer model investment advice program which may be utilized to provide investment advice to IRA beneficiaries.[2]

DATES: Written or electronic responses should be submitted to the Department of Labor on or before January 30, 2007.

Responses: To facilitate the receipt and processing of responses, EBSA encourages interested persons to submit their responses electronically by e-mail to *e-OED@dol.gov*, or by using the Federal eRulemaking portal at *www.regulations.gov* (follow instructions for submission of comments). Persons submitting responses electronically are encouraged not to submit paper copies. Persons interested in submitting written responses on paper should send or deliver their responses (preferably, at least three copies) to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: IRA Investment Advice RFI. All written responses will be available to the public, without charge, online at *www.regulations.gov* and *www.dol.gov/ebsa*, and at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Christopher Motta or Brian Buyniski, Office of Exemption Determinations, Employee Benefits Security Administration, Room N–5700, U.S. Department of Labor, Washington, DC 20210, telephone (202) 693–8540. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

A. Background

As a general matter, the provision of investment advice by a plan fiduciary as defined under section 3(21)(A) of ERISA to the plan would give rise to prohibited self-dealing under section 406(b)(1) of ERISA and section 4975(c)(1)(E) of the Internal Revenue Code of 1986 (the Code) if the fiduciary has an interest in the outcome of the advice which may affect its best judgment as a fiduciary (e.g., the fiduciary or its affiliate receives additional fees from investment options with respect to which advice is given).[3] Section 601(a) of the Pension Protection Act of 2006 (PPA) amended ERISA by adding new sections 408(b)(14) and 408(g). Section 408(b)(14) of ERISA provides conditional exemptive relief from the prohibitions of ERISA section 406 for certain transactions in connection with the provision of investment advice (as described by ERISA section 3(21)(A)(ii)) to a participant or beneficiary of an individual account plan, if the requirements of new section 408(g) are met.[4]

Section 601(b) of the PPA similarly amended the Code by adding new Code sections 4975(d)(17) and 4975(f)(8). Section 4975(d)(17) of the Code provides conditional exemptive relief from the prohibitions described in section 4975(c) for certain transactions in connection with the provision of investment advice (as described in Code

[1] See PPA section 601(b)(3)(A)(i). These plans are: (A) An individual retirement account described in section 408(a) of the Code; (B) an individual retirement annuity described in section 408(b) of the Code; (C) an Archer MSA described in section 220(d)of the Code; (D) a health savings account described in section 223(d) of the Code; (E) a Coverdell education savings account described in Code section 530; or (F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary of Treasury to be described in any preceding subparagraph of this paragraph [*i.e.,* (A) through (E) above].

[2] Under Presidential Reorganization Plan No. 4 of 1978, effective December 31, 1978 [5 U.S.C. App. at 214 2000 ed.)], the authority of the Secretary of the Treasury to issue interpretations regarding section 4975 of the Code has been transferred, with certain exceptions not here relevant, to the Secretary of Labor and the Secretary of the Treasury is bound by the interpretations of the Secretary of Labor pursuant to such authority.

[3] See ERISA section 406(b)(1) and Code section 4975(c)(1)(E).

[4] ERISA Section 3(21)(A)(ii) defines a ''fiduciary'' as including a person who renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the plan.

section 4975(e)(3)(B))[5] to a participant or beneficiary of a plan, if the requirements of section 4975(f)(8) are met.

Under section 4975(f)(8) of the Code, the investment advice must be provided by a fiduciary adviser pursuant to an ''eligible investment advice arrangement.'' The term ''eligible investment advice arrangement'' is defined in section 4975(f)(8)(B) to mean an arrangement which either: (1) Provides that any fees (including any commission or other compensation) received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for purposes of investment of plan assets do not vary depending on the basis or any investment option selected, or (2) uses a computer model under an investment advice program meeting the requirements of section 4975(f)(8)(C) in connection with the provision of investment advice by a fiduciary adviser to a participant and beneficiary, and with respect to which the requirements of subparagraphs (D), (E), (F), (G), (H) and (I) of section (f)(8) are met.

Under section 4975(f)(8)(C) of the Code, the computer model utilized by an investment advice program must: (1) Apply generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time; (2) utilize relevant information about the participant, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments; (3) utilize prescribed objective criteria to provide asset allocation portfolios comprised of investment options available under the plan; (4) operate in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser; and (5) take into account all investment options under the plan in specifying how a participant's account balance should be invested and not be inappropriately weighted with respect to any investment option.

The PPA restricts the use, under the exemption, of a computer model investment advice program to provide investment advice to an IRA (or similar plan (hereinafter, an IRA)) beneficiary.[6] In this regard, section 601(b)(3)(C)(i)(I) of the PPA provides that a computer model investment advice program will not apply to an IRA unless and until the Secretary of Labor determines under section 601(b)(3)(B)or (D) of the PPA that there is a computer model investment advice program described in section 601(b)(3)(B) of the PPA. Section 601(b)(3)(A) requires that the Secretary of Labor, in consultation with the Secretary of the Treasury, solicit information as to the feasibility of the application of computer model investment programs for IRAs.[7]

Section 601(b)(3)(B) requires that the Secretary of Labor, in consultation with the Secretary of the Treasury, determine, based upon the information received from the solicitation, whether there is any computer model investment advice program which may be utilized to provide investment advice for IRA beneficiaries. Among other things, such computer model investment advice program for IRA beneficiaries must: (1) Utilize relevant information about the beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments; (2) take into account the full range of investments, including equities and bonds, in determining the options for the investment portfolios of the beneficiary; and (3) allow the beneficiary, in directing the investment, sufficient flexibility in obtaining advice to evaluate and select investment options.[8]

Upon completion of its determination, the Secretary of Labor shall report the results of such determination to the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate no later than December 31, 2007.

B. Issues Under Consideration

Feasibility of Computer Model Investment Advice

The Department is interested in comments regarding the feasibility of applying computer model investment advice programs for IRAs. The information received from the solicitation will assist the Department in making its required determination of feasibility under section 601(b)(3)(B) of the PPA.[9] A list of issues with respect to which comments are requested is included below. Responses on other issues pertinent to the Department's determination are also invited.

Request for Information

1. Are there computer model investment advice programs for the current year and preceding year that are, or may be, utilized to provide investment advice to beneficiaries of plans described in section 4975(e)(1)(B)–(F) (and so much of subparagraph (G) as relates to such subparagraphs) (hereinafter ''IRA'') of the Code which:

(a) Apply generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time;

(b) Utilize relevant information about the beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments;

(c) Operate in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser;

(d) Take into account the full range of investments, including equities and bonds, in determining the options for the investment portfolios of the beneficiary; and

(e) Allow the beneficiary, in directing the investment, sufficient flexibility in obtaining advice to evaluate and select investment options.

2. If currently available computer models do not satisfy all of the criteria described above, which criteria are presently not considered by such

[5] Code Section 4975(e)(3)(B) defines a ''fiduciary'' as including any person who renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the plan.

[6] This restriction does not affect the application of the exemption to an eligible investment advice arrangement that satisfies Code section 4975(f)(8)(B)(i)(I) (describing arrangement under which fees do not vary). Further, there is no comparable limitation with respect to sections 408(b)(14) and 408(g) of ERISA. In this regard, the Department notes that IRAs are generally not subject to the provisions of Title I of ERISA. See 29 CFR Sec. 2510.3–2(d).

[7] In addition to soliciting information from the public in general, section 601(b)(3)(A)(i) of the PPA directs the Secretary of Labor to solicit information regarding the feasibility of the application of computer model investment advice programs from: (1) the ''top 50 trustees'' of IRAs and similar plans, determined on the basis of assets held by such trustees; and (2) other persons offering computer model investment advice programs based on non-proprietary products.

[8] See PPA section 601(b)(3)(B)(i)–(iii).

[9] The Department notes that any determination made by the Department under section 601(b)(3)(B) of the PPA regarding the feasibility of the application of computer model investment advice programs for IRAs will not have any affect on existing individual or class exemptions that may provide relief for the provision of investment advice to IRA beneficiaries. In this regard, see Prohibited Transaction Class Exemption 84–24 (49 FR 13208 (Apr. 3, 1984), as corrected at 49 FR 24819 (June 15, 1984), and amended at 71 FR 5887 (Feb. 3, 2006)).

computer models? Would it be possible to develop a model that satisfies all of the specified criteria? Which criteria would pose difficulties to developers and why?

3. If there are any currently available computer model investment advice programs meeting the criteria described in Question 1 that may be utilized for providing investment advice to IRA beneficiaries, please provide a complete description of such programs and the extent to which they are available to IRA beneficiaries.

4. With respect to any programs described in response to Question 3, do any of such programs permit the IRA beneficiary to invest IRA assets in virtually any investment? If not, what are the difficulties, if any, in creating such a model?

5. If computer model investment advice programs are not currently available to IRA beneficiaries that permit the investment of IRA assets in virtually any investment, are there computer model investment advice programs currently available to IRA beneficiaries that, by design or operation, limit the investments modeled by the computer program to a subset of the investment universe? If so, who is responsible for the development of such investment limitations and how are the limitations developed? Is there any flexibility on the part of an IRA beneficiary to modify the computer model to take into account his or her preferences? Are such computer model investment advice programs available to the beneficiaries of IRAs that are not maintained by the persons offering such programs?

6. If you offer a computer model investment advice program based on nonproprietary investment products, do you make the program available to investment accounts maintained by you on behalf of IRA beneficiaries?

7. What are the investment options considered by computer investment advice programs? What information on such options is needed? How is the information obtained and made part of the programs? Is the information publicly available or available to IRA beneficiaries?

8. How should the Department or a third party evaluate a computer model investment advice program to determine whether a program satisfies the criteria described in Question 1 or any other similar criteria established to evaluate such programs?

9. How do computer model investment advice programs present advice to IRA beneficiaries? How do such programs allow beneficiaries to refine, amend or override provided advice?

Signed at Washington, DC, this 28th day of November 2006.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. E6–20401 Filed 12–1–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

RIN 1210–AB13

Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Request for information.

SUMMARY: Section 601 of the Pension Protection Act of 2006 (the PPA) (Pub. L. 109–280) amended section 408 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975 of the Internal Revenue Code (the Code) to add a prohibited transaction exemption for the provision of investment advice to participants and beneficiaries of individual account plans that permit the direction of assets in their accounts, and for certain related transactions, if the investment advice is provided under an ''eligible investment advice arrangement,'' as defined in the statute. The purpose of this notice is to request information from the public relating to the requirements in the new provisions that a computer model which serves as the basis for an eligible investment advice arrangement be certified as meeting specific criteria, and that information regarding certain fees and compensation be provided to participants and beneficiaries.

DATES: Written or electronic responses should be submitted to the Department of Labor on or before January 30, 2007.

Responses: To facilitate the receipt and processing of responses, EBSA encourages interested persons to submit their responses electronically by e-mail to *e-ORI@dol.gov,* or by using the Federal eRulemaking portal at *www.regulations.gov* (follow instructions for submission of comments). Persons submitting responses electronically are encouraged not to submit paper copies. Persons interested in submitting written responses on paper should send or deliver their responses (preferably, at least three copies) to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: 401(k) Plan Investment Advice RFI. All written responses will be available to the public, without charge, online at *www.regulations.gov* and *www.dol.gov/ebsa,* and at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis or Ruel B. Pile, Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5669, U.S. Department of Labor, Washington, DC 20210, telephone (202) 693–8510. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

A. Background

In General

The prohibited transaction provisions in section 406 of the Employee Retirement Income Security Act of 1974 (ERISA) prohibit various types of transactions between a plan and persons who are parties in interest (as defined in ERISA section 3(14)) with respect to the plan, and also prohibit, among other things, a plan fiduciary (as defined in ERISA section 3(21)(A)) from dealing with assets of the plan in his own interest or for his own account, or receiving any consideration for his own personal account from any party dealing with the plan in connection with a transaction involving the assets of the plan.[1]

Section 601(a) of the Pension Protection Act of 2006 (PPA) (P.L. 109–280) amended ERISA by adding new sections 408(b)(14) and 408(g). Section 408(b)(14) of ERISA provides conditional exemptive relief from ERISA section 406 for certain transactions in connection with the provision of investment advice (as described in ERISA section 3(21)(A)(ii)) if the requirements of new section 408(g) of ERISA are met. Under section 408(g), subsection (b)(14) applies if the investment advice provided by a ''fiduciary adviser'' is provided under an ''eligible investment advice arrangement.''[2] Persons who may act as

[1] The Internal Revenue Code (Code) contains similar prohibited transaction provisions in section 4975(c).

[2] Section 601(b) of the PPA similarly amended section 4975 of the Code by adding new section 4975(d)(17) and (f)(8), to provide conditional

Continued

fiduciary advisers, as defined in section 408(g)(11)(A), include, but are not limited to, investment advisers registered under the Investment Advisers Act of 1940, certain banks and similar financial institutions, insurance companies qualified to do business under the laws of a State, and brokers or dealers registered under the Securities Exchange Act of 1934.

The term ''eligible investment advice arrangement'' is defined in ERISA section 408(g)(2) to mean an arrangement which either (i) provides that any fees (including any commission or other compensation) received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for purposes of investment of plan assets do not vary depending on the basis of any investment option selected, or (ii) uses a computer model under an investment advice program meeting the requirements of section 408(g)(3) in connection with the provision of investment advice by a fiduciary adviser to a participant or beneficiary, and with respect to which the requirements in section 408(g)(4) through (9)—which includes a requirement pertaining to the disclosure of certain fees—are satisfied.

Computer Model

In order for an investment advice program using a computer model to meet the requirements of section 408(g)(3), the program must satisfy subparagraphs (B), (C) and (D) thereof. Section 408(g)(3)(B) requires, in particular, that the investment advice provided under the investment advice program must be provided pursuant to a computer model that:

(i) Applies generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time,

(ii) utilizes relevant information about the participant, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

(iii) utilizes prescribed objective criteria to provide asset allocation portfolios comprised of investment options available under the plan,

(iv) operates in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser, and

(v) takes into account all investment options under the plan in specifying how a participant's account balance should be invested and is not inappropriately weighted with respect to any investment option.

Under section 408(g)(3)(C), an ''eligible investment expert'' must certify, prior to the utilization of the computer model and in accordance with rules prescribed by the Secretary of Labor (Secretary), that the computer model meets the requirements described in section 408(b)(3)(B). Additionally, if, as determined under regulations prescribed by the Secretary, there are material modifications to the computer model, a certification must be obtained with respect to the computer model as modified. In relevant part, section 408(g)(3)(C) defines ''eligible investment expert'' to mean any person which meets such requirements as the Secretary may provide, and does not bear any material affiliation or contractual relationship with certain persons.

Disclosure of Fee-Related Information

Regardless of whether an arrangement provides for non-varying fees (section 408(g)(2)(A)(i)) or uses a computer model under an investment advice program (section 408(g)(2)(A)(ii)), the arrangement also must satisfy section 408(g)(4) through (9) in order to qualify as an ''eligible investment advice arrangement.'' In particular, section 408(g)(6) requires that a fiduciary adviser provide to participants and beneficiaries written notification of ''all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property.'' ERISA section 408(g)(6)(A)(iii). Section 408(g)(8)(A) requires that this notification be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and be sufficiently accurate and comprehensive to reasonably apprise participants and beneficiaries of the information required to be provided in the notification. For the disclosure of fees and compensation described in section 408(g)(6)(A)(iii), section 408(g)(8)(B) directs the Secretary to issue a model form which meets the section 408(g)(8)(A) standards.

B. Issues Under Consideration

The ERISA section 408(g)(3)(C) computer model certification requirements provide for regulatory guidance in three areas. First, section 408(g)(3)(C)(i) requires that an ''eligible investment expert'' must certify, in accordance with rules prescribed by the Secretary, that a computer model meets the criteria set forth in section 408(g)(3)(B). Second, under section 408(g)(3)(C)(ii), the Secretary may prescribe regulations which provide guidance regarding ''material modifications'' to a computer model that also require certification. Third, under section 408(g)(3)(C)(iii), the Secretary may establish requirements that a person must satisfy in order to qualify as an ''eligible investment expert.'' The Department is interested in comments that would assist in the development of regulatory guidance and in the assessment of economic costs and benefits in these three areas.

Additionally, ERISA section 408(g)(8)(B) directs the Secretary to issue a model form for the disclosure of fees and other compensation required by section 408(g)(6)(A)(iii) that meets the standards for presentation of information prescribed in section 408(g)(8)(A). The Department is interested in comments that would assist in the development of a model form for this purpose and in the assessment of the economic costs and benefits of a model form for this purpose.

Commenters may provide information with respect to either or both sets of issues. A list of some of the issues with respect to which comments are requested is included below. Other information pertinent to the Department's consideration of the issues described above is also invited.

Request for Information

Computer Model Certification

1. What procedures and information would be necessary and adequate to determine whether a computer model used in connection with an investment advice program satisfies the criteria described in ERISA section 408(g)(3)(B)? For example, would it be necessary to examine underlying computer programs/algorithms, computer software/hardware, or input data

exemptive relief from the prohibitions described in Code section 4975(c) for certain transactions in connection with the provision of investment advice (as described in Code section 4975(e)(3)(B)). Under Presidential Reorganization Plan No. 4 of 1978, effective December 31, 1978 [5 U.S.C. App. at 214 (2000 ed.)], the authority of the Secretary of the Treasury to issue interpretations regarding section 4975 of the Code has been transferred, with certain exceptions not here relevant, to the Secretary of Labor and the Secretary of the Treasury is bound by the interpretations of the Secretary of Labor pursuant to such authority. The references in this document to specific provisions of ERISA sections 408(b)(14) and (g) should be taken as referring also to the corresponding provisions in Code sections 4975(d)(17) and (f)(8).

including investment-specific information; would it be possible to make a determination based on the results of applying the investment advice program to a sample set of the input data? (Commenters are requested to explain by reference to each of the five computer model characteristics described in section 408(g)(3)(B), summarized above.)

2. What types (e.g., technological, financial, other) and levels (e.g., educational, professional experience, professional certification) of expertise would be required to determine whether a computer model used in connection with an investment advice program satisfies the criteria described in ERISA section 408(g)(3)(B)? (Commenters are requested to explain by reference to each of the five computer model characteristics described in section 408(g)(3)(B), summarized above.)

3. With respect to currently-available computer models or programs for providing investment advice to plan participants or beneficiaries in the form of asset allocation portfolios comprised of plan investment options: [3]

a. What is the process for designing, developing and implementing the computer model/program? What parties are involved, and what are their roles? What hardware and software technologies are used to construct computer model investment advice programs? What direct economic costs are associated with the process for designing, developing and implementing the computer model/program?

b. What types of modifications are made to the computer model/program after use has begun? Why and how often are the modifications made (e.g., changes in methodology, technology, economy, marketplace, or plan), and how do the modifications affect the investment advice provided? What parties are involved in the modification process, and what are their roles? What direct economic costs may be associated with the modifications?

c. What economic costs and benefits are associated with the use of the computer model/program for providing investment advice, including changes in investment performance and in retirement wealth due to the provision of such advice? What are the indirect costs and benefits, such as impact on markets for financial services, including investment advice services, and impact on financial markets, including demand for and pricing of securities?

4. Would the responses to 3.a., 3.b., or 3.c. differ in the case of a computer model/investment advice program intended to satisfy the requirements of ERISA section 408(g)(3)(B)?

5. With respect to the Department's development of regulatory guidance, what special considerations, if any, should be made for small businesses or other small entities? Are there unique costs and benefits for small businesses or other small entities?

Model Form for Disclosure of Fees and Other Compensation

1. In general, what types of information relating to fees received by fiduciary advisers and their affiliates would be helpful to participants and beneficiaries in making their investment decisions?

2. What types of fees and compensation (including those provided by third parties) would be encompassed by ERISA section 408(g)(6)(A)(iii)? In relevant part, this provision refers to ''all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property.''

3. What challenges might be encountered in assembling and/or presenting the information on fees and compensation described in section 408(g)(6)(A)(iii) in a manner that is clear and understandable by the average plan participant? Are there any suggestions as to how these challenges can be addressed by the Department?

4. Is there a form or format for presenting information on fees and compensation described in section 408(g)(6)(A)(iii) (e.g., narrative, chart, combination of both) that might be particularly suitable in giving participants a clear and understandable description of the fees and compensation received by a fiduciary adviser or its affiliates? Is there an optimal time frame, relative to when the advice is provided, for providing this information to participants and beneficiaries? What impact, if any, will the receipt of a model form have on investment decisions made by participants and beneficiaries?

5. Persons that may qualify as ''fiduciary advisers'' are invited to provide forms that they currently use, or might use, to provide the kinds of fee and compensation information described above. As described in ERISA section 408(g)(11)(A), ''fiduciary advisers'' may include investment advisers registered under the Investment Advisers Act of 1940, certain banks and similar financial institutions, insurance companies qualified to do business under the laws of a State, and brokers or dealers registered under the Securities Exchange Act of 1934. Commenters are reminded that submissions are made solely for the purpose of assisting the Department. Accordingly, no inferences should be drawn as to whether the forms submitted meet the standards for presentation described in ERISA section 408(g)(8)(A).

Signed at Washington, DC, this 28th day of November, 2006.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. E6–20402 Filed 12–1–06; 8:45 am]

BILLING CODE 4510–29–P

[3] Commenters are reminded that, as described above, materials submitted in response to this request will be publicly available.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL2–98]

NSF International; Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of NSF International (NSF) as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of recognition becomes effective on December 4, 2006.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of NSF International (NSF) as a Nationally Recognized Testing Laboratory (NRTL). NSF's expansion covers the use of additional test standards. OSHA's current scope of recognition for NSF may be found in the following informational Web page: *http://www.osha.gov/dts/otpca/nrtl/nsf.html.*

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products ''properly certified'' [1] by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page for each NRTL, which details its scope of recognition. These pages can be accessed from our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

NSF submitted an application, dated May 10, 2005, (see Exhibit 16–1) to expand its recognition to include 19 additional test standards. The NRTL then amended the original application to request two additional test standards (see Exhibit 16–2). The NRTL Program staff determined that each of these standards is an ''appropriate test standard'' within the meaning of 29 CFR 1910.7(c). However, one of these standards was already included in NSF's scope. Therefore, OSHA is approving 20 test standards for the expansion. In connection with this request, OSHA did not perform an on-site review of NSF's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and recommended that NSF's recognition be expanded to include the 20 additional test standards listed below (see Exhibit 16–3).

The preliminary notice announcing the expansion application was published in the **Federal Register** on May 18, 2006 (71 FR 28886). Comments were requested by June 2, 2006, but no comments were received in response to this notice. OSHA is now proceeding with this final notice to grant NSF's expansion application.

The most recent application processed by OSHA for NSF covered its renewal of recognition, and the final notice granting this renewal was published on August 30, 2005 (70 FR 51371).

You may obtain or review copies of all public documents pertaining to the NSF application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC, 20210. Docket No. NRTL2–98 contains all materials in the record concerning NSF's recognition.

The current address of the NSF facility already recognized by OSHA is: NSF International, 789 Dixboro Road, Ann Arbor, MI 48105.

Final Decision and Order

NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that NSF has met the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of NSF, subject to the following limitation and conditions.

Limitation

OSHA limits the expansion of NSF's recognition to testing and certification of products for demonstration of conformance to the test standards listed below. OSHA has determined that the standards meet the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c).

UL 48 ...	Electric Signs.
UL 65 ...	Wired Cabinets.
UL 174	Household Electric Storage Tank Water Heaters.
UL 250	Household Refrigerators and Freezers.
UL 412	Refrigeration Unit Coolers.
UL 430	Waste Disposers.
UL 499	Electric Heating Appliances.
UL 778	Motor-Operated Water Pumps.
UL 858	Household Electric Ranges.
UL 873	Temperature-Indicating and -Regulating Equipment.
UL 979	Water Treatment Appliances.
UL 1026	Electric Household Cooking and Food Serving Appliances.
UL 1082	Household Electric Coffee Makers and Brewing-Type Appliances.
UL 1083	Household Electric Skillets and Frying-Type Appliances.
UL 1261	Electric Water Heaters for Pools and Tubs.
UL 1598	Luminaires.
UL 1889	Commercial Filters for Cooking Oil.
UL 1951	Electric Plumbing Accessories.
UL 2157	Electric Clothes Washing Machines and Extractors.
UL 2158	Electric Clothes Dryers.

The designations and titles of the above test standards were current at the time of the preparation of the notice of the preliminary finding.

OSHA's recognition of NSF, or any NRTL, for a particular test standard is limited to equipment or materials (*i.e.*, products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product(s) for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product(s).

Many UL test standards also are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience, we use the designation of the standards developing organization for the standard as opposed to the ANSI designation. Under our procedures, any NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard. You may contact ANSI to find out whether or not a test standard is currently ANSI-approved.

Conditions

NSF must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to NSF's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If NSF has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

NSF must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, NSF agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL)

[1] Properly certified means, in part, that the product is labeled or marked with the NRTL's ''registered'' certification mark (*i.e.*, the mark the NRTL uses for its NRTL work) and that the product certification falls within the scope of recognition of the NRTL.

without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

NSF must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

NSF will meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

NSF will continue to meet the requirements for recognition in all areas where it has been recognized.

Edwin G. Foulke, Jr.,

Assistant Secretary.

[FR Doc. E6–20405 Filed 12–1–06; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL3–92]

TUV Rheinland of North America, Inc.; Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of TUV Rheinland of North America, Inc., (TUV) as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of recognition becomes effective on December 4, 2006.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of TUV Rheinland of North America, Inc., (TUV) as a Nationally Recognized Testing Laboratory (NRTL). TUV's expansion covers the use of additional test standards. OSHA's current scope of recognition for TUV may be found in the following informational Web page: *http://www.osha.gov/dts/otpca/nrtl/tuv.html*.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products ''properly certified'' [1] by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page that details the scope of recognition for each NRTL. These pages can be accessed from our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

TUV submitted an application, dated December 20, 2004, (see Exhibit 32–1) to expand its recognition to include five additional test standards. The NRTL then amended the original application to request four additional test standards (see Exhibit 32–2). The NRTL Program staff determined that each of these standards is an ''appropriate test standard'' within the meaning of 29 CFR 1910.7(c). However, one standard was already included in TUV's scope. Therefore, OSHA is approving eight test standards for the expansion. In connection with this request, OSHA performed an on-site review of TUV's NRTL testing facility. The assessor reviewed information pertinent to the request and recommended expansion for the eight additional test standards (see Exhibit 32–3).

The preliminary notice announcing the expansion application was published in the **Federal Register** on July 24, 2006 (71 FR 41841). Comments were requested by August 8, 2006, but no comments were received in response to this notice. OSHA is now proceeding with this final notice to grant TUV's expansion application.

The most recent application processed by OSHA for TUV also covered an expansion of recognition, and the final notice granting this expansion was published on June 20, 2003 (68 FR 37030).

You may obtain or review copies of all public documents pertaining to the TUV application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210. Docket No. NRTL3–92 contains all materials in the record concerning TUV's recognition.

The current address of the TUV facility already recognized by OSHA is: TUV Rheinland of North America, Inc., 12 Commerce Road, Newton, CT 06470.

Final Decision and Order

NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that TUV has met the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of TUV, subject to the following limitation and conditions.

Limitation

OSHA limits the expansion of TUV's recognition to testing and certification of products for demonstration of conformance to the test standards listed below. OSHA has determined that the standards meet the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c).

UL 943	Ground-Fault Circuit-Interrupters.
UL 991	Tests for Safety-Related Controls Employing Solid-State Devices.
UL 1047	Isolated Power Systems Equipment.
UL 1363	Relocatable Power Taps.
UL 1662	Electric Chain Saws.
UL 1664	Immersion-Detection Circuit-Interrupters.
UL 1741	Inverters, Converters, Controllers and Interconnection System Equipment for Use With Distributed Energy Resources.
UL 1863	Communications-Circuit Accessories.

The designations and titles of the above test standards were current at the

[1] Properly certified means, in part, that the product is labeled or marked with the NRTL's ''registered'' certification mark (i.e., the mark the NRTL uses for its NRTL work) and that the product certification falls within the scope of recognition of the NRTL.

time of the preparation of the notice of the preliminary finding.

OSHA's recognition of TUV, or any NRTL, for a particular test standard is limited to equipment or materials (i.e., products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product(s) for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product(s).

Many UL test standards also are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience, we use the designation of the standards developing organization for the standard as opposed to the ANSI designation. Under our procedures, any NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard. You may contact ANSI to find out whether or not a test standard is currently ANSI-approved.

Conditions

TUV must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to TUV's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If TUV has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

TUV must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, TUV agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

TUV must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

TUV will meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

TUV will continue to meet the requirements for recognition in all areas where it has been recognized.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E6–20406 Filed 12–1–06; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

Copyright Office

Docket No. 07–10802

Section 108 Study Group: Copyright Exceptions for Libraries and Archives

AGENCY: Office of Strategic Initiatives and Copyright Office, Library of Congress.

ACTION: Notice of a public roundtable with request for comments.

SUMMARY: The Section 108 Study Group announces a public roundtable discussion on certain issues relating to the exceptions and limitations applicable to libraries and archives under the Copyright Act, and seeks written comments on these issues. This notice (1) announces a public roundtable discussion regarding the issues identified in this notice and (2) requests written comments from all interested parties on the issues described in this notice. These issues relate primarily to making and distributing copies pursuant to requests by individual users, as well as to provision of user access to unlicensed digital works.

DATES: *Roundtable Discussions:* The public roundtable will be held in Chicago, Illinois, on Wednesday, January 31, 2007, from 8:30 a.m. to 4 p.m. C.S.T. Requests to participate must be received by the Section 108 Study Group by 5 p.m. E.S.T. on January 12, 2007.

Written Comments: Interested parties may submit written comments on any of the topics discussed in this notice from 8:30 a.m. E.S.T. on February 1, 2007, to 5 p.m. E.S.T. on March 9, 2007.

ADDRESSES: All written comments and requests to participate in roundtables should be addressed to Mary Rasenberger, Director of Program Management, National Digital Information Infrastructure and Preservation Program, Office of Strategic Initiatives, Library of Congress. Comments and requests to participate may be sent (1) by electronic mail (preferred) to the e–mail address *section108@loc.gov*, or (2) by hand delivery by a private party or a commercial, non–government courier or messenger, addressed to the Office of Strategic Initiatives, Library of Congress, James Madison Memorial Building, Room LM–637, 101 Independence Avenue S.E., Washington, DC 20540, between 8:30 a.m. and 5 p.m. E.S.T. If delivering by courier or messenger please provide the delivery service with the Office of Strategic Initiatives phone number: (202) 707–3300. (*See* **Supplementary Information**, Section 4: ''Procedures for Submitting Requests to Participate in Roundtable Discussions and for Submitting Written Comments'' below for file formats and other information about electronic and non–electronic submission requirements.) Submission by overnight service or regular mail will not be effective.

The public roundtable will be held at DePaul University College of Law, Lewis Building, 10th Floor, Room 1001, 25 E. Jackson Boulevard, Chicago, Illinois, 60604, on Wednesday, January 31, 2007.

FOR FURTHER INFORMATION CONTACT: Christopher Weston, Attorney–Advisor, U.S. Copyright Office. E–mail *cwes@loc.gov*, Telephone (202) 707–2592, Fax (202) 707–0815.

SUPPLEMENTARY INFORMATION:

1. Background.

The Section 108 Study Group was convened in April 2005 under the sponsorship of the Library of Congress' National Digital Information Infrastructure and Preservation Program (NDIIPP), in cooperation with the U.S. Copyright Office. The Study Group seeks written comment on and participation in a roundtable discussion scheduled for January 31, 2007, on the issues described in this notice. The Study Group is an independent committee charged with examining how the exceptions and limitations to the exclusive rights under copyright law that are applicable specifically to libraries and archives, namely those set out in section 108 of the Copyright Act, may need to be amended to take account of the widespread use of digital technologies. More detailed information regarding the Section 108 Study Group and its work can be found at *http://www.loc.gov/section108*.

Section 108 was included in the 1976 Copyright Act in recognition of the vital role of libraries and archives to our nation's education and cultural heritage, and their unique needs in serving the public. The exceptions were carefully crafted to maintain a balance between

the legitimate interests of libraries and archives on the one hand, and rights–holders on the other, in a manner that best serves the national interest.

The evolution of copyright law demonstrates that the technologies available at any given time necessarily influence where and how appropriate balances can be struck between the interests of rights–holders and users. As the Copyright Office recognized in 1988, it is important to review the section 108 exceptions periodically to ensure that they take account of new technologies in maintaining a beneficial balance among the interests of creators and other rights–holders and libraries and archives. *See* The Register of Copyrights, Library Reproduction of Copyrighted Works (17 U.S.C. 108): Second Report 128–29 (1988). In that spirit, the Section 108 Study Group is charged with the task of identifying those areas in which new technologies have changed the activities of libraries and archives, users, and rights–holders, so that the effectiveness or relevance of applicable section 108 exceptions are called into question. The Study Group will attempt to formulate appropriate, workable solutions where amendment is recommended.

In March 2006, the Study Group held public roundtable discussions in Los Angeles, California, and Washington, D.C., and requested written comments on issues relating to general eligibility for the section 108 exceptions, as well as preservation and replacement copying. Specifically, interested parties were asked to comment on (1) proposed amendments to the preservation and replacement exceptions in subsections 108(b) and (c), (2) a proposal to permit preservation copies of published works in limited circumstances, (3) a proposal to permit preservation copies of certain types of Internet content, and (4) questions on what entities should be eligible to take advantage of the section 108 exceptions. With regard to the latter, the Study Group considered questions of whether to restrict section 108 eligibility to nonprofit and government entities, whether to expressly include purely virtual entities, and whether to include museums. The Study Group anticipates that it will recommend that section 108 be amended to cover museums as well as libraries and archives. Although museums are not expressly addressed in this notice, the Study Group requests that you consider the questions set forth below in light of their potential effects on museums, as well as on libraries and archives. The written comments and roundtable transcripts from March 2006 are available on the Web site *http://www.loc.gov/section108*.

Recently, the Study Group examined the provisions of section 108 governing copies made by libraries and archives at the request of users, including interlibrary loan copies, as well as whether any new provisions relating to copies, performances or displays made in the course of providing access are necessary. Specifically, the Study Group seeks public input on whether any amendment is warranted to (1) the subsection 108(d), (e) and (g) provisions addressing copies made for users, including copies made under interlibrary loan arrangements; (2) the exclusions currently set out in subsection 108(i) that prohibit libraries and archives from taking advantage of subsections (d) and (e) for most non–text–based works; and (3) allow libraries and archives to make copies of unlicensed electronic works in order to provide user access and to provide access via performance or display.

Note that any amendments to section 108 must conform to the United States' international obligations under the Berne Convention to provide exceptions to exclusive rights only ''in certain special cases'' that do ''not conflict with the normal exploitation of the work'' and do not ''unreasonably prejudice the legitimate interests'' of the rights–holder. The Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, art. 9(2), 25 U.S.T. 1341, 828 U.N.T.S. 221.

Nothing in this **Federal Register** notice is meant to reflect a consensus or recommendation of the Study Group. Discussions are ongoing in the areas of inquiry described below, and the input the Study Group receives from the public through the roundtable, the written submissions, and otherwise is intended to further those discussions.

Pursuant to 2 U.S.C. 136, the Study Group now seeks input, both through written comment and participation in the public roundtable described in this notice, on whether there are compelling concerns in any of the areas identified that merit a legislative or other solution and, if so, which solutions might effectively address those concerns without conflicting with the legitimate interests of other stakeholders.

2. Areas of Inquiry.

Public Roundtable. Participants in the roundtable discussions will be asked to respond to the specific questions set forth below in each topic area in this **Federal Register** notice.

Written Comments. The Study Group also seeks written comment on the topic areas and specific questions identified in this Federal Register notice.

3. Specific Questions.

The Study Group seeks written comment and participation in the roundtable discussions on the questions set forth below in this Section 3, inclusive of Topics A, B and C.

TOPIC A: AMENDMENTS TO CURRENT SUBSECTIONS 108(d), (e), AND (g)(2) REGARDING COPIES FOR USERS, INCLUDING INTERLIBRARY LOAN

General Issue

Should the provisions relating to libraries and archives making and distributing copies for users, including via interlibrary loan (which include the current subsections 108(d), (e), and (g), as well as the CONTU guidelines, to be explained below) be amended to reflect reasonable changes in the way copies are made and used by libraries and archives, taking into account the effect of these changes on rights–holders?

Background

Subsections 108 (d) and (e) provide exceptions to the exclusive rights of reproduction and distribution, permitting libraries and archives to make single copies of copyrighted works for users. Subsection (d) permits the copying of articles or portions of works, and subsection (e) allows the copying of entire works in limited circumstances.

Specifically, subsection (d) allows libraries and archives to reproduce and distribute a single copy of ''no more than one article or other contribution to a copyrighted collection or periodical issue, or . . . a copy or phonorecord of a small part of any other copyrighted work.'' 17 U.S.C. 108(d) (2003). Subsection (e) allows the reproduction and distribution of an ''entire work, or . . . a substantial part of it'' if the library or archives first determines, ''on the basis of a reasonable investigation,'' that ''a copy or phonorecord of the work cannot be obtained at a fair price.'' 17 U.S.C. 108(e). Additionally, both subsections require that (1) the copy become the property of the requesting user (so that libraries and archives cannot use these exceptions as a means to enlarge their collections, *see* Melville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 8.03[E][2][b] (2004)), (2) the library or archives making the copy has no notice that the copy will be used for any purpose other than ''private study, scholarship, or research,'' 17 U.S.C. 108(d)(1) and (e)(1), and (3) the

library or archives displays prominently at the place where orders are accepted a copyright warning in accordance with requirements provided by the Register of Copyrights. This notice must also appear on the order form. 17 U.S.C. 108(d)(2) and (e)(2). Subsections (d) and (e) apply where a user makes a direct request of the library or archives providing the copy, as well as where copies are provided by another library or archives through interlibrary loan. Interlibrary loan is the practice through which libraries request material from, or supply material to, other libraries. Its purpose is to obtain, upon request of a library user, material not available in the user's own library. Where an *entire* work, such as a book, is sought, the library's copy of the book itself is usually delivered to the requesting user's library, called the borrowing library. There are cases, however, where it is unsafe or impractical to ship the work, such as if the copy is particularly fragile, rare, or unwieldy. In such cases, the fulfilling library or archives may create and deliver a copy instead, provided a copy cannot otherwise be obtained at a fair price and the other conditions of subsection (e) are met. Where just a *portion* of the work is sought, the library or archives may provide a copy under the conditions set out in subsection (d).

The scope of subsections (d) and (e) is limited by subsection (g), which states that the section 108 exceptions apply only to ''the isolated and unrelated reproduction and distribution of a single copy or phonorecord of the same material on separate occasions.'' 17 U.S.C. 108(g). Subsection (g)(1) further mandates that the provisions do not apply where a library or archives, or its employee:

> is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group . . . .

17 U.S.C. 108(g)(1). In addition, interlibrary loan or other user copies of articles or small portions of larger works under subsection (d) are limited by subsection (g)(2). This subsection states that section 108 does not permit the ''systematic reproduction of single or multiple copies or phonorecords of material described in subsection (d),'' and clarifies that copies made for interlibrary loan purposes do not violate the prohibition against systematic copying provided they ''do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.'' 17 U.S.C. 108(g)(2). This provision was included with the intention of preventing certain practices from developing under the rubric of ''interlibrary loan,'' such as systematic arrangements among libraries to effectively divide up and share subscriptions or purchases (such as where libraries X, Y, and Z all would like to obtain journals A, B, and C, so they agree that library X will purchase a subscription to journal A, library Y to journal B, and library Z to journal C, and they will share each subscription with each other through interlibrary loan). It was agreed in 1976 that these types of consortial buying arrangements should not be sanctioned by section 108 because by tipping the balance too far in favor of the interests of libraries they would materially affect sales.

Guidelines for interpreting the phrase ''such aggregate quantities as to substitute for a subscription to or purchase of such work'' were promulgated in 1976 by the National Commission on New Technological Uses of Copyrighted Works (CONTU) at the request of Congress and published in the Conference Report on the Copyright Act of 1976. The CONTU guidelines are not law, but were endorsed by Congress as a ''reasonable interpretation'' of subsection (g)(2). H.R. Conf. Rep. No. 94–1733, at 72–74 (1976). The guidelines (available in full at *http://www.copyright.gov/circs/circ21.pdf*) state that a library may not receive in a single calendar year more than five copies of an article or articles published in any given periodical within five years prior to the date of the request. The guidelines do not govern interlibrary loan copies of periodical materials published more than five years prior to a request. In addition, the guidelines provide that a library may not receive within a single calendar year more than five copies of or from any given non–periodical work — such as fiction and poetry.

The CONTU guidelines also include certain administrative requirements. All interlibrary loan reproduction requests must be accompanied by a certification that the request conforms to the guidelines, and libraries and archives that request copies must keep records of all fulfilled interlibrary loan reproduction requests for at least three full calendar years after the requests are made.

Subsection 108(i) further qualifies subsections (d) and (e) by functionally limiting their application primarily to text–based works. Subsection (i) states that copies for users may not be made from:

> a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to . . . pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

17 U.S.C. 108(i).[1] For brevity's sake, this notice will refer to those categories of works excluded from subsections (d) and (e) by subsection (i) as ''non–text–based works,'' and those currently covered by (d) and (e) as ''text–based.'' A further description of subsection (i) and questions about whether and how it might be amended are set forth in Topic B, below.

The current subsections (d) and (e) were enacted with the Copyright Act of 1976, and, as such, were drafted with analog copying in mind, namely photocopying. Nothing in the provisions expressly precludes their application to digital technologies. However, digital copying under subsections (d) and (e) is effectively barred by subsection 108(a)'s single–copy limit. Subsection (a) states that ''it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce *no more than one copy or phonorecord of a work*, except as provided in subsections (b) and (c).'' 17 U.S.C. 108(a) (emphasis added). As a practical and technical matter, producing a digital copy generally requires the production of temporary and incidental copies, and transmitting the copy via digital delivery systems such as e–mail requires additional incidental copies. The Copyright Act does not provide any express exception for such copies, although section 107 (which sets forth the fair use exceptions) might apply in some cases, and licenses might be implied in others.

Libraries and archives maintain that their missions require them to be able to make and/or provide digital copies to users ''both directly and via interlibrary loan'' in order to respond to the fact that research, scholarship, and private study are now conducted in a digital environment. There is an increasing amount of so–called ''born–digital'' material in the collections of libraries and archives, and many users expect to receive materials electronically. There are also increased efficiencies and decreased costs when digital technologies are used. Overall, it is argued that it makes little sense in this day and age to require libraries and archives to print analog copies of requested materials and deliver them in person, by mail, or by fax. The Study

[1] Note that subsection(i) does not exclude pantomimes, choreographic works, or sound recordings that do not incorporate musical works from the subsection (d) and (e) exceptions.

Group's understanding is that, as a matter of practice, some libraries and archives do in fact already engage in digital copying in making copies for users under section 108, and necessarily make incidental intermediate digital copies in doing so, but do not retain those copies and often deliver a non–electronic version to the user.

It is important to distinguish between permitting libraries and archives to make digital copies for users and permitting digital delivery of those copies. Permitting the making of *digital* copies for users would provide increased flexibility in how libraries and archives can produce the copies. Those digital copies might be distributed in any number of ways, for instance: (1) a photocopy could be made from an analog source and then sent via fax or mail to the requesting library; (2) a printout could be made from a digital source to create an analog copy, which is then sent via fax or mail to the requesting library; (3) a digital source file could be sent to the requesting library via e–mail or posted on a Web site with a secure URL for access by the user; or (4) a digital scan could be made from an analog source, which is then sent electronically as in example number three. Electronic delivery, as in examples three and four above, would provide increased efficiency and would allow libraries and archives and their users to take greater advantage of digital technologies to enable increased access to those works unlikely to be found in local libraries. Electronic delivery raises distinct issues from digital copying.

Just as digital technologies allow libraries and archives new opportunities to serve the public, the same technologies allow copyright owners to develop new business models and modes of distribution. Rights–holders have remarked that giving libraries and archives the ability to deliver copies to users electronically, unless reasonably limited, potentially could cause significant harm to rights–holders by undermining markets for digital works. Many rights–holders are shifting toward new models of distribution and payment. For instance, markets are emerging for the online purchase of articles or small portions of text–based works. Theoretically, if a user can obtain a copy online from any library through interlibrary loan, he or she might be less likely to purchase a copy, even if purchases could be made conveniently. An additional concern is that copies provided to users electronically are susceptible to downloading by the user and to downstream distribution via the Internet, potentially multiplying many times over and displacing sales.

Rights–holders are also concerned about digital copies being made available by libraries and archives under subsections (d) and (e) to users outside their traditional user communities, without the mediation of the user's own library. Online technologies allow libraries and archives to serve anyone regardless of geographic distances or membership in a community. Many of the section 108 exceptions were put in place on the assumption that certain natural limitations, or inherent inefficiencies in making photocopies, would prevent the exceptions from unreasonably interfering with the market for the work. For example, it was presumed that users had to go to their local library to make an interlibrary loan request. The technological possibility of direct digital delivery did not exist. But if it were to become possible under the 108 exceptions, for instance, for any user electronically to request free copies from any library from their desks, that natural friction would break down, as would the balance originally struck by the provisions. As such, the potential for lost sales could increase from negligible to measurable against the bottom line, and as such ''conflict with the normal exploitation of the work.'' Berne Convention, art. 9(2).

One could, for instance, envision direct–to–user interlibrary loan arrangements where a user could search for, request and receive a reproduction of a copyrighted work online from any library without having to go through the user's own library that would directly compete with the rights–holders' markets. It is not clear to the Study Group that the existing provisions of subsections (d) and (e) would prevent libraries and archives from providing this type of universal on–demand access if digital copying and delivery are permitted without further qualification. While subsection (g) and the CONTU guidelines would limit the ability to use subsections (d) and (e) for such interlibrary loan practices for certain materials, they would not necessarily eliminate it. The question then is how to craft rules around digital copying and delivery to enable libraries and archives to service users efficiently, without opening up the exception in a way that could materially interfere with markets for copyrighted works just as subsections (d) and (e) were limited in 1976 by subsection (g) in order to avoid the potential for those exceptions to be used in a way that would cause material market harm.

The primary issue for comment and discussion in Topic A is whether and under what circumstances digital copying and distribution under subsections (d) and (e) should be allowed. In responding to the questions posed in Topic A, please note that the Study Group is seeking responses regarding the application of subsections (d) and (e) as currently limited by subsection (i) (i.e., principally restricted to *text–based* materials). Questions about applying subsections (d) and (e) to non–text–based works will be addressed in Topic B. Also note that the Topic A questions address copies made for a library's or archives' own users, as well as interlibrary loan copying.

Specific Questions

1. How can the copyright law better facilitate the ability of libraries and archives to make copies for users in the digital environment without unduly interfering with the interests of rights–holders?

2. Should the single–copy restriction for copies made under subsections (d) and (e) be replaced with a flexible standard more appropriate to the nature of digital materials, such as ''a limited number of copies as reasonably necessary for the library or archives to provide the requesting patron with a single copy of the requested work''? If so, should this amendment apply both to copies made for a library's or archives' own users and to interlibrary loan copies?

3. How prevalent is library and archives use of subsection (d) for direct copies for their own users? For interlibrary loan copies? How would usage be affected if digital reproduction and/or delivery were explicitly permitted?

4. How prevalent is library and archives use of subsection (e) for direct copies for their own users? For interlibrary loan copies? How would usage be affected if digital reproduction and/or delivery were explicitly permitted?

5. If the single–copy restriction is replaced with a flexible standard that allows digital copies for users, should restrictions be placed on the making and distribution of these copies? If so, what types of restrictions? For instance, should there be any conditions on digital distribution that would prevent users from further copying or distributing the materials for downstream use? Should user agreements or any technological measures, such as copy controls, be required? Should persistent identifiers on digital copies be required? How would libraries and archives implement such requirements? Should such

requirements apply both to direct copies for users and to interlibrary loan copies?

6. Should digital copying for users be permitted only upon the request of a member of the library's or archives' traditional or defined user community, in order to deter online shopping for user copies? If so, how should a user community be defined for these purposes?

7. Should subsections (d) and (e) be amended to clarify that interlibrary loan transactions of digital copies require the mediation of a library or archives on both ends, and to not permit direct electronic requests from, and/or delivery to, the user from another library or archives?

8. In cases where no physical object is provided to the user, does it make sense to retain the requirement that ''the copy or phonorecord becomes the property of the user''? 17 U.S.C. 108(d)(1) and (e)(1). In the digital context, would it be more appropriate to instead prohibit libraries and archives from using digital copies of works copied under subsections (d) and (e) to enlarge their collections or as source copies for fulfilling future requests?

9. Because there is a growing market for articles and other portions of copyrighted works, should a provision be added to subsection (d), similar to that in subsection (e), requiring libraries and archives to first determine on the basis of a reasonable investigation that a copy of a requested item cannot be readily obtained at a fair price before creating a copy of a portion of a work in response to a patron's request? Does the requirement, whether as applied to subsection (e) now or if applied to subsection (d), need to be revised to clarify whether a copy of the work available for license by the library or archives, but not for purchase, qualifies as one that can be ''obtained''?

10. Should the Study Group be looking into recommendations for revising the CONTU guidelines on interlibrary loan? Should there be guidelines applicable to works older than five years? Should the record keeping guideline apply to the borrowing as well as the lending library in order to help administer a broader exception? Should additional guidelines be developed to set limits on the number of copies of a work or copies of the same portion of a work that can be made directly for users, as the CONTU guidelines suggest for interlibrary loan copies? Are these records currently accessible by people outside of the library community? Should they be?

11. Should separate rules apply to international electronic interlibrary loan transactions? If so, how should they differ?

TOPIC B: AMENDMENTS TO SUBSECTION 108(i)

General Issue

Should subsection 108(i) be amended to expand the application of subsections (d) and (e) to any non–text–based works, or to any text–based works that incorporate musical or audiovisual works?

Background

As noted in the background to Topic A above, subsection (i) excludes most categories of non–text–based works from the exceptions provided to libraries and archives under subsections (d) and (e).

Questions have been raised as to why this exclusion was written into the law. The relevant House, Senate, and Conference Reports are silent on the matter, beyond the House Report's emphasizing that libraries and archives are free to avail themselves of the section 107 fair use factors in copying non–text–based materials for users. *See* H.R. Rep. No. 94–1476, at 78 (1976). One likely reason for the exclusion is that the principal copying device of concern in 1976, when section 108 was enacted, was the photocopier. Most libraries and archives did not possess the technology to make quality copies of non–text–based works and so may not have pressed for the right to do so.

As more material is generated in digital media that blurs the lines between traditional format types, subsection (i)'s exclusion of most non–text–based categories of works is being called into question. Increasingly, works are produced in multimedia formats, including some traditionally text–based works, such as presentations, papers, and journals. It has been argued that excluding these categories of works from some accommodation under subsections (d) and (e) hampers scholarly access to a critical and growing body of intellectual and creative material. In addition, restrictions on copies for users of non–text–based works are seen by some as placing a greater burden on researchers, scholars, and students of music, film, and the visual arts than on those who study text–based works, in that there are greater obstacles to obtaining research materials.

Eliminating the subsection (i) exclusions would raise a number of challenges, however. The subsection (d) and (e) exceptions were drafted to address text–based works; there are legitimate questions as to whether the provisions' respective conditions can be applied successfully to non–text–based materials in a digital environment. For instance, the current subsection (d) boundaries of ''an article or other contribution to a copyrighted collection or periodical issue,'' 17 U.S.C. 108(d), do not neatly apply to non–text–based works. In the context of section 108, is one song on an album equivalent to an article in a journal? Is one photograph an entire work by itself or part of a larger copyrighted compilation? What if the song or photograph is available individually? In addition, business models used to market and distribute content may be affected differently depending on the media. Given evolving online entertainment business models, the ability to make and/or distribute digital copies could have different effects on markets for recorded sound and film, for instance, than on markets for text–based materials. Each of the issues raised previously in Topic A should be reconsidered in light of non–text–based media, as it is possible that views may change depending on the media.

Specific Questions

1. Should any or all of the subsection (i) exclusions of certain categories of works from the application of the subsection (d) and (e) exceptions be eliminated? What are the concerns presented by modifying the subsection (i) exclusions, and how should they be addressed?

2. Would the ability of libraries and archives to make and/or distribute digital copies have additional or different effects on markets for non–text–based works than for text–based works? If so, should conditions be added to address these differences? For example: Should digital copies of visual works be limited to diminished resolution thumbnails, as opposed to a ''small portion'' of the work? Should persistent identifiers be required to identify the copy of a visual work and any progeny as one made by a library or archives under section 108, and stating that no further distribution is authorized? Should subsection (d) and (e) user copies of audiovisual works and sound recordings, if delivered electronically, be restricted to delivery by streaming in order to prevent downloading and further distribution? If so, how might scholarly practices requiring the retention of source materials be accommodated?

3. If the exclusions in subsection (i) were eliminated in whole or in part, should there be different restrictions on making direct copies for users of non–text–based works than on making interlibrary loan copies? Would applying the interlibrary loan framework to non–text–based works

require any adjustments to the CONTU guidelines?

4. If the subsection (i) exclusions were not eliminated, should an additional exception be added to permit the application of subsections (d) and (e) to musical or audiovisual works embedded in textual works? Would doing so address the needs of scholars, researchers, and students for increased access to copies of such works?

TOPIC C: LIMITATIONS ON ACCESS TO ELECTRONIC COPIES, INCLUDING VIA PERFORMANCE OR DISPLAY

General Issue

Should section 108 be amended to permit libraries and archives to make temporary and incidental copies of unlicensed digital works in order to provide user access to these works? Should any exceptions be added to the copyright law to permit limited public performance and display in certain circumstances in order to allow for user access to unlicensed digital works?

Background

Access to digital materials particularly those that exist in purely electronic form is generally granted pursuant to a license. There are, however, instances in which libraries and archives have lawfully obtained copies of electronic materials for which they have no license, and it is expected that this may increasingly be the case. Examples include donated personal or business files such as e–mails or other documents (where the donor agreement is silent on use rights), electronic manuscripts such as drafts of novels or notes, and legally captured Web sites. The mediation of a computer or other machine is necessary to perceive these works, and in the course of rendering the works in perceivable form, temporary and incidental copies are made. Libraries and archives have no clear guidance on whether they may make the copies incidental or otherwise required to perceive digital works.

In some cases, a license to make temporary, incidental copies of unlicensed digital works can be implied. For instance, it is commonly accepted that there are implied rights to make the incidental copies necessary to play a DVD or CD on a computer. The question is what, if any, implied rights exist for libraries and archives to facilitate access to other kinds of materials? What about works acquired in purely electronic form that are stored on a library's or archives' servers from which they must be copied and transmitted to a terminal for user access? In addition, display and/or performance as well as reproduction rights may be implicated in accessing these works.

The Study Group seeks input on how significant an issue this is whether libraries and archives have and are likely in the future to have a sufficient number of unlicensed digital works to merit legislative attention.

The European Union's Directive on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society provides one potential model for addressing these questions. It directs that member states may enact copyright exceptions permitting publicly accessible libraries, museums, educational institutions, and archives to communicate or make available ''for the purpose of research or private study, to individual members of the public by dedicated terminals on the[ir] premises . . . works and other subject–matter not subject to purchase or licensing terms which are contained in their collections.'' Council Directive 2001/29/EC, art. 5(3)(n), 2001 O.J. (L 167) 10, 17. Would a similar exception be appropriate in the U.S?

Certain digital works can be accessed only through display or performance. In providing access to these works, libraries and archives that are open to the public (as they must be to qualify under subsection 108(a)) may need to publicly display or perform the works. For instance, if a library, archives, or museum publicly exhibits a work of audiovisual art, a motion picture, or a musical work, the exhibition would normally constitute a public performance. There are currently no express exceptions in section 108 that address public performance or display. Section 109(c) of the Copyright Act provides an applicable exception to the display right:

> [T]he owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owners, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

17 U.S.C. 109(c) (2003). This provision gives libraries and archives some leeway in displaying copies that they own, but it does not address the issues of any incidental copies that may be necessary in order to achieve this display. There is no parallel exception in the Copyright Act for public performances.

Note that for purposes of this discussion it is assumed that where the work was acquired through a license, the terms of the license govern and trump the section 108 exceptions, per subsection 108(f)(4).

Specific Questions

1. What types of unlicensed digital materials are libraries and archives acquiring now, or are likely to acquire in the foreseeable future? How will these materials be acquired? Is the quantity of unlicensed digital material that libraries and archives are likely to acquire significant enough to warrant express exceptions for making temporary copies incidental to access?

2. What uses should a library or archives be able to make of a lawfully acquired, unlicensed digital copy of a work? Is the EU model a good one namely that access be limited to dedicated terminals on the premises of the library or archives to one user at a time for each copy lawfully acquired? Or could security be ensured through other measures, such as technological protections? Should simultaneous use by more than one user ever be permitted? Should remote access ever be permitted for unlicensed digital works? If so, under what conditions?

3. Are there implied licenses to use and provide access to these types of works? If so, what are the parameters of such implied licenses for users? What about for library and archives staff?

4. Do libraries and archives currently rely on implied licenses to access unlicensed content or do they rely instead on fair use? Is it current library and archives practice to attempt to provide access to unlicensed digital works in a way that mirrors the type of access provided to similar analog works?

5. Are the considerations different for digital works embedded in tangible media, such as DVDs or CDs, than for those acquired in purely electronic form? Under which circumstances should libraries and archives be permitted to make server copies in order to provide access? Should the law permit back–up copies to be made?

6. Should conditions on providing access to unlicensed digital works be implemented differently based upon the category or media of work (text, audio, film, photographs, etc.)?

7. Are public performance and/or display rights necessarily exercised in providing access to certain unlicensed digital materials? For what types of works? Does the copyright law need to be amended to address the need to make incidental copies in order to display an electronic work? Should an exception be added for libraries and archives to also perform unlicensed electronic works in certain circumstances, similar to the 109(c) exception for display? If so, under what conditions?

4. Procedure for Submitting Requests to Participate in Roundtable Discussions and for Submitting Written Comments.

Requests to Participate in Roundtable Discussions. The roundtable discussions will be open to the public. Persons wishing to participate in the discussions must submit a written request to the Section 108 Study Group. The request to participate must include the following information: (1) the name of the person desiring to participate; (2) the organization(s) represented by that person, if any; (3) contact information (address, telephone, telefax, and e–mail); and (4) a written summary of *no more than four pages* identifying, in order of preference, in which of the three general roundtable topic areas the participant (or his or her organization) would most like to participate and the specific questions the participant wishes to address in each topic area.

Space and time constraints may require that participation be limited in one or more of the topic areas, and it is likely that not all requests to participate can be accommodated. Identification of the desired topic areas in order of preference will help the Study Group to ensure that participants will be heard in the area(s) of interest most critical to them. The Study Group will notify each participant in advance of his or her designated topic area(s).

Note also for those who wish to attend but not participate in the roundtables that space is limited. Seats will be available on a first–come, first–served basis. All discussions will be transcribed, and transcripts subsequently made available on the Section 108 Study Group Web site (*http://www.loc.gov/section108*).

Written Comments. Written comments must include the following information: (1) the name of the person making the submission; (2) the organization(s) represented by that person, if any; (3) contact information (address, telephone, telefax, and e–mail); and (4) a statement of no more than 10 pages, responding to any of the topic areas or specific questions in this notice.

Submission of Both Requests to Participate in Roundtable Discussions and Written Comments. In the case of submitting a request to participate in the roundtable discussions or of submitting written comments, submission should be made to the Section 108 Study Group by e–mail (preferred) or by hand delivery by a commercial courier or by a private party to the address listed above. Submission by overnight delivery service or regular mail will not be effective due to delays in processing receipt.

If by e–mail (preferred): Send to the e–mail address *section108@loc.gov* a message containing the information required above for the request to participate or the written submission, as applicable. The summary of issues (for the request to participate in the roundtable discussion) or statement (for the written comments), as applicable, may be included in the text of the message, or may be sent as an attachment. If sent as an attachment, the summary of issues or written statement must be in a single file in either: (1) Adobe Portable Document File (PDF) format, (2) Microsoft Word version 2000 or earlier, (3) WordPerfect version 9.0 or earlier, (4) Rich Text File (RTF) format, or (5) ASCII text file format.

If by hand delivery by a private party or a commercial, non–government courier or messenger: Deliver to the address listed above a cover letter with the information required, and include two copies of the summary of issues or written statement, as applicable, each on a write–protected 3.5–inch diskette or CD–ROM, labeled with the legal name of the person making the submission and, if applicable, his or her title and organization. The document itself must be in a single file in either (1) Adobe Portable Document File (PDF) format, (2) Microsoft Word Version 2000 or earlier, (3) WordPerfect Version 9 or earlier, (4) Rich Text File (RTF) format, or (5) ASCII text file format.

Anyone who is unable to submit a comment or request to participate in electronic form (either through e–mail or hand delivery of a diskette or CD–ROM) should submit, with a cover letter containing the information required above, an original and three paper copies of the summary of issues (for the request to participate in the roundtable discussions) or statement (for the written comments) by hand to the appropriate address listed above.

Dated: November 28, 2006

Marybeth Peters,

Register of Copyrights.

[FR Doc. E6–20480 Filed 12–1–06; 8:45 am]

BILLING CODE 1410–21–F

NATIONAL TRANSPORTATION SAFETY BOARD

SES Performance Review Board

AGENCY: National Transportation Safety Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the National Transportation Safety Board Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Anh Bolles, Chief, Human Resources Division, Office of Administration, National Transportation Safety Board, 490 L'Enfant Plaza, SW., Washington, DC 20594–0001, (202) 314–6355.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, United States Code requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and considers recommendations to the appointing authority regarding the performance of the senior executive.

The following have been designated as members of the Performance Review Board of the National Transportation Safety Board. This list published previously on Friday, November 24, 2006. However, a change to membership has occurred since that time and here is the updated membership list.

The Honorable Robert L. Sumwalt, Vice Chairman, National Transportation Safety Board; PRB Chair.

The Honorable Deborah A.P.hersman, Member, National Transportation Safety Board.

Steven Goldberg, Chief Financial Officer, National Transportation Safety Board.

Lowell Martin, Deputy Executive Director, Consumer Products Safety Commission.

Frank Battle, Deputy Director of Administration, National Labor Relations Board.

Joseph G. Osterman,Managing Director, National Transportation Safety Board.

Dated: November 29, 2006

Vicky D'Onofrio,

Federal Register Coordinator.

[FR Doc. 06–9502 Filed 12–1–06; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS)

Meeting of the Acrs Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment (PRA) will hold a meeting on December 14 and 15, 2006, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, December 14, 2006–8:30 a.m. until the conclusion of business.

Friday, December 15, 2006–8:30 a.m. until the conclusion of business.

The Subcommittee will review the PRA for General Electric's next generation simplified boiling water reactor, the ESBWR. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and industry regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Eric A. Thornsbury, (Telephone: 301–415–8716) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: November 28, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–20411 Filed 12–1–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Maximum 40-Year Licensing Terms for Certain Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has established a new policy extending the maximum license term for certain 10 CFR Part 70 fuel cycle licensees who are required to submit Integrated Safety Analysis (ISA) summaries for approval. Such license terms are being extended from the current 10-year period to a 40-year period, on the next renewal of the affected license. The NRC is also extending the maximum license term to a 40-year period for new 10 CFR Part 70 license applicants, where the applicant is required to submit an ISA summary for approval. The 10-year term has been a matter of policy and practice since 1990 (55 FR 24948; June 19, 1990); it is not codified in the regulations.

The NRC added Subpart H requirements to 10 CFR part 70 on September 18, 2000 (65 FR56211). The Subpart H requirements apply to licensees possessing greater than a critical mass of special nuclear material. Under Subpart H, both new applicants and existing licensees are required to conduct an ISA and submit an ISA summary to the NRC for approval. An ISA is a systematic analysis to identify facility and external hazards; potential accident sequences, including likelihood and consequences; and items relied on for safety to prevent potential accidents or mitigate the consequences.

Licensees are required to keep their ISAs up-to-date. In addition to the initial ISA summary, licensees must submit the following information to the NRC: certain facility changes for the NRC's approval; annual summaries of facility changes that did not need the NRC's preapproval; and annual updates to the ISA summaries.

Before the Subpart H requirements were implemented, the NRC relied on the 10-year license renewal as the main opportunity to review the facility safety basis. Now, along with the annual updates of the ISA summaries, the NRC is conducting more frequent reviews of the licensees' facility safety basis. Through the annual update of the ISA summaries, the NRC is kept informed of changes due to material degradation and aging throughout the lifetime of a facility. Thus, the Subpart H requirements permit the NRC to continue to support safe operations of licensed facilities on an ongoing basis, regardless of the duration of the license.

On August 24, 2006, the NRC staff provided the Commission with a paper, SECY–06–0186, 'Increasing Licensing Terms for Certain Fuel Cycle Facilities,' which recommended that the Commission approve a maximum license term of 40 years for certain fuel cycle facilities. The paper provided the basis for the staff's recommendation, including a description of the link with 10 CFR Part 70 reviews and a discussion of consistency with the NRC strategic goals for safety and effectiveness. In response to SECY–06–0186, the Commission issued a staff requirements memorandum (SRM) establishing the new policy described above. The Commission also approved of license terms for less than 40 years, on a case-by-case basis, where there are concerns with safety risk to the facility or in cases involving a new process or technology.

SECY–06–0186 and the SRM on SECY–06–0186 are available in the NRC's Public Document Room or electronically from the ADAMS Publicly Available Records (PARS) component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

FOR FURTHER INFORMATION CONTACT: Breeda Reilly, Project Manager, Fuel Manufacturing Branch, Fuel Facility Licensing Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–8103; fax: (301) 415–5955; e-mail: *bmr@nrc.gov*.

Dated at Rockville, Maryland this 21st day of November, 2006.

For the U.S. Nuclear Regulatory Commission.

Gary S. Janosko,

Deputy Director, Fuel Facility Licensing Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E6–20412 Filed 12–1–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

No FEAR Act Notice

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Pursuant to 29 CFR part 724, the Office of Personnel Management (OPM) has implemented Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) of 2002, concerning OPM's obligation (along with other Federal agencies) to provide notice to all its employees, former employees, and applicants for Federal employment about the rights and remedies available under the applicable Federal Antidiscrimination Laws and Whistleblower Protection Laws. OPM's No FEAR Act notice is available on OPM's Web site at *http://www.opm.gov/about_opm/nofear/*.

FOR FURTHER INFORMATION CONTACT: Stephen T. Shih, Chief, Center for Equal Employment Opportunity, by telephone at (202) 606–2460, by facsimile at (202) 606–1841, or by e-mail at *eeo@opm.gov*.

No FEAR Act Notice

On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' which is now known as the No FEAR Act. One purpose of the Act

is to ''require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.'' Pub. L. 107–174, Summary. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Pub. L. 107–74, 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, 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 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 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 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, 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 protections 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 who has engaged in discriminatory or retaliatory conduct, 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 724, as well as the appropriate offices within your agency (*e.g.*, Center for Equal Employment Opportunity, Center for Human Capital Management Services, or Office of General Counsel). OPM's specific antidiscrimination policies relating to equal employment opportunity and prohibited personnel practices have been physically and electronically posted throughout OPM. 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).

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. E6–20444 Filed 12–1–06; 8:45 am]

BILLING CODE 6325–54–P

SECURITIES AND EXCHANGE COMMISSION

Submissions for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extensions:

Form F–7, OMB Control No. 3235–0383, SEC File No. 270–331.

Form F–8, OMB Control No. 3235–0378, SEC File No. 270–332.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget these requests for extension of the previously approved collections of information discussed below.

Form F–7 (17 CFR 239.37) may be used to register under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) securities offered for cash upon exercise of rights that are granted to its existing shareholders of the registrant to purchase or subscribe such securities. The information collected is intended to ensure that the information required to be filed by the Commission permits

verification of compliance with securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Form F–7 takes approximately 4 hours per response to prepare and is filed by 5 respondents. We estimate that 25% of 4 hours per response (one hour) is prepared by the company for a total annual reporting burden of 5 hours (one hour per response × 5 responses).

Form F–8 (17 CFR 239.38) may be used to register under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) securities of certain Canadian issuers to be used in exchange offers or business combinations. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Form F–8 takes approximately one hour per response to prepare and is filed by 10 respondents. We estimate that 25% of one hour per response (15 minutes) is prepared by the company for a total annual reporting burden of 3 hours (15 minutes/60 minutes per response × 10 responses = 2.5 hours rounded to 3 hours).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

November 20, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–20427 Filed 12–1–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review, Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17Ad–4(b) and (c), SEC File No. 270–264, OMB Control No. 3235–0341.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17Ad–4(b) and (c) (17 CFR 240.17Ad–4) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) is used to document when transfer agents are exempt, or no longer exempt, from the minimum performance standards and certain recordkeeping provisions of the Commission's transfer agent rules. Rule 17Ad–4(c) sets forth the conditions under which a registered transfer agent loses its exempt status. Once the conditions for exemption no longer exist, the transfer agent, to keep the appropriate regulatory authority (''ARA'') apprised of its current status, must prepare, and file if the ARA for the transfer agent is the Board of Governors of the Federal Reserve System (''BGFRS'') or the Federal Deposit Insurance Corporation (''FDIC''), a notice of loss of exempt status under paragraph (c). The transfer agent then cannot claim exempt status under Rule 17Ad–4(b) again until it remains subject to the minimum performance standards for non-exempt transfer agents for six consecutive months. The ARAs use the information contained in the notice to determine whether a registered transfer agent qualifies for the exemption, to determine when a registered transfer agent no longer qualifies for the exemption, and to determine the extent to which that transfer agent is subject to regulation.

The BGFRS receives approximately twelve notices of exempt status and six notices of loss of exempt status annually. The FDIC receives approximately eighteen notices of exempt status and three notices of loss of exempt status annually. The Commission and the Office of the Comptroller of the Currency (''OCC'') do not require transfer agents to file a notice of exempt status or loss of exempt status. Instead, transfer agents whose ARA is the Commission or OCC need only to prepare and maintain these notices. The Commission estimates that approximately sixteen notices of exempt status and loss of exempt status are prepared annually by transfer agents whose ARA is the Commission. Similarly, the OCC estimates that the transfer agents for which it is the ARA prepare and maintain approximately fifteen notices of exempt status and loss of exempt status annually. Thus, a total of approximately seventy notices of exempt status and loss of exempt status are prepared and maintained by transfer agents annually. Of these seventy notices, approximately forty are filed with an ARA. Any additional costs associated with filing such notices would be limited primarily to postage, which would be minimal. Since the Commission estimates that no more than one-half hour is required to prepare each notice, the total annual burden to transfer agents is approximately thirty-five hours. The average cost per hour is approximately $30. Therefore, the total cost of compliance to the transfer agent community is $1,050.

A transfer agent should prepare and maintain in its possession or file with its ARA notice of exempt status or loss of exempt status for the period of the exemption or loss of exemption. When the transfer agent's status changes, the transfer agent should file a notice of exempt status or loss of exempt status reflecting that change. The notice requirement is mandatory to determine when a registered transfer agent no longer qualifies for the exemption, and to determine the extent to which that transfer agent is subject to regulation. Notices submitted according to Rule 17Ad–4(b) and (c) will not be kept confidential. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) David Rostker, Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or by sending an e-mail to:

PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 20, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–20428 Filed 12–1–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17f–2(a), SEC File No. 270–34, OMB Control No. 3235–0034.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17f–2 (17 CFR 240.17f–2) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) requires that securities professionals be fingerprinted. This requirement serves to identify security risk personnel, to allow an employer to make fully informed employment decisions, and to deter possible wrongdoers from seeking employment in the securities industry. Partners, directors, officers, and employees of exchanges, broker, dealers, transfer agents, and clearing agencies are included. It is estimated that approximately 10,000 respondents will submit fingerprint cards. It is also estimated that each respondent will submit 55 fingerprint cards. The staff estimates that the average number of hours necessary to comply with the Rule 17f–2(a) is one-half hour. The total burden is 275,000 hours for respondents. The average cost per hour is approximately $50. Therefore, the total cost of compliance for respondents is $13,750,000.

Fingerprint cards submitted under Rule 17f–2(a) must be retained for a period of not less than three years after termination of the person's employment relationship with the organization. Submitting fingerprint cards for all securities personnel is mandatory to obtain the benefit of identifying security risk personnel, allowing an employer to make fully informed employment decisions and deterring possible wrongdoers from seeking employment in the securities industry. Fingerprint cards submitted according to Rule 17f–2(a) will not be kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) David Rostker, Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA, 22312; or by sending an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 20, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–20430 Filed 12–1–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 605 of Regulation NMS, SEC File No. 270–488, OMB Control No. 3235–0542

Rule 606 of Regulation NMS, SEC File No. 270–489, OMB Control No. 3235–0541

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 605 of Regulation NMS (17 CFR 242.605),[1] f/k/a Rule 11Ac1–5 (17 CFR 240.11Ac1–5), requires market centers to make available to the public monthly order execution reports in electronic form. The Commission believes that many market centers retain most, if not all, the underlying raw data necessary to generate these reports in electronic format. Once the necessary data is collected, market centers could either program their systems to generate the statistics and reports, or transfer the data to a service provider (such as an independent company in the business of preparing such reports or a self-regulatory organization (''SRO'')) that would generate the statistics and reports.

The collection of information obligations of Rule 605 apply to all market centers that receive covered orders in national market system securities. The Commission estimates that approximately 302 market centers are subject to the collection of information obligations of Rule 605. Each of these respondents is required to respond to the collection of information on a monthly basis.

The Commission staff estimates that, on average, Rule 605 causes respondents to spend 6 hours per month in additional time to collect the data necessary to generate the reports, or 72 hours per year. With an estimated 302 market centers subject to Rule 605, the total data collection cost to comply with the monthly reporting requirement is estimated to be 21,744 hours per year.

Rule 606 of Regulation NMS (''Rule 606'') (17 CFR 242.606), f/k/a Rule 11Ac1–6 (17 CFR 240.11Ac1–6), requires broker-dealers to prepare and disseminate quarterly order routing reports. Much of the information needed to generate these reports already should be collected by broker-dealers in connection with their periodic evaluations of their order routing practices. Broker-dealers must conduct such evaluations to fulfill the duty of best execution that they owe their customers.

The collection of information obligations of Rule 606 applies to broker-dealers that route non-directed customer orders in covered securities. The Commission estimates that out of the currently 3120 broker-dealers that are subject to the collection of information obligations of Rule 606, clearing brokers bear a substantial portion of the burden of complying with

[1] Regulation NMS, adopted by the Commission in June 2005, redesignated the national market system rules previously adopted under Section 11A of the Securities Exchange Act of 1934 (''Exchange Act''). Rule 11Ac1–5 under the Exchange Act was redesignated Rule 605 of Regulation NMS, and Rule 11Ac1–6 under the Exchange Act was redesignated Rule 606 of Regulation NMS. No substantive amendments were made to Rule 605 and Rule 606 of Regulation NMS. *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

the reporting and recordkeeping requirements of Rule 606 on behalf of small to mid-sized introducing firms. There currently are approximately 567 clearing brokers. In addition, there are approximately 1479 introducing brokers that receive funds or securities from their customers. Because at least some of these firms also may have greater involvement in determining where customer orders are routed for execution, they have been included, along with clearing brokers, in estimating the total burden of Rule 606.

The Commission staff estimates that each firm significantly involved in order routing practices incurs an average burden of 40 hours to prepare and disseminate a quarterly report required by Rule 606, or a burden of 160 hours per year. With an estimated 2046 broker-dealers significantly involved in order routing practices, the total burden per year to comply with the quarterly reporting requirement in Rule 606 is estimated to be 327,360 hours.

Rule 606 requires broker-dealers to respond to individual customer requests for information on orders handled by the broker-dealer for that customer. Clearing brokers generally bear the burden of responding to these requests. The Commission staff estimates that an average clearing broker incurs an annual burden of 400 hours (2000 responses x 0.2 hours/response) to prepare, disseminate, and retain responses to customers required by Rule 606. With an estimated 567 clearing brokers subject to Rule 606, the total burden per year to comply with the customer response requirement in Rule 606 is estimated to be 226,800 hours.

The collection of information obligations imposed by Rule 605 and Rule 606 are mandatory. The response will be available to the public and will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid OMB control number.

General comments regarding the estimated burden hours should be directed to the following persons: (1) The Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: November 20, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–20431 Filed 12–1–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 11Ac1–1 SEC File No. 270–404 OMB Control No. 3235–0461

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 11Ac1–1 (17 CFR 240.11Ac1–1), Dissemination of Quotations, contains two related collections of information necessary to disseminate market makers' published quotations to buy and sell securities to the public. The first collection of information is found in Rule 11Ac1–1(c), 17 CFR 11Ac1–1(c). This reporting requirement obligates each ''responsible broker or dealer,'' as defined under the rule, to communicate to its exchange or association its best bids, best offers, and quotation sizes for any subject security, as defined under the rule. The second collection of information is found in Rule 11Ac1–1(b), (17 CFR 240.11Ac1–1(b)). This reporting requirement obligates each exchange and association to make available to quotation vendors for dissemination to the public the best bid, best offer, and aggregate quotation size for each subject security.[1] Brokers, dealers, other market participants, and members of the public rely on published quotation information to determine the best price and market for execution of customer orders.

It is anticipated that 721 respondents, consisting of 180 exchange specialists and 541 OTC market makers, will make 246,788,005 total annual responses pursuant to Rule 11Ac1–1, resulting in an annual aggregate burden of approximately 205,486 hours.

Rule 11Ac1–1 does not impose a retention period for any recordkeeping requirements. Compliance with the rule is mandatory and the information collected is made available to the public. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) The Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: November 20, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–20437 Filed 12–1–06; 8:45 am]

BILLING CODE 8011–01–P

[1] A third requirement under Rule 11Ac1–1, as amended at 17 CFR 11Ac1–1(c)(5), gives electronic communications networks (''ECNs'') the option of reporting to an exchange or association for public dissemination, on behalf of their OTC market maker or exchange specialist customers, the best priced orders and the full size for such orders entered by market makers, to satisfy such market makers' reporting obligation under Rule 11Ac1–1(c). Because this reporting requirement is an alternative method of meeting the market makers' reporting obligation, and because it is directed to nine or fewer persons (ECNs), this collection of information is not subject to OMB review under the Paperwork Reduction Act.

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10701 and #10702]

Louisiana Disaster Number LA–00007

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA—1668—DR), dated 11/02/2006.

Incident: Severe Storms and Flooding.

Incident Period: 10/16/2006 and continuing through 11/08/2006.

DATES: *Effective Date:* 11/08/2006.

Physical Loan Application Deadline Date: 01/02/2007.

EIDL Loan Application Deadline Date: 08/02/2007.

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 Louisiana, dated 11/02/2006, is hereby amended to establish the incident period for this disaster as beginning 10/16/2006 and continuing through 11/08/2006.

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. E6–20420 Filed 12–1–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10732 and #10733]

Mississippi Disaster #MS–00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Mississippi dated 11/22/2006.

Incident: Severe Storms and Flooding.

Incident Period: 11/15/2006 through 11/16/2006.

DATES: *Effective Date:* 11/22/2006.

Physical Loan Application Deadline Date: 01/22/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 08/22/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Greene; Jones; Lamar

Contiguous Counties: Mississippi: Covington; Forrest; George; Jasper; Jefferson Davis; Marion; Pearl River; Perry; Smith; Wayne.

Alabama: Mobile; Washington.

The Interest Rates are:

	Percent
Homeowners with Credit Available Elsewhere	6.000
Homeowners without Credit Available Elsewhere	3.000
Businesses with Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10732 C and for economic injury is 10733 0.

The States which received an EIDL Declaration # are Mississippi, Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 22, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–20419 Filed 12–1–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10734]

Washington Disaster # WA–00008 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Washington, dated 11/22/2006.

Incident: Fire.

Incident Period: 07/24/2006 and continuing.

DATES: *Effective Date:* 11/22/2006.

EIDL Loan Application Deadline Date: 08/22/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Okanogan.

Contiguous Counties: Washington; Chelan; Douglas; Ferry; Grant; Lincoln; Skagit; Whatcom.

The Interest Rate is: 4.000.

The number assigned to this disaster for economic injury is 107340.

The State which received an EIDL Declaration # is Washington.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: November 22, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–20421 Filed 12–1–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5633]

30-Day Notice of Proposed Information Collection: DS–4024, DS–4024e, American Citizens Services Internet Based Registration System (IBRS), OMB Number 1405–0152

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* American Citizens Services Internet Based Registration System (IBRS).
- *OMB Control Number:* 1405–0152.
- *Type of Request:* Revision of Currently Approved Collection. The new version of IBRS includes the following data-related changes: Registrants are now able to add multiple addresses, phones and e-mails; there is no longer a short-term/long-term distinction, so all users are required to select a U.S. embassy or consulate when registering a trip; registrants can now sign up for embassy/consulate specific

e-mail lists and this revision provides the option of completing a paper version of the registration which may be e-mailed, faxed, mailed to U.S. embassies or consulates or executed in person to be hand entered in the IBRS database by the U.S. embassy or consulate.

- *Originating Office:* CA/OCS.
- *Form Number:* DS–4024, DS–4024e.
- *Respondents:* American Citizens Traveling Abroad.
- *Estimated Number of Respondents:* 500,000.
- *Estimated Number of Responses:* 500,000.
- *Average Hours Per Response:* 10 minutes.
- *Total Estimated Burden:* 83,333.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATE(S): Submit comments to the Office of Management and Budget (OMB) for up to 30 days from December 4, 2006.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- E-mail: *kastrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD–ROM submissions): Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- Fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Monica A. Gaw, CA/OCS/PRI, U.S. Department of State, SA–29, 4th Floor, Washington, DC 20520, who may be reached on 202–736–9107 or via e-mail at *ASKPRI@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The American Citizens Services Internet Based Registration System (IBRS) makes it possible for U.S. nationals to register on-line from anywhere in the world. In the event of a family emergency, natural disaster or international crisis, U.S. embassies and consulates rely on this registration information to provide critical information and assistance to them.

Methodology: 99% of responses are received via electronic submission on the Internet. The service is available on the Department of State, Bureau of Consular Affairs Web site *http://travel.state.gov* at *https://travelregistration.state.gov/ibrs/.* The paper version of the collection permits respondents who do not have Internet access to provide the information to the U.S. embassy or consulate by fax, e-mail, mail or in person.

Dated: November 20, 2006.

Maura Harty,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E6–20479 Filed 12–1–06; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Over-the-Road Bus Accessibility Program Announcement of Project Selections

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the selection of projects to be funded under Fiscal Year (FY) 2006 appropriations for the Over-the-Road Bus (OTRB) Accessibility Program, authorized by the Transportation Equity Act for the 21st Century (TEA–21). The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to help finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility regulation.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant-specific issues; or Blenda Younger, Office of Program Management, 202–366–2053, for general information about the OTRB Program.

SUPPLEMENTARY INFORMATION: A total of $7.4 million was made available for the program in FY 2006: $5.6 million for intercity fixed-route providers and $1.8 million for all other providers, such as commuter, charter, and tour operators. A total of 127 applicants requested $35.1 million: $17.3 million was requested by intercity fixed-route providers, and $17.8 million was requested by all other providers. Project selections were made on a discretionary basis, based on each applicant's responsiveness to statutory project selection criteria, fleet size, and level of funding received in previous years. Because of the high demand for the funds available, most successful applicants received less funding than they requested, and applicants with weaker applications were not selected for funding. The selected projects will provide funding for the incremental cost of adding lifts to 94 new vehicles, retrofitting 118 vehicles, and $70,765 for training. Each of the following 91 awardees, as well as the 36 applicants who were not selected for funding, will receive a letter that explains how funding decisions were made.

AWARD AMOUNT

Operator	City/state	Intercity fixed-route	Other	Total	Project ID
Region I:					
Arrow Line	Springfield, MA		$40,000	$40,000	D2006–OTRB–0001
Bonanza Bus Lines	Springfield, MA			88,381	D2006–OTRB–0002
Concord Coach Lines, Inc	Concord, NH	90,600		90,600	D2006–OTRB–0003
Northeast Charter & Tour Co. Inc	Lewiston, ME		43,599	43,599	D2006–OTRB–0004
Peter Pan Bus Lines	Springfield, MA	144,755		144,755	D2006–OTRB–0005
Plymouth & Brockton	Plymouth, MA	55,620		55,620	D2006–OTRB–0006

AWARD AMOUNT—Continued

Operator	City/state	Intercity fixed-route	Other	Total	Project ID
Premier Coach Company, Inc	Colchester, VT		28,405	28,405	D2006–OTRB–0007
Region II:					
Adirondack Trailways	Hurley, NY	157,500		157,500	D2006–OTRB–0008
Classic Tours	Lakewood, NJ		29,170	29,170	D2006–OTRB–0009
Hampton Jitney, Inc	Southampton, NY	30,137		30,137	D2006–OTRB–0010
J&R Tours, Ltd	Mount Vernon, NY		25,200	25,200	D2006–OTRB–0011
Lion Trailways	Rio Grande, NJ	58,000		58,000	D2006–OTRB–0012
Region III:					
Anderson Coach & Travel	Greenville, PA		33,389	33,389	D2006–OTRB–0013
Butler Motor Transit	Butler, PA		39,000	39,000	D2006–OTRB–0014
Capitol Trailways	Harrisburg, PA	110,900		110,900	D2006–OTRB–0015
David Thomas Tours, Inc	Philadelphia, PA	26,200		26,200	D2006–OTRB–0016
Dillon's Bus Service, Inc	Millersville, MD	23,500		23,500	D2006–OTRB–0017
Edenfield Stages	Greensburg, PA	41,000		41,000	D2006–OTRB–0018
Fullington Trailways	Clearfield, PA	86,230		86,230	D2006–OTRB–0019
Fun Tours, Inc	Virginia Beach, VA		33,692	33,692	D2006–OTRB–0020
Gold Line, Inc	Tuxedo, MD	162,000		162,000	D2006–OTRB–0021
Keller Transportation, Inc	Waldorf, MD	97,730		97,730	D2006–OTRB–0022
Lodestar Bus Lines, Inc	Johnstown, PA		28,000	28,000	D2006–OTRB–0023
Martz Trailways	Wilkes-Barre, PA	137,800		137,800	D2006–OTRB–0024
National Coach Works of Virginia	Fredericksburg, VA		40,000	40,000	D2006–OTRB–0025
Sun Coach Lines, LLC	McKeesport, PA		26,499	26,499	D2006–OTRB–0026
Trans-Bridge Lines	Bethlehem, PA	130,950		130,950	D2006–OTRB–0027
Region IV:					
American Charters, LTD	Charlotte, NC		23,500	23,500	D2006–OTRB–0028
American Coach of Atlanta	Norcross, GA		23,500	23,500	D2006–OTRB–0029
American Coach Lines Jacksonville	Jacksonville, FL		26,200	26,200	D2006–OTRB–0030
American Coach Lines Orlando	Orlando, FL		22,500	22,500	D2006–OTRB–0031
Angelic Tours and Shuttles	Fayetteville, NC		40,000	40,000	D2006–OTRB–0032
Burke International Tours, Inc	Maiden, NC		25,392	25,392	D2006–OTRB–0033
Capital Trailways	Montgomery, AL		25,492	25,492	D2006–OTRB–0034
First Class Coach Company, Inc	St. Petersburg, FL		32,500	32,500	D2006–OTRB–0035
Florida Cruise Connection, Inc	Sarasota, FL		21,250	21,250	D2006–OTRB–0036
KTC Transportation Co., Inc	Charlotte, NC		41,000	41,000	D2006–OTRB–0037
Magic Carpet Ride	Vero Beach, FL		24,901	24,901	D2006–OTRB–0038
Midnight Sun Tours, Inc	Lake Worth, FL		46,000	46,000	D2006–OTRB–0039
Morgan & Sons Week-End Tours	Greensboro, NC		41,000	41,000	D2006–OTRB–0040
Southern Coach Company	Durham, NC		29,800	29,800	D2006–OTRB–0041
Starkville Trailways, Inc	Starkville, MS		46,856	46,856	D2006–OTRB–0042
Region V:					
Able Trek Tours, Inc	Reedsburg, WI		15,007	15,007	D2006–OTRB–0043
Colonial Coach Lines, Inc	Mt. Prospect, IL	146,000		146,000	D2006–OTRB–0044
Indian Trails, Inc	Owosso, MI		26,100	26,100	D2006–OTRB–0045
Jefferson Lines	Minneapolis, MN	77,600		77,600	D2006–OTRB–0046
K&K Bus Lines, Inc	Montgomery, IN		25,000	25,000	D2006–OTRB–0047
Lakefront Lines, Inc	Brook Park, OH	75,600		75,600	D2006–OTRB–0048
Minnesota Coaches, Inc	Hastings, MN		30,760	30,760	D2006–OTRB–0049
Prairie Trailways	Chicago, IL		25,300	25,300	D2006–OTRB–0050
Ready Bus Line	La Crescent, MN		25,962	25,962	D2006–OTRB–0051
Riteway Bus Service, Inc	Richfield, WI	98,577		98,577	D2006–OTRB–0052
Wisconsin Coach Lines	Waukesha, WI	90,000		90,000	D2006–OTRB–0053
Region VI:					
All Aboard America	Santa Fe, NM	79,300		79,300	D2006–OTRB–0054
Americanos USA, LLC	Dallas, TX		37,800	37,800	D2006–OTRB–0055
Arrow Trailways of Texas	Killeen, TX		23,462	23,462	D2006–OTRB–0056
Crucero USA, LLC	Dallas, TX	113,400		113,400	D2006–OTRB–0057
El Expreso Bus Company, Inc	Houston, TX	49,600		49,600	D2006–OTRB–0058
El Paso—Los Angeles Limousine Express, Inc	El Paso, TX	107,865		107,865	D2006–OTRB–0059
Greyhound Lines, Inc	Dallas, TX	2,803,950		2,803,950	D2006–OTRB–0060
Gulf Coast Transportation	Houston, TX		42,310	42,310	D2006–OTRB–0061
Kerrville Bus Co.	San Antonio, TX	48,600		48,600	D2006–OTRB–0062
Star Shuttle & Charter	San Antonio, TX		40,118	40,118	D2006–OTRB–0063
TNM&O	Lubbock, TX	83,700		83,700	D2006–OTRB–0064
Region VII:					
Arrow Stage Lines	Norfolk, NE		28,000	28,000	D2006–OTRB–0065
B&B Tour & Charter, LLC	Kansas City, MO		35,000	35,000	D2006–OTRB–0066
Burlington Trailways	W. Burlington, IA	83,985		83,985	D2006–OTRB–0067
Region VIII:					
Ramblin Express, Inc	Colorado Springs, CO		26,200	26,200	D2006–OTRB–0068

AWARD AMOUNT—Continued

Operator	City/state	Intercity fixed-route	Other	Total	Project ID
Region IX					
Alan Waxler Group, Inc	Las Vegas, NV			40,547	D2006–OTRB–0069
All West Coachlines, LLC	Sacramento, CA		39,155	39,155	D2006–OTRB–0070
Amador Stage Lines	Sacramento, CA	90,020		90,020	D2006–OTRB–0071
Celebrity Coaches of America	Las Vegas, NV		42,990	42,990	D2006–OTRB–0072
Chinese Hosts, Inc	Las Vegas, NV		38,837	38,837	D2006–OTRB–0073
Coach USA Elko, LLC	Elko, NV	40,950		40,950	D2006–OTRB–0074
Coach USA Los Angeles	Long Beach, CA		39,655	39,655	D2006–OTRB–0075
El Camino Charter Lines, Inc	San Francisco, CA		32,500	32,500	D2006–OTRB–0076
Franciscan Lines	San Francisco, CA		36,955	36,955	D2006–OTRB–0077
Grand Tours	Las Vegas, NV		38,500	38,500	D2006–OTRB–0078
H&L Charter Co., Inc	Rancho Cucamonga, CA		26,200	26,200	D2006–OTRB–0079
LD Tours, LLC	Las Vegas, NV		42,000	42,000	D2006–OTRB–0080
Polynesian Adventure Tours, Inc	Honolulu, HI		21,932	21,932	D2006–OTRB–0081
RDH Transportation Services, Inc	Honolulu, HI		18,451	18,451	D2006–OTRB–0082
Ryan's Express Transportation	N. Las Vegas, NV		31,000	31,000	D2006–OTRB–0083
Silverado Stages, Inc	San Luis Obispo, CA	102,300		102,300	D2006–OTRB–0084
Solazteca	Los Angeles, CA		33,400	33,400	D2006–OTRB–0085
Transportes Intercalifornias	Los Angeles, CA		41,000	41,000	D2006–OTRB–0086
Triple J Tours, Inc	Las Vegas, NV		21,995	21,995	D2006–OTRB–0087
Via Adventures, Inc	Merced, CA		28,706	28,706	D2006–OTRB–0088
Region X:					
Northwestern Trailways	Spokane, WA	36,000		36,000	D2006–OTRB–0089
Premier Alaska Tours, Inc	Anchorage, AK		25,700	25,700	D2006–OTRB–0090
Wheatland Express, Inc	Pullman, WA		38,863	38,863	D2006–OTRB–0091
Total		5,568,750	1,856,250	7,425,000	

Eligible project costs may be incurred by awardees prior to final grant approval. The incremental capital cost for adding wheelchair lift equipment to any new vehicles delivered on or after June 9, 1998, the effective date of Transportation Equity Act for the 21st Century (TEA–21), is eligible for funding under the OTRB Accessibility Program.

Applicants selected for funding may be contacted by FTA regional offices if additional information is needed before grants are made. Awards are processed through FTA's electronic grants management system, TEAM–WEB, and the project ID listed will be used to track the obligation of funds for the projects selected. The grant applications will be sent to the U.S. Department of Labor (DOL) for certification under labor protection requirements pursuant to 49 U.S.C. 5333(b). After referring applications to affected employees represented by a labor organization, DOL will issue a certification to FTA. Terms and conditions of the certification will be incorporated in the FTA grant agreement under the new guidelines, replacing those in 29 CFR Part 215. Please see *Amendment to Section 5333(b), Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA–21)*; Final Rule (64 FR 40990, July 28, 1999).

Issued in Washington, DC, this 28th day of November, 2006.

James S. Simpson,

Administrator.

[FR Doc. E6–20426 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Limitation on Claims.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for public transportation projects in the following metropolitan areas: Brownsville, Texas; Chicago, Illinois; Dayton, Ohio; San Francisco, California; and Washington, DC. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Title 23 United States Code (USC) § 139(l). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before June 4, 2007.

FOR FURTHER INFORMATION CONTACT: Joseph Ossi, Environmental Protection Specialist, Office of Planning and Environment, 202–366–1613, or Christopher Van Wyk, Office of Chief Counsel, 202–366–1733. FTA is located at 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA), and

in other documents in the FTA administrative record for the project. The final agency environmental decision documents—Records of Decision (RODs) or Findings of No Significant Impact (FONSIs)—for the listed projects are available online at *http://www.fta.dot.gov/planning/environment/planning_environment_documents.html* or may be obtained by contacting the FTA Regional Office for the metropolitan area where the project is located. Contact information for the FTA Regional Offices may be found at *http://www.fta.dot.gov*.

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, the National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q].

The projects and actions that are the subject of this notice are:

1. *Project name and location:* Multimodal Terminal Facility; Brownsville, Texas. *Project sponsors:* City of Brownsville and the Brownsville Urban System (BUS). *Project description:* The project is the construction of a multimodal facility in the Brownsville central business district. The facility includes a bus terminal with bus bays and canopies, and automobile parking on a 5-acre site. *Final agency action:* FONSI issued August 21, 2006. *Supporting documentation:* Final Environmental Assessment: Multimodal Terminal Facility, August 2006.

2. *Project name and location:* Long Lake Station Parking Expansion; metropolitan Chicago, Illinois. *Project sponsor:* Metra Commuter Rail. *Project description:* Construction of parking facilities at the existing Metra Commuter Rail Station in the Village of Round Lake in Illinois. *Final agency action:* FONSI issued on July 18, 2006. *Supporting documentation:* Environmental Assessment, June 2006.

3. *Project name and location:* Market Street Plaza Improvement; Dayton, Ohio. *Project sponsor:* Greater Dayton Regional Transit Authority. *Project description:* The project is the construction of an off-street bus terminal and layover area on the block bounded by Third and Fourth streets, and Main and Jefferson streets in Dayton. The site is currently occupied by the vacant Admiral Benbow hotel building, which will be demolished. *Final agency actions:* FONSI issued on August 1, 2006; Section 106 Finding of No Adverse Effect. *Supporting documentation:* Environmental Assessment, June 2006.

4. *Project name and location:* BART Warm Springs Extension Project; metropolitan San Francisco, California. *Project sponsors:* San Francisco Bay Area Rapid Transit District (BART). *Project description:* This project is a 5.4-mile extension of the BART heavy rail system on the east side of San Francisco Bay from its current terminus at the Fremont Station in Fremont to a new station in Warm Springs. The extension will also include a new station at Irvington if sufficient funding is available. *Final agency actions:* ROD issued on October 24, 2006; Section 4(f) finding; Section 4(f) de minimis impact finding; Section 106 Memorandum of Agreement; project-level Air Quality Conformity determination; consultation with the U.S. Department of the Interior (DOI) under Section 7 of the Endangered Species Act, resulting in DOI's issuance of a Biological Opinion. *Supporting documentation:* Final Environmental Impact Statement and Section 4(f) Evaluation: BART Warm Springs Extension issued on July 14, 2006.

5. *Project name and location:* Dulles Corridor Metrorail Project; metropolitan Washington, DC. *Project sponsors:* Virginia Department of Rail and Public Transportation, Washington Metropolitan Area Transit Authority (WMATA), and Metropolitan Washington Airports Authority. *Project description:* The project is an extension of the Washington regional Metrorail system in Fairfax and Loudoun Counties, Virginia. It will include approximately 23 miles of electrically-powered rapid rail transit operating in exclusive right-of-way with at-grade, aerial, and subway sections, 11 new stations, parking facilities, new and improved yard and shop facilities, new rail vehicles, and related systems and equipment. The project has two phases with the first phase extending from the existing Metrorail Orange Line near the West Falls Church Station through Tysons Corner to a temporary terminus at Wiehle Avenue in Reston. The second phase of the project will extend west of Wiehle Avenue to Dulles International Airport and eastern Loudoun County. Between Tysons Corner and the Airport, the project is generally aligned in the median of the Dulles International Airport Access Highway. *Final agency actions:* Amended ROD issued on November 17, 2006; Section 4(f) finding; Section 106 Memorandum of Agreement; project-level Air Quality Conformity determination. *Supporting documentation:* Final Environmental Impact Statement issued on December 23, 2004; Environmental Assessment, February 2006.

Issued on: November 28, 2006.

Brigid Hynes-Cherin,

Associate Administrator, for Planning and Environment, Washington, DC.

[FR Doc. E6–20390 Filed 12–1–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 234X)]

Union Pacific Railroad Company—Abandonment Exemption—in Washington County, MN

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.81-mile line of railroad known as the Stillwater Industrial Lead, extending from milepost 4.69 to milepost 5.50 near Stillwater in Washington County, MN. The line traverses United States Postal Service Zip Codes 55082 and 55083.[1]

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

[1] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant initially indicated a proposed consummation date of January 2, 2007, but because the verified notice was filed on November 14, 2006, consummation may not take place prior to January 3, 2007.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 3, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 14, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 26, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 8, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by December 4, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 21, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–20313 Filed 12–1–06; 8:45 am]

BILLING CODE 4915–01–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

Corrections

Federal Register

Vol. 71, No. 232

Monday, December 4, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

Correction

In notice document E6–20171 beginning on page 69135 in the issue of Wednesday, November 29, 2006, make the following correction:

On page 69137, in the second column, in the fifth line from the end of the document, ''November 7, 2006'' should read ''Dated: November 17, 2006''.

[FR Doc. Z6–20171 Filed 12–1–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
December 4, 2006

Part II

The President

Proclamation 8087—World AIDS Day, 2006

Federal Register
Vol. 71, No. 232
Monday, December 4, 2006

Presidential Documents

Title 3—

The President

Proclamation 8087 of November 30, 2006

World AIDS Day, 2006

By the President of the United States of America

A Proclamation

HIV/AIDS is a global health crisis and a constant struggle for many of our families, friends, and neighbors. On World AIDS Day, we underscore our commitment to fight the AIDS pandemic with compassion and decisive action.

America leads the world in the fight against HIV/AIDS, and through the Emergency Plan for AIDS Relief we are combating the disease in countries around the world. Through the New Partners Initiative, we are supporting faith-based and community organizations that offer much of the health care in the developing world, so that we can reach more people more effectively. In addition, the United States and other concerned countries are promoting a comprehensive strategy to prevent the spread of HIV/AIDS. This includes the ABC approach—encouraging abstinence, being faithful, and using condoms, with abstinence as the only sure way to avoid the sexual transmission of HIV/AIDS.

As we work to fight HIV/AIDS globally, we must also ensure our citizens at home have the resources and support they need for treatment and prevention of this disease. Today, more than 1 million Americans are living with HIV/AIDS, and many of these individuals are unaware that they are infected. We will continue to provide medical care, counseling, and testing for those in greatest need of HIV/AIDS assistance, and I have asked the Congress to reform and reauthorize the Ryan White CARE Act and provide new funding to improve distribution of HIV/AIDS medicines in America. The Federal Government is also working closely with faith-based and other community organizations to provide services to individuals with HIV/AIDS and end the stigma of AIDS.

America is blessed with scientific knowledge and compassionate citizens, and we are guided by our founding conviction that each life has matchless value. On World AIDS Day and throughout the year, we stand with our friends and partners around the world in the urgent struggle to fight this virus, comfort those who are affected, and save lives.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 2006, as World AIDS Day. I urge the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and the American people to join me in appropriate activities to remember those who have lost their lives to AIDS, to work to prevent this deadly disease, and to comfort and support those living with HIV/AIDS.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–9537
Filed 12–1–06; 10:44 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 71, No. 232

Monday, December 4, 2006

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

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

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

69429–70274 1
70275–70456 4

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8087 70455

5 CFR

Proposed Rules:
3201 70325

7 CFR

1220 69429
1792 70275
Proposed Rules:
51 69497
319 70330

10 CFR

70 69430
433 70275
434 70275
435 70275

12 CFR

205 69430
Proposed Rules:
205 69500

14 CFR

39 .....70284, 70286, 70294, 70297, 70300
71 .....69438, 70302
97 69438
Proposed Rules:
145 70254

18 CFR

50 69440
380 69440

19 CFR

12 69447

21 CFR

1301 69478
520 70302
558 70304
Proposed Rules:
1312 69504

25 CFR

Proposed Rules:
292 70335

26 CFR

Proposed Rules:
301 70335

29 CFR

4022 69480
4044 69481
Proposed Rules:
825 69504

31 CFR

1 69482

33 CFR

117 70305
165 69484
Proposed Rules:
165 .....69514, 69517
401 70336

37 CFR

253 69486

40 CFR

52 .....69486, 70312, 70315
122 69622
300 70318
Proposed Rules:
52 .....69519, 70338, 70339

42 CFR

405 69624
410 69624
411 69624
414 69624
415 69624
424 69624

48 CFR

201 69488
208 69489
212 69489
215 69492
230 69492
232 69489
252 .....69489, 69492
253 69492

49 CFR

Proposed Rules:
171 69527
172 69527
173 69527
174 69527
178 69527

50 CFR

229 .....70319, 70321
665 69495
679 70323
Proposed Rules:
229 70339
665 69527

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 4, 2006

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Watermelon research and promotion plan; redistricting; published 11-2-06

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Western Pacific fisheries—

Bottomfish and seamount groundfish; published 11-2-06

DEFENSE DEPARTMENT

Defense Logistics Agency

Privacy Act; implementation; published 11-3-06

DEFENSE DEPARTMENT

Privacy Act; implementation; published 11-3-06

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Colorado; published 11-2-06

West Virginia; published 11-2-06

Solid wastes:

State underground storage tank program approvals—

New Hampshire; published 10-4-06

Superfund program:

National oil and hazardous substances contingency plan priorities list; published 12-4-06

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Texas; published 11-8-06

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Florfenicol; published 12-4-06

Sulfamethazine soluble powder; published 12-4-06

HOMELAND SECURITY DEPARTMENT

Customs and Border Protection Bureau

Merchandise, special classes:

Import restrictions—

Bolivia; archaeological and ethnological materials; published 12-1-06

SECURITIES AND EXCHANGE COMMISSION

Investment companies:

Redeemable securities; mutual fund redemption fees; published 10-3-06

STATE DEPARTMENT

Legal and related services:

Intercountry adoption; Hague Convention certificates and declarations issuance in Convention adoption cases; published 11-2-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 10-30-06

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Glazing materials—

Low-speed vehicles, etc.; correction; published 11-2-06

TREASURY DEPARTMENT

Merchandise, special classes:

Import restrictions—

Bolivia; archaeological and ethnological materials; published 12-1-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Animal welfare:

Captive elephants; space and living conditions; comments due by 12-11-06; published 8-9-06 [FR E6-12935]

Hawaiian and territorial quarantine notices:

Bell pepper, eggplant, Italian squash, and tomato moved interstate from Hawaii; vapor heat treatment approval; comments due by 12-11-06; published 10-11-06 [FR E6-16754]

Plant-related quarantine, domestic:

Asian longhorned beetle; comments due by 12-11-06; published 10-11-06 [FR E6-16755]

AGRICULTURE DEPARTMENT

Energy Policy and New Uses Office, Agriculture Department

Biobased products; designation guidance for Federal procurement; comments due by 12-11-06; published 10-11-06 [FR 06-08368]

COMMERCE DEPARTMENT

Foreign-Trade Zones Board

Applications, hearings, determinations, etc.:

Georgia

Eastman Kodak Co.; x-ray film, color paper, digital media, inkjet paper, entertainment imaging, and health imaging; Open for comments until further notice; published 7-25-06 [FR E6-11873]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish; Greenland turbot; comments due by 12-14-06; published 12-4-06 [FR 06-09501]

Marine mammals:

Commercial fishing authorizations—

Atlantic Large Whale Take Reduction Plan; comment request; comments due by 12-15-06; published 11-15-06 [FR 06-09206]

DEFENSE DEPARTMENT

Personnel, military and civilian:

Armed Forces members serving on State or local juries; comments due by 12-11-06; published 10-10-06 [FR E6-16643]

Organizations seeking to represent or organize Armed Forces members in negotiation or collective bargaining; policies; comments due by 12-11-06; published 10-12-06 [FR E6-16926]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Transmission service; preventing undue discrimination and preference; comments due by 12-15-06; published 11-27-06 [FR E6-19998]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 12-11-06; published 11-9-06 [FR E6-18874]

Louisiana; comments due by 12-13-06; published 11-13-06 [FR E6-19020]

Hazardous waste program authorizations:

Idaho; comments due by 12-11-06; published 11-9-06 [FR E6-18486]

Louisiana; comments due by 12-13-06; published 11-13-06 [FR E6-19089]

FARM CREDIT ADMINISTRATION

Farm credit system:

Processing and marketing operations; eligibility and scope of financing; comments due by 12-15-06; published 10-16-06 [FR E6-17170]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Reprocessed single-use devices; premarket notification exemptions termination; validation data submission requirement; comments due by 12-11-06; published 9-25-06 [FR 06-08166]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Agency information collection activities; proposals, submissions, and approvals; comments due by 12-11-06; published 10-10-06 [FR E6-16616]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Indiana; comments due by 12-13-06; published 11-13-06 [FR E6-19085]

Texas; comments due by 12-13-06; published 11-13-06 [FR E6-19084]

Surface coal mining and reclamation operations:

Ownership, control, transfer, assignment or sale of permit rights; comments due by 12-11-06; published 10-10-06 [FR E6-16575]

LABOR DEPARTMENT

Employee Benefits Security Administration

Employee Retirement Income Security Act:

Independence of employee benefit plan accountants; comments due by 12-11-06; published 9-11-06 [FR E6-14913]

INTERIOR DEPARTMENT

National Indian Gaming Commission

Classification standards:

Class II Gaming; bingo, lotto, et al.

Analytical reports availability; comments due by 12-15-06; published 11-13-06 [FR E6-19065]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules, etc.:

Chicago O'Hare International Airport, IL; congestion and delay reduction; comments due by 12-12-06; published 10-13-06 [FR 06-08651]

Airworthiness directives:

Airbus; comments due by 12-15-06; published 11-15-06 [FR E6-19228]

Boeing; comments due by 12-11-06; published 10-11-06 [FR E6-16670]

Dowty Propellers; comments due by 12-11-06; published 11-9-06 [FR E6-18840]

Raytheon; comments due by 12-11-06; published 10-10-06 [FR E6-16552]

Airworthiness standards:

Special conditions—

Boeing Model 737-700 IGW airplane; comments due by 12-15-06; published 10-31-06 [FR E6-18281]

General Electric Co. GEnx turbofan engine models; Open for comments until further notice; published 11-17-06 [FR 06-09230]

Class D airspace; comments due by 12-11-06; published 10-25-06 [FR 06-08848]

Class D and Class E airspace; comments due by 12-15-06; published 10-31-06 [FR E6-18264]

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Practice and procedure:

Direct final rulemaking procedures; expedited processing of noncontroversial changes; comments due by 12-11-06; published 10-11-06 [FR E6-16825]

Railroad operating rules and practices:

Operational tests and inspections program; equipment, switches, and derails handling; comments due by 12-11-06; published 10-12-06 [FR 06-08568]

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Clean Fuels Grant Program; comments due by 12-15-06; published 10-16-06 [FR E6-17071]

TREASURY DEPARTMENT

Privacy Act; implementation; comments due by 12-11-06; published 11-9-06 [FR E6-18853]

VETERANS AFFAIRS DEPARTMENT

Loan guaranty:

Housing loans in default; servicing, liquidating, and claims procedures; comments due by 12-11-06; published 11-27-06 [FR 06-09403]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 435/P.L. 109–370

Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005 (Nov. 27, 2006; 120 Stat. 2643)

S. 819/P.L. 109–371

Pactola Reservoir Reallocation Authorization Act of 2005 (Nov. 27, 2006; 120 Stat. 2644)

S. 1131/P.L. 109–372

Idaho Land Enhancement Act (Nov. 27, 2006; 120 Stat. 2645)

S. 2464/P.L. 109–373

Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006 (Nov. 27, 2006; 120 Stat. 2650)

S. 3880/P.L. 109–374

Animal Enterprise Terrorism Act (Nov. 27, 2006; 120 Stat. 2652)

Last List November 22, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4] Jan. 1, 2006
2	(869–060–00002–0)	5.00	Jan. 1, 2006
3 (2005 Compilation and Parts 100 and 102)	(869–060–00003–8)	35.00	[1] Jan. 1, 2006
4	(869–060–00004–6)	10.00	Jan. 1, 2006
5 Parts:			
1–699	(869–060–00005–4)	60.00	Jan. 1, 2006
700–1199	(869–060–00006–2)	50.00	Jan. 1, 2006
1200–End	(869–060–00007–1)	61.00	Jan. 1, 2006
6	(869–060–00008–9)	10.50	Jan. 1, 2006
7 Parts:			
1–26	(869–060–00009–7)	44.00	Jan. 1, 2006
27–52	(869–060–00010–1)	49.00	Jan. 1, 2006
53–209	(869–060–00011–9)	37.00	Jan. 1, 2006
210–299	(869–060–00012–7)	62.00	Jan. 1, 2006
300–399	(869–060–00013–5)	46.00	Jan. 1, 2006
400–699	(869–060–00014–3)	42.00	Jan. 1, 2006
700–899	(869–060–00015–1)	43.00	Jan. 1, 2006
900–999	(869–060–00016–0)	60.00	Jan. 1, 2006
1000–1199	(869–060–00017–8)	22.00	Jan. 1, 2006
1200–1599	(869–060–00018–6)	61.00	Jan. 1, 2006
1600–1899	(869–060–00019–4)	64.00	Jan. 1, 2006
1900–1939	(869–060–00020–8)	31.00	Jan. 1, 2006
1940–1949	(869–060–00021–6)	50.00	Jan. 1, 2006
1950–1999	(869–060–00022–4)	46.00	Jan. 1, 2006
2000–End	(869–060–00023–2)	50.00	Jan. 1, 2006
8	(869–060–00024–1)	63.00	Jan. 1, 2006
9 Parts:			
1–199	(869–060–00025–9)	61.00	Jan. 1, 2006
200–End	(869–060–00026–7)	58.00	Jan. 1, 2006
10 Parts:			
1–50	(869–060–00027–5)	61.00	Jan. 1, 2006
51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
500–End	(869–060–00030–5)	62.00	Jan. 1, 2006
11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
1–199	(869–060–00032–1)	34.00	Jan. 1, 2006
200–219	(869–060–00033–0)	37.00	Jan. 1, 2006
220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
300–499	(869–060–00035–6)	47.00	Jan. 1, 2006
500–599	(869–060–00036–4)	39.00	Jan. 1, 2006
600–899	(869–060–00037–2)	56.00	Jan. 1, 2006
900–End	(869–060–00038–1)	50.00	Jan. 1, 2006
13	(869–060–00039–9)	55.00	Jan. 1, 2006
14 Parts:			
1–59	(869–060–00040–2)	63.00	Jan. 1, 2006
60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
140–199	(869–060–00042–9)	30.00	Jan. 1, 2006
200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
1200–End	(869–060–00044–5)	45.00	Jan. 1, 2006
15 Parts:			
0–299	(869–060–00045–3)	40.00	Jan. 1, 2006
300–799	(869–060–00046–1)	60.00	Jan. 1, 2006
800–End	(869–060–00047–0)	42.00	Jan. 1, 2006
16 Parts:			
0–999	(869–060–00048–8)	50.00	Jan. 1, 2006
1000–End	(869–060–00049–6)	60.00	Jan. 1, 2006
17 Parts:			
1–199	(869–060–00051–8)	50.00	Apr. 1, 2006
200–239	(869–060–00052–6)	60.00	Apr. 1, 2006
240–End	(869–060–00053–4)	62.00	Apr. 1, 2006
18 Parts:			
1–399	(869–060–00054–2)	62.00	Apr. 1, 2006
400–End	(869–060–00055–1)	26.00	[6] Apr. 1, 2006
19 Parts:			
1–140	(869–060–00056–9)	61.00	Apr. 1, 2006
141–199	(869–060–00057–7)	58.00	Apr. 1, 2006
200–End	(869–060–00058–5)	31.00	Apr. 1, 2006
20 Parts:			
1–399	(869–060–00059–3)	50.00	Apr. 1, 2006
400–499	(869–060–00060–7)	64.00	Apr. 1, 2006
500–End	(869–060–00061–5)	63.00	Apr. 1, 2006
21 Parts:			
1–99	(869–060–00062–3)	40.00	Apr. 1, 2006
100–169	(869–060–00063–1)	49.00	Apr. 1, 2006
170–199	(869–060–00064–0)	50.00	Apr. 1, 2006
200–299	(869–060–00065–8)	17.00	Apr. 1, 2006
300–499	(869–060–00066–6)	30.00	Apr. 1, 2006
500–599	(869–060–00067–4)	47.00	Apr. 1, 2006
600–799	(869–060–00068–2)	15.00	Apr. 1, 2006
800–1299	(869–060–00069–1)	60.00	Apr. 1, 2006
1300–End	(869–060–00070–4)	25.00	Apr. 1, 2006
22 Parts:			
1–299	(869–060–00071–2)	63.00	Apr. 1, 2006
300–End	(869–060–00072–1)	45.00	[7] Apr. 1, 2006
23	(869–060–00073–9)	45.00	Apr. 1, 2006
24 Parts:			
0–199	(869–060–00074–7)	60.00	Apr. 1, 2006
200–499	(869–060–00075–5)	50.00	Apr. 1, 2006
500–699	(869–060–00076–3)	30.00	Apr. 1, 2006
700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
1700–End	(869–060–00078–0)	30.00	Apr. 1, 2006
25	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0–1–1.60	(869–060–00080–1)	49.00	Apr. 1, 2006
§§ 1.61–1.169	(869–060–00081–0)	63.00	Apr. 1, 2006
§§ 1.170–1.300	(869–060–00082–8)	60.00	Apr. 1, 2006
§§ 1.301–1.400	(869–060–00083–6)	47.00	Apr. 1, 2006
§§ 1.401–1.440	(869–060–00084–4)	56.00	Apr. 1, 2006
§§ 1.441–1.500	(869–060–00085–2)	58.00	Apr. 1, 2006
§§ 1.501–1.640	(869–060–00086–1)	49.00	Apr. 1, 2006
§§ 1.641–1.850	(869–060–00087–9)	61.00	Apr. 1, 2006
§§ 1.851–1.907	(869–060–00088–7)	61.00	Apr. 1, 2006
§§ 1.908–1.1000	(869–060–00089–5)	60.00	Apr. 1, 2006
§§ 1.1001–1.1400	(869–060–00090–9)	61.00	Apr. 1, 2006
§§ 1.1401–1.1550	(869–060–00091–2)	58.00	Apr. 1, 2006
§§ 1.1551–End	(869–060–00092–5)	50.00	Apr. 1, 2006
2–29	(869–060–00093–3)	60.00	Apr. 1, 2006
30–39	(869–060–00094–1)	41.00	Apr. 1, 2006
40–49	(869–060–00095–0)	28.00	Apr. 1, 2006
50–299	(869–060–00096–8)	42.00	Apr. 1, 2006

Title	Stock Number	Price	Revision Date
300–499	(869–060–00097–6)	61.00	Apr. 1, 2006
500–599	(869–060–00098–4)	12.00	[5] Apr. 1, 2006
600–End	(869–060–00099–2)	17.00	Apr. 1, 2006
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–060–00101–8)	18.00	Apr. 1, 2006
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–060–00135–2)	60.00	July 1, 2006
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–060–00165–4)	56.00	July 1, 2006
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–060–00170–1)	21.00	[8] July 1, 2006
102–200	(869–060–00171–9)	56.00	July 1, 2006
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–060–00175–1)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
*1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[10] Oct. 1, 2005
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–060–00214–6)	11.00	[9] Oct. 1, 2006
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[9] Oct. 1, 2006
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.