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Presidential Documents

Title 3—

The President

Proclamation 8088 of December 1, 2006

National Drunk and Drugged Driving Prevention Month, 2006

By the President of the United States of America

A Proclamation

Each year, thousands of Americans lose their lives in accidents involving drunk and drugged driving. During National Drunk and Drugged Driving Prevention Month, we continue our efforts to promote awareness of the dangers of impaired driving and encourage fellow citizens to never drive under the influence of alcohol or drugs.

All Americans can play an important role in preventing drunk and drugged driving. Family members can discuss the dangers of impaired driving; businesses, schools, and organizations in our communities can help spread the message of awareness; and individuals can help protect family and friends by identifying a designated driver. During the holiday season, it is especially important to encourage responsible driving and to help ensure the safety of friends and loved ones.

My Administration is committed to saving lives by stopping drunk and drugged drivers before they put themselves and others at risk. We continue to work with communities across our Nation to increase public awareness and prevention of this serious offense. The Department of Transportation's National Highway Traffic Safety Administration has partnered with State and local law enforcement agencies to carry out the campaign, ''Drunk Driving. Over the Limit. Under Arrest.'' This program aims to keep impaired drivers off our Nation's roads by creating new public education programs and toughening enforcement. The Office of National Drug Control Policy works to warn young drivers and their parents about the dangers of driving under the influence of drugs. My Administration is also supporting community and faith-based programs that encourage others to avoid the devastating consequences of impaired driving.

Every person has a responsibility to drive free of alcohol and drugs and to insist that friends and family do the same. By helping fight drunk and drugged driving, Americans everywhere can save lives and send a strong message that driving under the influence is not acceptable.

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 2006 as National Drunk and Drugged Driving Prevention Month. I encourage all Americans to make responsible decisions and to help prevent drunk and drugged driving.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, 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. 06–9607
Filed 12–6–06; 8:45 am]
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Presidential Documents

Title 3—

The President

Proclamation 8089 of December 1, 2006

National Pearl Harbor Remembrance Day, 2006

By the President of the United States of America

A Proclamation

Sixty-five years ago, more than 2,400 Americans lost their lives in a surprise attack on Pearl Harbor. On National Pearl Harbor Remembrance Day, we think of those who died on December 7, 1941, and honor all those who sacrificed for our liberty during World War II.

On that peaceful Sunday morning, our country suffered a vicious, unprovoked attack that changed the course of history. Though our Pacific Fleet was nearly destroyed, our citizens were inspired by the great acts of heroism from those who survived and from those who did not. In the days that followed, our grief turned to resolution, and America embarked on a mission to defeat two of the most ruthless regimes the world has ever known. We pledge to always remember the character and sacrifice of the brave individuals at Pearl Harbor. Their selfless service helped deliver a great victory for the cause of freedom and, ultimately, transformed adversaries into the closest of friends.

After the devastating attacks on Pearl Harbor, President Franklin D. Roosevelt declared, ''We are going to win the war and we are going to win the peace that follows.'' In the 21st century, freedom is again under attack, and young Americans have stepped forward to serve in a global war on terror that will secure our liberty and determine the destiny of millions around the world. Like generations before, we will answer history's call with confidence, confront threats to our way of life, and build a more peaceful world for our children and grandchildren.

The Congress, by Public Law 103–308, as amended, has designated December 7 of each year as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim December 7, 2006, as National Pearl Harbor Remembrance Day. I encourage all Americans to observe this solemn occasion with appropriate ceremonies and activities. I urge all Federal agencies, interested organizations, groups, and individuals to fly the flag of the United States at half-staff this December 7 in honor of those who died as a result of their service at Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, 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.

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Rules and Regulations

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

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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1003

[EOIR Docket No. 158I; AG Order No. 2848–2006]

RIN 1125–AA57

Board of Immigration Appeals: Composition of Board and Temporary Board Members

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Executive Office for Immigration Review (EOIR) regulations relating to the organization of the Board of Immigration Appeals (Board) by adding four Board member positions, thereby expanding the Board to 15 members. This rule also expands the list of persons eligible to serve as temporary Board members to include senior EOIR attorneys with at least ten years of experience in the field of immigration law.

DATES: *Effective date:* This rule is effective December 7, 2006. Written comments must be submitted on or before February 5, 2007.

ADDRESSES: Please submit written comments to Kevin Chapman, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia, 22041. To ensure proper handling, please reference RIN No. 1125–AA57 or EOIR docket number 158I on your correspondence. You may view an electronic version of this proposed rule at *www.regulations.gov*. You may also comment via the Internet to the Executive Office for Immigration Review (EOIR) at *eoir.regs@usdoj.gov* or by using the *www.regulations.gov* comment form for this regulation. When submitting comments electronically, you must include RIN No. 1125–AA57 in the subject box.

FOR FURTHER INFORMATION CONTACT: Kevin Chapman, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

I. Number of Board Members

On January 9, 2006, the Attorney General directed the Deputy Attorney General and Associate Attorney General to conduct a comprehensive review of the Immigration Courts and the Board of Immigration Appeals (Board). This review was undertaken in response to concerns about the quality of decisions being issued by the immigration judges and the Board and reports of intemperate behavior on the part of some immigration judges.

On August 9, 2006, the Attorney General announced that the review was complete, and that he was directing that a series of measures be taken to improve adjudications by the immigration judges and the Board. One of these was a directive to the Director of the Executive Office of Immigration Review to increase the number of Board members from 11 to 15. This rule carries out that directive by revising the third sentence of 8 CFR 1003.1(a)(1) (leaving the remainder of paragraph (a)(1) unchanged).

The size of the Board was last set through rules promulgated in 2002 to improve case management. See 67 FR 54878–01 (Aug. 26, 2002); 8 CFR 1003.1(a), (d), (e) and (g). Those rules, among other provisions, expanded the use of affirmances without opinion and instituted single Board member review of additional cases. At that time the Department also determined that a reduction in the number of Board members was appropriate, and that the number of Board members should be set at 11. See 67 FR at 54893–94. The Department reached this conclusion based upon ''the historic capacity of appellate courts and administrative appellate bodies to adjudicate the law in a cohesive manner, the ability of individuals to reach consensus on legal issues, and the requirements of the existing and projected caseload.'' *Id*. at 54893. The Department specifically noted that reducing the size of the Board to 11 members ''should increase the coherence of Board decisions and facilitate the *en banc* process, thereby improving the value of Board precedents.'' *Id*. at 54894. The commentary concluded that the Attorney General would consider reevaluating the staffing requirements of the Board in the future in light of changing caseloads and legal requirements. *Id*. at 54893.

The streamlining changes brought much needed efficiency to the review process, enabling the Board to eliminate its backlog and provide the parties with a final decision in a more timely fashion. The Attorney General has concluded, however, that some adjustments to the Board's streamlining practices are now appropriate in order to improve the quality of the Board's review of complex or problematic cases. Accordingly, in his August 9, 2006, directive, the Attorney General has instructed the Board to encourage the increased use of one-member written opinions to address poor or intemperate immigration judge decisions, allow the limited use of three-member written opinions to provide greater legal analysis in a small class of particularly complex cases, and to publish more three-member panel decisions as precedent decisions.[1] The Attorney General recognizes that these changes will affect the workload of the Board members by resulting in more detailed one-member orders and more three-member orders. An increase in the number of Board members is therefore warranted to put the Board in the best position to implement these changes.

Moreover, the Board has seen its filings increase from 35,000 appeals and motions in FY 2002 to 42,700 in FY 2005. The Attorney General anticipates that more immigration judges will be needed to handle a further increase in caseloads at the Immigration Courts, which will in turn result in an increase in appeals. The current caseload is extremely burdensome and may become overwhelming in the future for a Board of 11 members.

At the same time, experience suggests that if the Board becomes too large, it

[1] The precise scope of these changes will be specified in a separate rulemaking.

will have considerably more difficulty fulfilling its responsibility of providing coherent direction with respect to the immigration laws. Keeping in mind the goal of maintaining cohesion and the ability to reach consensus, but recognizing the challenges the Board faces in light of its current and anticipated caseload, the Attorney General has determined that four members should be added to the Board at this time.

II. Temporary Board Members

The rules at 8 CFR 1003.1(a)(4) allow the Director of EOIR to designate immigration judges, retired Board members, retired immigration judges, and administrative law judges employed within, or retired from, EOIR to act as temporary Board members. These provisions offer a mechanism through which the Department can provide the Board temporary assistance without changing the number of Board members. This is an appropriate means of responding to an unanticipated increase or temporary surge in the number, size, or type of cases, and other short-term circumstances that might impair the Board's ability to adjudicate cases in a manner that is both timely and fair. Temporary Board members appointed through this process do not participate in *en banc* Board proceedings, so these provisions also offer the Department a mechanism through which it can temporarily increase the Board's reviewing capacity without impairing its ability to review cases *en banc* as permanently expanding the Board beyond a certain number would be likely to do. The Board is presently being assisted by three immigration judges whom the Director has designated through this mechanism.

This rule enhances the utility of the temporary appointment authority by making an additional category of people eligible to serve as temporary Board members. It amends 8 CFR 1003.1(a)(4) to allow the Director, with the approval of the Deputy Attorney General, to designate senior EOIR attorneys with at least ten years of experience in the field of immigration law to serve for up to six months in this capacity. Because immigration judges generally are already required to handle an exceptionally large caseload, designation of immigration judges to sit on the Board as temporary Board members is not always practical. In addition to taking immigration judges away from their dockets, their designation can result in significant agency expenses, including travel and housing. By contrast, many senior EOIR attorneys with 10 years of experience are co-located with the Board, minimizing expense and disruption, and allowing them to assume their new duties immediately upon designation. This change will accordingly expand the pool of available candidates to provide a modicum of additional flexibility in making these appointments.

This change serves a similar function to a provision that at one time authorized the Chief Attorney Examiner to serve as a temporary Board member in exigent circumstances. Since the position of Chief Attorney Examiner no longer exists, that particular provision is no longer included in the current rules, but this rule similarly authorizes a senior and highly experienced EOIR attorney to serve as a temporary Board member. In order to allow greater flexibility, the rule does not specify particular titles or job descriptions. Instead, this rule simply authorizes the Director, with the approval of the Deputy Attorney General, to designate one or more senior EOIR attorneys with at least ten years of experience in the field of immigration law to serve as a temporary Board member.

This rule also amends the current rule to state explicitly that temporary Board members have the authority of a permanent Board member, with the exception that a temporary Board member may not vote in *en banc* proceedings.

Because this is a rule of internal agency organization, notice and comment are not required prior to its promulgation. The Department is nonetheless promulgating it as an interim rule with opportunity for post-promulgation comment in order to provide an opportunity for public comment before it issues a final rule on these matters.

Regulatory Requirements

A. Administrative Procedure Act

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking or delayed effective date is unnecessary as this rule addresses only internal agency organization and management. Accordingly, it is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), and the reporting requirement of 5 U.S.C. 801 does not apply.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is ''required by section 553 * * *, or any other law, to publish general notice of proposed rule making for any proposed rule.'' 5 U.S.C. 603(a). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). This rule is exempt from notice and comment rulemaking. Therefore, no RFA analysis under 5 U.S.C. 603 is required for this rule.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

E. Executive Order 12866 (Regulatory Planning and Review)

The Department does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review.

F. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This rule has been prepared in accordance with the standards in sections 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act

This rule does not create any information collection requirement.

List of Subjects in 8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

n Accordingly, for the reasons stated in the preamble, chapter V of title 8 of the Code of Federal Regulations is amended as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

n 1. The authority citation for part 1003 is revised to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

n 2. Section 1003.1 is amended by revising paragraphs (a)(1) and (a)(4) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

(a)(1) *Organization.* There shall be in the Department of Justice a Board of Immigration Appeals, subject to the general supervision of the Director, Executive Office for Immigration Review (EOIR). The Board members shall be attorneys appointed by the Attorney General to act as the Attorney General's delegates in the cases that come before them. The Board shall consist of 15 members. A vacancy, or the absence or unavailability of a Board member, shall not impair the right of the remaining members to exercise all the powers of the Board.

* * * * *

(4) *Temporary Board members.* The Director may in his discretion designate immigration judges, retired Board members, retired immigration judges, and administrative law judges employed within, or retired from, EOIR to act as temporary Board members for terms not to exceed six months. In addition, with the approval of the Deputy Attorney General, the Director may designate one or more senior EOIR attorneys with at least ten years of experience in the field of immigration law to act as temporary Board members for terms not to exceed six months. A temporary Board member shall have the authority of a Board member to adjudicate assigned cases, except that temporary Board members shall not have the authority to vote on any matter decided by the Board *en banc.*

* * * * *

Dated: November 30, 2006.

Alberto R. Gonzales,

Attorney General.

[FR Doc. E6–20720 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25327; Directorate Identifier 2006–NM–116–AD; Amendment 39–14842; AD 2006–09–06 R1]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747–400, 747–400D, and 747SR Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is revising an existing airworthiness directive (AD) that applies to certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747–400, 747–400D, and 747SR series airplanes. That AD currently requires repetitive inspections to detect cracking of certain lower lobe fuselage frames, and repair if necessary. This new AD specifies appropriate service information for certain corrective actions. This AD results from reports indicating that fatigue cracks were found in lower lobe frames on the left side of the fuselage. We are issuing this AD to detect and correct fatigue cracking of certain lower lobe fuselage frames, which could lead to fatigue cracks in the fuselage skin, and consequent rapid decompression of the airplane.

DATES: The effective date of this AD is June 7, 2006.

On June 7, 2006 (71 FR 25926, May 3, 2006), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002.

On May 5, 1999 (64 FR 15298, March 31, 1999), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996.

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.

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an airworthiness directive (AD) to revise AD 2006–09–06, amendment 39–14576 (71 FR 25926, May 3, 2006). The existing AD applies to certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747–400, 747–400D, and 747SR series airplanes. The proposed AD was published in the **Federal Register** on July 13, 2006 (71 FR 39600) to require repetitive inspections to detect cracking of certain lower lobe fuselage frames, and repair if necessary, and to specify appropriate service information for certain corrective actions.

Comments

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

Support for the Proposed AD

Boeing supports the proposed AD.

Request To Change Incorporation of Certain Information

The Modification and Replacement Parts Association (MARPA) states that, typically, airworthiness directives are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are

privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an airworthiness directive, it loses its private, protected status and becomes a public document. MARPA adds that if a service document is used as a mandatory element of compliance, it should not simply be referenced, but should be incorporated into the regulatory document; by definition, public laws must be public, which means they cannot rely upon private writings. MARPA is concerned that the failure to incorporate essential service information could result in a court decision invalidating the AD.

MARPA adds that incorporated by reference service documents should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates them. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals; traditionally, ''affected individuals'' means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under 14 CFR 21.303 (parts manufacturer approval (PMA)). MARPA adds that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument, and published in the DMS.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

Additionally, we do not publish service documents in DMS. We are currently reviewing our practice of publishing proprietary service information. 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. However, we consider that to delay this AD action for that reason would be inappropriate, since we have determined that an unsafe condition exists and that the requirements in this AD must be accomplished to ensure continued safety. Therefore, we have not changed the AD in this regard.

Explanation of Change to Heading

We have revised the heading, ''RESTATEMENT OF THE REQUIREMENTS OF AD 99–07–12, WITH ADDITIONAL INFORMATION FOR GROUP 2 AIRPLANES,'' to state, ''* * * WITH COMPLIANCE TIMES FOR GROUP 2 AIRPLANES.'' This change provides more information about the new requirements of this AD.

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 change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 681 airplanes of the affected design in the worldwide fleet. This AD affects about 99 airplanes of U.S. registry. The new requirements of this AD add no additional economic burden. The current costs for this AD are repeated for the convenience of affected operators, as follows:

The actions in this AD take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of both the retained and new actions for U.S. operators is $15,840, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

n 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14576 (71 FR 25926, May 3, 2006) and adding the following new airworthiness directive (AD):

2006–09–06 R1 Boeing: Amendment 39–14842. Docket No. FAA–2006–25327; Directorate Identifier 2006–NM–116–AD.

Effective Date

(a) The effective date of this AD is June 7, 2006.

Affected ADs

(b) This AD revises AD 2006–09–06.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747–400, 747–400D, and 747SR series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002.

Unsafe Condition

(d) This AD results from reports indicating that fatigue cracks were found in lower lobe frames on the left side of the fuselage. We are issuing this AD to detect and correct fatigue cracking of certain lower lobe fuselage frames, which could lead to fatigue cracks in the fuselage skin, and consequent rapid decompression of the airplane.

Compliance

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

Restatement of the Requirements of AD 99–07–12, With Compliance Times for Group 2 Airplanes

Initial Inspections

(f) For airplanes on which the initial detailed internal inspection of the Section 46 lower lobe frames required by paragraph (f)(2) or (i)(2) of AD 2005–20–30, amendment 39–14327, has not been accomplished: Perform a detailed visual inspection to detect cracking of the lower lobe fuselage frames from Body Station 1820 to Body Station 2100, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996; or Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002; as applicable; at the later of the applicable times specified in paragraph (f)(1), (f)(2), or (f)(3) of this AD.

(1) For all airplanes: Prior to the accumulation of 15,000 total flight cycles; or

(2) For Group 1 airplanes identified in Revision 1 of the service bulletin: Within 1,500 flight cycles or 18 months after May 5, 1999 (the effective date of AD 99–07–12, amendment 39–11097), whichever occurs first.

(3) For Group 2 airplanes identified in Revision 1 of the service bulletin: Within 1,500 flight cycles or 18 months after June 7, 2006, whichever occurs first.

Note 1: Paragraphs (f)(2) and (i)(2) of AD 2005–20–30 require a detailed inspection to detect cracks in the Section 46 lower lobe frames, in accordance with Boeing Service Bulletin 747–53A2349, Revision 2, dated April 3, 2003. The initial inspection is required prior to the accumulation of 22,000 total flight cycles; or within 1,000 flight cycles after June 11, 1993 (the effective date of AD 93–08–12, amendment 39–8559), or November 16, 2005 (the effective date of AD 2005–20–30), depending on previous inspections accomplished; whichever occurs later.

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Repetitive Inspections

(g) If no cracking is detected during the inspection required by paragraph (f) of this AD, repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles.

Corrective Actions

(h) If any cracking is detected during any inspection required by paragraph (f) of this AD, prior to further flight, accomplish paragraphs (h)(1) and (h)(2) of this AD:

(1) Within 20 inches of the crack location on the frame, perform a detailed inspection of the adjacent structure to detect cracking. As of June 7, 2006, the detailed inspection must be done in accordance with Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002. If any cracking is detected during any detailed inspection done in accordance with paragraph (f) or (h)(1) of this AD, prior to further flight, repair in accordance with paragraph (h)(1)(i) or (h)(1)(ii) of this AD, as applicable.

(i) For Group 1 airplanes: Using a method approved in accordance with the procedures specified in paragraph (j) of this AD. The Boeing 747 Structural Repair Manual, Subject 53–10–04, Figure 67 or 90, is one approved method.

(ii) For Group 2 airplanes: Using a method approved in accordance with the procedures specified in paragraph (j) of this AD. The Boeing 747–400 Structural Repair Manual, Subject 53–60–07, Repair 1 or 2, is one approved method.

(2) Repeat the inspection required by paragraph (f) of this AD thereafter at intervals not to exceed 3,000 flight cycles.

Optional Terminating Inspection

(i) Accomplishment of the initial detailed inspection of the Section 46 lower lobe frames required by paragraph (f)(2) or (i)(2) of AD 2005–20–30 constitutes terminating action for the requirements of this AD only for airplanes identified in Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002, as Group 1 airplanes. Accomplishment of the initial detailed inspection of the Section 46 lower lobe frames required by paragraph (f) of AD 2006–05–02 constitutes terminating action for the requirements of this AD only for airplanes identified in Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002, as Group 2 airplanes.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(4) AMOCs approved previously in accordance with AD 99–07–12, are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(k) You must use Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996; or Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) On June 7, 2006 (71 FR 25926, May 3, 2006), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2408, Revision 1, dated April 4, 2002.

(2) On May 5, 1999 (64 FR 15298, March 31, 1999), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–53A2408, dated April 25, 1996.

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on November 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20618 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23817; Directorate Identifier 2005–NM–176–AD; Amendment 39–14846; AD 2006–25–05]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 777 airplanes. This AD requires repetitive inspections for corrosion or missing corrosion inhibiting compound of the fuselage skin under the forward and aft wing-to-body fairings for certain airplanes, or the fuselage skin under the forward wing-to-body fairings only for other airplanes; and corrective action if necessary. The AD also provides an optional preventive modification of the fairing areas, which terminates the repetitive inspections. This AD results from several reports indicating that significant levels of corrosion were found on the external surface of the fuselage skin under the forward and aft wing-to-body fairings. We are issuing this AD to detect and correct corrosion, and prevent subsequent fatigue cracks, on the fuselage skin under the forward and aft wing-to-body fairings, which could result in rapid decompression of the airplane.

DATES: This AD becomes effective January 11, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 11, 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.

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

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 777 airplanes. That NPRM was published in the **Federal Register** on February 8, 2006 (71 FR 6402). That NPRM proposed to require repetitive inspections for corrosion or missing corrosion inhibiting compound (CIC) of the fuselage skin under the forward and aft wing-to-body fairings for certain airplanes, or the fuselage skin under the forward wing-to-body fairings only for other airplanes; and corrective action if necessary. That NPRM also proposed to provide an optional preventive modification of the wing-to-body fairing panels, which would terminate the repetitive inspections.

Comments

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

Request To Include Revised Service Information

Continental Airlines (CAL) asks that the NPRM mandate Revision 1 of the referenced service bulletin when it becomes available, instead of the original issue. (Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005, was referenced in the NPRM as the appropriate source of service information for accomplishing the specified actions.) CAL states that it found some discrepancies in the instructions in Part 2 of the service bulletin during incorporation of the preventive modification specified in the original issue of the service bulletin. CAL adds that those discrepancies need clarification in order to meet the scope of the service bulletin and the objective of the NPRM. CAL notes that the instructions specified in Figures 11 and 15 of the original issue of the service bulletin are misleading and can cause incorrect assumptions and actions when implemented. CAL coordinated with Boeing to obtain clarification and enhancement of the instructions specified in Figures 11 and 15. CAL notes that the corrected instructions will be incorporated into Revision 1 of the service bulletin by Boeing.

We partially agree with CAL. Boeing has issued Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006, which we have subsequently reviewed.

We agree to include Revision 1 of the referenced service bulletin in the AD as the appropriate source of service information for accomplishing the specified actions. Revision 1 is essentially the same as the original issue of the service bulletin; however, Revision 1 recommends that airplanes in Groups 1 and 4 that have been previously changed per the original issue of the service bulletin be inspected at the next scheduled under-fairing zonal or surveillance inspections. This is to ensure that the fastener fillet sealing at body stations 1035 and 1434 are in compliance with Figures 11, 15, and 20, as applicable, of Revision 1. The original issue of the service bulletin identified airplanes that were divided into Groups 1 and 2. Revision 1 of the service bulletin divides the airplanes into Groups 1 through 6; however, there is no increase in the number of airplanes.

We do not agree to remove reference to the original issue of the service bulletin and refer to only Revision 1, because operators who previously did the required actions in accordance with the original issue of the service bulletin would then be out of compliance as of the effective date of the new AD. We find that actions done before the effective date of this AD in accordance with the instructions in the original issue of the service bulletin will provide an acceptable level of safety until the newly required actions are done. We have changed paragraph (h) of this AD to add the following sentence: ''After the effective date of this AD, only Revision 1 of the service bulletin may be used for accomplishing the preventive modification.'' Although no more work is necessary on airplanes changed per the original issue of the service bulletin; it is recommended that airplanes in Groups 1 and 4 which have been previously changed per the original issue, be inspected at the next scheduled under-fairing zonal or surveillance inspections as specified above.

Request To Change Paragraph (h)

Boeing asks that the language for the optional terminating action specified in paragraph (h) of the NPRM be changed.

Boeing reiterates that paragraph and states that it should be changed to read ''Accomplishing the preventive modification in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005, terminates the repetitive inspections required by paragraph (f) of this AD.'' Boeing states that, in the forward fairing area the preventive modification consists of modification to the forward body fairing panels, as well as addition of fastener head fillet sealing and revised CIC in specific areas above the wing body fairing panels. Boeing adds that, in the aft fairing area, the preventive modification consists of fastener head fillet sealing and revised CIC in specific areas above the wing body fairing panels. Boeing states that there is no change to the wing-to-body fairing panels in the aft fairing area, and the proposed wording could be interpreted as not providing a terminating action for the aft fairing area. Boeing notes that this is inconsistent with the referenced service bulletin, and changing the language would make the NPRM consistent with the service bulletin.

We agree with Boeing for the reasons provided. We have changed the subject language in the Summary section. We have also changed the language in paragraph (h) of this AD to read ''Accomplishing the preventive modification of the fairing areas in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005; or Boeing Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006; terminates the repetitive inspections required by paragraph (f) of this AD.''

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. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 385 airplanes of the affected design in the worldwide fleet. This AD affects about 140 airplanes of U.S. registry.

The inspection takes about 8 work hours per airplane for Groups 1, 3, 4, and 5 airplanes, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the inspection for U.S. operators is $520 per airplane, per inspection cycle.

The inspection takes about 4 work hours per airplane for Groups 2 and 6 airplanes, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the inspection for U.S. operators is $260 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–25–05 Boeing: Amendment 39–14846. Docket No. FAA–2006–23817; Directorate Identifier 2005–NM–176–AD.

Effective Date

(a) This AD becomes effective January 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200, –300, and –300ER series airplanes; certificated in any category; as identified in Boeing Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006.

Unsafe Condition

(d) This AD results from several reports indicating that significant levels of corrosion were found on the external surface of the fuselage skin under the forward and aft wing-to-body fairings. We are issuing this AD to detect and correct corrosion, and prevent subsequent fatigue cracks, on the fuselage skin under the forward and aft wing-to-body fairings, which could result in rapid decompression of the airplane.

Compliance

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

Repetitive Inspections

(f) At the latest of the compliance times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, as applicable: Perform a detailed inspection of the fuselage skin under the wing-to-body fairings for corrosion or missing corrosion inhibiting compound (CIC) by doing all the applicable actions specified in Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005; or Boeing Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006. Repeat the inspection thereafter at intervals not to exceed 1,500 days until the requirements of paragraph (h) of this AD are accomplished.

(1) Before the accumulation of 1,500 days since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(2) Within 1,500 days after accomplishing the latest zonal or surveillance inspection before the effective date of this AD that is equivalent to the detailed inspection specified in paragraph (f) of this AD.

(3) Within 750 days after the effective date of this AD.

Corrective Action

(g) If any corrosion or missing CIC is found during any inspection required by paragraph (f) of this AD: Before further flight, do a detailed inspection to determine the full extent of the corrosion; repair before further flight by doing all the applicable actions specified in Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005; or Boeing Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006. Where the service bulletin specifies to contact Boeing for repair instructions: Repair before further flight, according to a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Optional Terminating Action

(h) Accomplishing the preventive modification of the fairing areas in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005; or Boeing Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006; terminates the repetitive inspections required by paragraph (f) of this AD. After the effective date of this AD, only Revision 1 of the service bulletin may be used for accomplishing the preventive modification.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 777–53A0044, dated July 28, 2005; or Boeing Service Bulletin 777–53A0044, Revision 1, dated June 22, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on November 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20624 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25634; Directorate Identifier 2006–NM–143–AD; Amendment 39–14844; AD 2006–25–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Airplanes

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 airworthiness authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failure of pitch trim system 2 to deflect the trimmable horizontal stabilizer at maximum rate, which could result in loss of high-speed trim and consequent reduced controllability of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective January 11, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 11, 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: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3371; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

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 allow 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.

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 August 18, 2006 (71 FR 47752). That NPRM proposed to require a periodic test to ensure the availability of the pitch trim system 2 and its possibility to deflect the trimmable horizontal stabilizer (THS) at high speed of trim. The MCAI states that the refined study of an in-service event has evidenced the need to perform a periodic test of pitch trim system 2. In the conditions of overriding the automatic pitch torque limiter, the clutch of the pitch trim servo-motor 1 is opened so that electric pitch trim system 1 will disconnect. The question is pending about the availability of the system 2 and its capability to take over the pitch trim function, particularly during a go-around. Failure of pitch trim system 2 to deflect the THS at maximum rate could result in loss of high-speed trim and consequent reduced controllability of the airplane.

Comments

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

Request To Publish Service Information/Incorporate by Reference in NPRM

The Modification and Replacement Parts Association (MARPA) states that airworthiness directives (ADs) are based on service information that originates from the type certificate holder or its suppliers. MARPA adds that manufacturer's service documents are privately authored instruments, generally having copyright protection against duplication and distribution. MARPA states that when a service document is incorporated by reference into a public document, such as an AD, pursuant to 5 U.S.C. 552(a) and 1 CFR part 51, it loses its private, protected status and becomes a public document. MARPA notes that if a service document is used as a mandatory element of compliance it should not simply be referenced, but should be incorporated by reference. MARPA believes that public laws, by definition, should be public, which means they cannot rely upon private writings for compliance. MARPA adds that the legal interpretation of a document is a question of law, not of fact; therefore, unless the service document is incorporated by reference it cannot be considered. MARPA is concerned that failure to incorporate essential service information could result in a court decision invalidating the AD.

MARPA also states that service documents incorporated by reference should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates those documents. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals. MARPA adds that, traditionally, ''affected individuals'' means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that, a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing, and/or servicing alternatively certified parts under part 21 of the Federal Aviation Regulations (14 CFR part 21), section 21.303 (''parts manufacturer approval'' (PMA)). MARPA notes that distribution to owners when the owner is a financing or leasing institution, may not actually reach the people responsible for accomplishing the AD. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument and published in DMS.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, as noted by the commenter, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

In regard to MARPA's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an 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. No change to the AD is necessary in response to these comments.

Request To Change Applicability

The Air Transport Association (ATA), on behalf of one of its members, American Airlines, asks that the applicability in the NPRM be changed. American Airlines states that it does not believe the NPRM is applicable to Model A300–B4–605R airplanes, but could not conclude that directly from the NPRM. The ATA states that, in the actions and compliance section of the NPRM, the FAA references the instructions of Airbus Service Bulletin A300–22–0121, dated July 11, 2005, which confirms it is valid for Model A300 airplanes, except for the forward facing crew cockpit (FFCC) versions and Model A300–600 series airplanes. The ATA adds that the applicability section in the NPRM should be changed to correctly call out only the airplanes that are covered by the service bulletin.

We find that clarification of the applicability section in the AD is necessary. The applicability section in this AD duplicates that of the referenced French airworthiness directive, which applies only to Model A300 airplanes, except for Model A300 B4–203 and A300 B2–203 in the FFCC configuration. Model A300–600 series airplanes are not subject to the requirements of that airworthiness directive. To ensure clear and enforceable language in the applicability of this AD, we have revised the applicability section to specify the affected models as listed on the type certificate data sheet.

Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have determined that the estimated cost did not include the cost for the 3 work hours necessary to accomplish the repair and follow-on test; however, the number of work hours was specified. The cost impact information, below, has been revised to indicate the higher amount.

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 change described previously. This change will neither increase the economic burden on any operator nor increase the scope of the AD.

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 our 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 29 products of U.S. registry. We also estimate that it will take about 1 work hour per product to do the periodic test and 3 work hours to do the repair and follow-on test, and that the average labor rate is $80 per work hour. Required parts will cost $0 per product. Based on these figures, we estimate the cost of the AD to the U.S. operators to be $9,280, or $320 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 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 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

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–25–03 Airbus: Amendment 39–14844. Docket No. FAA–2006–25634; Directorate Identifier 2006–NM–143–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes; all serial numbers; certificated in any category; except for Model A300 B4–203 and A300 B2–203 airplanes in a forward facing crew cockpit certified configuration.

Reason

(d) The refined study of an in-service event has evidenced the need to perform a periodic test of pitch trim system 2. In the conditions of overriding the automatic pitch torque limiter, the clutch of the pitch trim servo-motor 1 is opened so that electric pitch trim system 1 will disconnect. The question is pending about the availability of the system 2 and its capability to take over the pitch trim function, particularly during a go-around. Failure of pitch trim system 2 to deflect the trimmable horizontal stabilizer (THS) at maximum rate could result in loss of high-speed trim and consequent reduced controllability of the airplane. For such reason, this AD renders mandatory a periodic test to ensure the availability of the pitch trim system 2 and its possibility to deflect the THS at high speed of trim.

Actions and Compliance

(e) Unless already done, do the following actions except as stated in paragraph (f) below:

(1) Within 250 flight hours after the effective date of this AD: Perform an operational test of pitch trim system 2 in high speed of trim configuration and if system 2 does not function as specified in the instructions of Airbus Service Bulletin A300–22–0121, dated July 11, 2005; before further flight, return the system to correct operating condition in accordance with the instructions of the service bulletin.

(2) The operational test, followed, if necessary, by the corrective action described in the paragraph above, is to be repeated at intervals not exceeding 1,000 flight hours in accordance with the instructions of Airbus Service Bulletin A300–22–0121, dated July 11, 2005.

FAA AD Difference

(f) When complying with this AD, do the following: Although the Accomplishment Instructions of the referenced service bulletin describe procedures for submitting certain information to the manufacturer, this AD does not include that requirement.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, ATTN: Tom Stafford, Aerospace Safety Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3371; telephone (425) 227–1622; fax (425) 227–1149; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Notification of Principal Inspector: Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) Return to Airworthiness: When complying with this AD, perform FAA-approved corrective actions before returning the product to an airworthy condition.

Related Information

(h) This AD is related to MCAI French airworthiness directive F–2005–157, dated September 14, 2005, which references Airbus Service Bulletin A300–22–0121, dated July 11, 2005, for information on required actions.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A300–22–0121, excluding Appendix 01, dated July 11, 2005, 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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3371; 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 Renton, Washington, on November 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20617 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25423; Directorate Identifier 2006–NM–029–AD; Amendment 39–14845; AD 2006–25–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Airbus Model A300 airplanes. That AD currently requires repetitive inspections for cracking and corrosion in the lower rim area of the rear pressure bulkhead and adjacent areas, repetitive inspections for cracking or corrosion in the service apertures and the upper rim area of the rear pressure bulkhead, and corrective actions if necessary. This new AD removes certain repetitive inspections and reduces the repetitive interval of one inspection. This new AD also requires an inspection for missing or damaged sealant in the area between the outer attachment angle and circumferential joint doubler, and corrective action if necessary. This new AD also requires additional inspections for corrosion of certain areas and repetitive inspections for airplanes on which repairs have been done. This AD results from reports of corrosion and cracking in the various components associated with the rear pressure bulkhead. We are issuing this AD to prevent reduced structural capability of the fuselage and consequent decompression of the airplane.

DATES: This AD becomes effective January 11, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 11, 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.

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

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 am and 5 pm, Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 90–03–08, amendment 39–6481 (55 FR 1799, January 19, 1990). The existing AD applies to all Airbus Model A300 series airplanes. That NPRM was published in the **Federal Register** on August 1, 2006 (71 FR 43386). That NPRM proposed to continue to require repetitive inspections for cracking and corrosion in the lower rim area of the rear pressure bulkhead and adjacent areas, repetitive inspections for cracking or corrosion in the service apertures and the upper rim area of the rear pressure bulkhead, and corrective actions if necessary. That NPRM also proposed to remove certain repetitive inspections and reduce the repetitive interval of one inspection. That NPRM also proposed to require an inspection for missing or damaged sealant in the area between the outer attachment angle and circumferential joint doubler, and corrective action if necessary. That NPRM also proposed to require additional inspections for corrosion of certain areas and repetitive inspections for airplanes on which repairs have been done.

Comments

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

Request To Refer to Latest Issue of the Service Bulletin and Revise Compliance Time

Airbus requests that Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006, be referenced in the NPRM. (Airbus Service Bulletin A300–53–0218, Revision 02, dated May 10, 2005, was referenced as the appropriate source of service information for doing the actions specified in the NPRM.) Airbus also states that the compliance time for doing the repetitive sealant inspection has been revised from 6,000 landings to 8,000 landings to match the compliance times specified in French airworthiness directive F–2005–093 R1, dated August 3, 2005 (which was referenced in the NPRM as the related French airworthiness directive).

We agree with the commenter to refer to Revision 03 of the service bulletin. Revision 03 of the service bulletin contains essentially the same procedures as Revision 02 of the service bulletin for doing the actions specified the NPRM. We have revised the final rule accordingly. We have also added paragraph (o) of the final rule to allow actions done before the effective date of this AD in accordance with Revision 02 of the service bulletin to be acceptable for compliance.

We also agree to revise the compliance time of the repetitive sealant inspection. The French airworthiness directive specifies that the repetitive interval is 8,000 landings for the upper part of rear pressure bulkhead surrounding area. The sealant inspection is done on the aft face of the rear pressure bulkhead. Therefore we have revised paragraph (i) of this final rule accordingly.

Request To Change Incorporation of Certain Information

The Modification and Replacement Parts Association (MARPA) states that, typically, airworthiness directives are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an airworthiness directive, it loses its private, protected status and becomes a public document. MARPA adds that if a service document is used as a mandatory element of compliance, it should not simply be referenced, but should be incorporated into the regulatory document; by definition,

public laws must be public, which means they cannot rely upon private writings.

MARPA adds that incorporated by reference service documents should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates them. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals; traditionally, ''affected individuals'' means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under section 21.303 (''Replacement and modification parts'') of the Federal Aviation Regulations (14 CFR 21.303). MARPA adds that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument and published in the DMS.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the documents necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

In regard to the commenter's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an 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. No change to the final rule is necessary in response to this comment.

Clarification of Requirements of Paragraph (f)(2) of the Final Rule

We have added the phrase ''as applicable'' to paragraph (f)(2) of the final rule to clarify that the actions specified in paragraph (f)(2)(i) and (f)(2)(ii) of the final rule are required to be done only for the applicable airplanes identified in paragraphs (f)(2)(i) and (f)(2)(ii) of the final rule. We have also added the word ''inclusive'' to the range of manufacturer serial numbers specified in paragraphs (f)(2)(i) and (f)(2)(ii) of the final rule in order to clarify the range of the applicable airplanes.

Clarification of Reference in Paragraph (h)(5) of the Final Rule

We made a typographical error in paragraph (h)(5) of the NPRM when we referred to paragraphs (g)(5)(i) and (g)(5)(ii). The correct paragraph reference is (h)(5)(i) and (h)(5)(ii). We have revised paragraph (h)(5) of the final rule accordingly.

Conclusion

We have carefully reviewed the available data, including the comments that have been 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.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspections (required by AD 90–03–08).	10	$80	$800, per inspection cycle	51	$40,800, per inspection cycle.
New Inspections (required by this AD).	10	80	$800, per inspection cycle	51	$40,800, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

n 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–6481 (55 FR 1799, January 19, 1990) and by adding the following new airworthiness directive (AD):

2006–25–04 Airbus: Amendment 39–14845. Docket No. FAA–2006–25423; Directorate Identifier 2006–NM–029–AD.

Effective Date

(a) This AD becomes effective January 11, 2007.

Affected ADs

(b) This AD supersedes AD 90–03–08.

Applicability

(c) This AD applies to all Airbus Model A300 airplanes, certificated in any category; except the following airplanes:

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes;

(2) Model A300 B4–605R and B4–622R airplanes;

(3) Model A300 F4–605R and F4–622R airplanes; and

(4) Model A300 C4–605R Variant F airplanes.

Unsafe Condition

(d) This AD results from reports of corrosion and cracking in the various components associated with the rear pressure bulkhead. We are issuing this AD to prevent reduced structural capability of the fuselage and consequent decompression of the airplane.

Compliance

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

Restatement of Certain Requirements of Ad 90–03–08 With New Repetitive Intervals

Initial Inspections

(f) Within the time limits specified in paragraph (g) of this AD, conduct the inspections specified in paragraphs (f)(1) through (f)(4) of this AD in accordance with Airbus Service Bulletin A300–53–218, Revision 1, dated July 28, 1989; or Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006. After the effective date of this AD, Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006, must be used.

(1) Perform a detailed inspection for corrosion and cracking of the upper rim area of the rear pressure bulkhead from the aft face.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

(2) Perform an eddy current inspection for cracks from the outboard side in the applicable areas specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD, as applicable.

(i) For airplanes, manufacturer's serial number (MSN) 003 through 008 inclusive: Between Stringer (STGR) 25 left hand (LH) and right hand (RH).

(ii) For airplanes, MSN 019 through 305 inclusive: Between STGR 26 LH and RH.

(3) Perform a detailed inspection for cracks and corrosion of the service apertures in the rear pressure bulkhead.

(4) Perform an eddy current inspection for cracks of the apertures for the auxiliary power unit (APU) bleed-air and fuel.

(g) At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, do the inspections required by paragraph (f) of this AD.

(1) For airplanes having accumulated 26,000 landings or fewer as of February 23, 1990 (the effective date of AD 90–03–08): Perform the initial inspections required by paragraph (f) of this AD, prior to the accumulation of 24,000 landings or within 2,000 landings after February 23, 1990, whichever occurs later.

(2) For airplanes having accumulated more than 26,000 landings as of February 23, 1990: Perform the initial inspections required by paragraph (f) of this AD, within 1,000 landings after February 23, 1990.

Repetitive Inspections

(h) If no cracking or corrosion is found during the inspections required by paragraph (f) of this AD, repeat the inspections specified in paragraphs (h)(1), (h)(2), (h)(3), (h)(4), and (h)(5) of this AD thereafter at the times specified in the paragraphs.

(1) Repeat the detailed inspections of the upper rim area specified in paragraph (f)(1) of this AD thereafter at intervals not to exceed 8,000 landings.

(2) Repeat the eddy current inspection from the outboard side between STGR 25 LH and RH, or STGR 26 LH and RH, as applicable, specified in paragraph (f)(2) of this AD thereafter at intervals not to exceed 8,000 landings.

(3) Repeat the detailed inspection of the service apertures specified in paragraph (f)(3) of this AD thereafter at intervals not to exceed 6,000 landings.

(4) Repeat eddy current inspections of APU fuel apertures specified in paragraph (f)(4) of this AD thereafter at intervals not to exceed 6,000 landings.

(5) At the earlier of the times specified in paragraphs (h)(5)(i) and (h)(5)(ii) of this AD, do the eddy current inspection of the APU bleed-air line service aperture specified in paragraph (f)(4) of this AD. Repeat the inspection thereafter at intervals not to exceed 6,000 landing.

(i) Within 12,000 landings since the last inspection of the APU bleed-air line service aperture specified in paragraph (f)(4) of this AD.

(ii) Within 6,000 landings since the last inspection of the APU bleed-air line service aperture specified in paragraph (f)(4) of this AD or within 2,000 landings after the effective date of this AD, whichever occurs later.

New Requirements of This AD

Inspection for Sealant and Corrective Action

(i) Within the time limits specified in paragraph (j) of this AD: Do a general visual inspection of the area between the outer attachment angle and circumferential joint doubler to determine if sealant is missing or damaged and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed 8,000 landings.

Note 2: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(j) At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD, do the inspections required by paragraph (i) of this AD.

(1) For airplanes having accumulated 26,000 landings or fewer as of the effective date of this AD: Perform the initial inspection required by paragraph (i) of this AD prior to the accumulation of 24,000 landings, or within 2,000 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes having accumulated more than 26,000 landings as of the effective date

of this AD: Perform the initial inspection required by paragraph (i) of this AD within 1,000 landings after the effective date of this AD.

Additional Inspections

(k) For airplanes on which the inspections specified in paragraphs (f)(2), (f)(4), (h)(2), and (h)(4) of this AD are accomplished after the effective date of this AD: Where this AD requires an eddy current inspection for cracks, do a detailed inspection for corrosion at the same time as the eddy current inspection for cracks, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006.

(l) For airplanes on which the inspections specified in paragraphs (f)(2) and (h)(2) of this AD are accomplished after the effective date of this AD: If any crack is found during any inspection required by paragraph (f)(2) or (h)(2), before further flight, do an X-ray inspection for cracking of the rim area of the rear pressure bulkhead in the area of STGR 21 LH and RH in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006.

New Repetitive Inspections

(m) For airplanes on which a repair has been done in accordance with Airbus Service Bulletin A300–53–218, Revision 1, dated July 28, 1989; Airbus Service Bulletin A300–53–0218, Revision 02, dated May 10, 2005; or Revision 03, dated August 3, 2006; before the effective date of this AD: At the later of the times specified in paragraphs (m)(1) and (m)(2) of this AD, do the inspections specified in paragraphs (h), (k), and (l) of this AD. Repeat the inspections specified in paragraphs (h), (k), and (l) of this AD thereafter at the applicable times specified in paragraph (h) of this AD.

(1) Within the times specified in paragraph (h) of this AD.

(2) Within 2,000 landings after the effective date of this AD.

Corrective Actions for Cracking and Corrosion and Repetitive Inspections

(n) If cracking or corrosion is found during any inspection required by paragraph (f), (h), (k), (l) or (m) of this AD, repair prior to further flight, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–218, Revision 1, dated July 28, 1989; or Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006. As of the effective date of this AD, do the repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006; except where the service bulletin specifies to contact the manufacturer to repair certain conditions, this AD requires repairing those conditions using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). As of the effective date of this AD, repeat the inspections specified in paragraphs (h), (k), and (l) of this AD thereafter at the applicable times specified in paragraph (h) of this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(o) Actions accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A300–53–0218, Revision 02, dated May 10, 2005, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 90–03–08 are not approved as AMOCs with this AD.

Related Information

(q) French airworthiness directive F–2005–093 R1, dated August 3, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(r) You must use Airbus Service Bulletin A300–53–218, Revision 1, dated July 28, 1989; and Airbus Service Bulletin A300–53–0218, Revision 03, dated August 3, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. Airbus Service Bulletin A300–53–218, Revision 1, dated July 28, 1989, contains the following effective pages:

Page Nos.	Revision level shown on page	Date shown on page
1–4, 7, 8, 16, 19–25	Revision 1	July 28, 1989.
5, 6, 9–15, 17, 18	Original	February 20, 1989.

The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on November 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20616 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–143–AD; Amendment 39–14843; AD 2006–25–02]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Model G–159 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Gulfstream Model G–159 airplanes, that requires repetitive non-destructive testing inspections to detect corrosion of the skin of certain structural assemblies, and corrective action if necessary. This AD also requires x-ray and ultrasonic inspections to detect corrosion and cracking of the splicing of certain structural assemblies, and repair if necessary. The actions specified by this AD are intended to detect and correct corrosion and cracking of the lower wing plank splices and spot-welded skins of certain structural assemblies, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 11, 2007.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of January 11, 2007.

ADDRESSES: The service information referenced in this AD may be obtained from Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, Georgia 31402–2206.

This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Michael Cann, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6038; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Gulfstream Model G–159 airplanes was published as a second supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on July 12, 2006 (71 FR 39242). That action proposed to require repetitive non-destructive testing inspections to detect corrosion of the skin of certain structural assemblies, and corrective action if necessary. That action also proposed to require x-ray and ultrasonic inspections to detect corrosion and cracking of the splicing of certain structural assemblies, and repair if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Incorporate by Reference Service Information

One commenter, the Modification and Replacement Parts Association (MARPA), requests that service documents deemed essential to the accomplishment of the proposed action be incorporated by reference into the regulatory instrument. The commenter states that once a service document is incorporated by reference into a public document such as an airworthiness directive (AD), it loses its private, protected status and becomes itself a public document. The commenter also states that there is concern that failure to incorporate essential service information could result in a court decision invalidating the AD.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information. No change is necessary to the AD in this regard.

Request To Publish Appropriate Service Information

The same commenter, MARPA, also requests that service information necessary to accomplish actions specified in ADs be published in the Docket Management System (DMS).

We are currently in the process of reviewing issues surrounding the posting of service bulletins on the Department of Transportation's DMS as part of an 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. No change is necessary to the AD in this regard.

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 as proposed in the second supplemental NPRM.

Cost Impact

There are approximately 52 airplanes of the affected design in the worldwide fleet. The FAA estimates that 25 airplanes of U.S. registry will be affected by this AD, that it will take approximately between 300 and 450 work hours per airplane, depending upon how many spot-welded skins have been replaced with bonded skin panels, to accomplish the required actions, and that the average labor rate is $80 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be between $600,000 and $900,000, or between $24,000 and $36,000 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

n Accordingly, pursuant to 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

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

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

§ 39.13 [Amended]

n 2. Section 39.13 is amended by adding the following new airworthiness directive:

2006–25–02 Gulfstream Aerospace Corporation: Amendment 39–14843. Docket 96–NM–143–AD.

Applicability: All Model G–159 airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion and cracking of the lower wing plank splices and spot-welded skins of certain structural

assemblies, which could result in reduced controllability of the airplane, accomplish the following:

Note 1: A note in the Accomplishment Instructions of the Gulfstream customer bulletin instructs operators to contact Gulfstream if any difficulty is encountered in accomplishing the customer bulletin. However, any deviation from the instructions provided in the customer bulletin must be approved as an alternative method of compliance (AMOC) under paragraph (h) of this AD.

Non-Destructive Testing Inspections of the Fuselage, Empennage, and Flight Controls

(a) Within 9 months after the effective date of this AD, perform a non-destructive test (NDT) to detect corrosion of the skins of the elevators, ailerons, rudder and rudder trim tab, flaps, aft lower fuselage, and vertical and horizontal stabilizers; in accordance with the Accomplishment Instructions of Gulfstream GI Customer Bulletin (CB) 337B, including Appendix A, dated August 17, 2005. The corrosion criteria must be determined by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Gulfstream Tool ST905–377 is also an acceptable method of determining the corrosion criteria.

(1) If no corrosion or cracking is detected, repeat the inspection thereafter at intervals not to exceed 18 months.

(2) If any corrosion is detected that meets the criteria of ''light'' or ''mild'' corrosion, repeat the NDT inspections of that component thereafter at intervals not to exceed 12 months.

(3) If any corrosion is detected that meets the criteria of ''moderate'' corrosion: Within 9 months after the initial inspection, repeat the NDT inspection of that component, and within 18 months since the initial inspection, repair or replace the component with a serviceable component in accordance with the CB.

(4) If any corrosion is detected that meets the criteria of ''severe'' corrosion, before further flight, replace the component with a serviceable component in accordance with the CB.

Existing Repairs

(b) If any existing repairs are found during the inspections required by paragraph (a) of this AD, before further flight, ensure that the repairs are in accordance with a method approved by the Manager, Atlanta ACO.

Inspections of the Lower Wing Plank

(c) Except as provided in paragraph (f) of this AD: Within 9 months after the effective date of this AD, perform NDT inspections to detect corrosion and cracking of the lower wing plank splices, in accordance with the Accomplishment Instructions of Gulfstream GI CB 337B, including Appendix A, dated August 17, 2005.

(1) If no corrosion or cracking is detected, repeat the NDT inspection at intervals not to exceed 18 months.

(2) If any corrosion or cracking is detected, before further flight, perform all applicable investigative actions and corrective actions in accordance with the customer bulletin.

Repair Removal Threshold

(d) For repairs specified in Appendix A of Gulfstream GI CB 337B, dated August 17, 2005: Within 144 months after the date of the repair installation, remove the repaired component and replace it with a new or serviceable component, in accordance with Gulfstream GI CB 337B, including Appendix A, dated August 17, 2005.

Prior Blending in the Riser Areas

(e) If, during the performance of the inspections required by paragraph (c) or (f) of this AD, the inspection reveals that prior blending has been performed on the riser areas: Before further flight, perform an eddy current or fluorescent penetrant inspection, as applicable, to evaluate the blending, and accomplish appropriate corrective actions, in accordance with the Accomplishment Instructions of Gulfstream GI CB 337B, including Appendix A, dated August 17, 2005. If any blend-out is outside the limits specified in the CB, before further flight, repair in a manner approved by the Manager, Atlanta ACO.

For Airplanes with New Lower Wing Planks

(f) For airplanes with new lower wing planks: Within 144 months after replacement of the lower wing planks with new lower wing planks, or within 9 months after the effective date of this AD, whichever occurs later, perform all of the actions, including all related investigative actions and corrective actions, specified in paragraph (c) of this AD.

Reporting Requirement

(g) Within 30 days of performing the inspections required by this AD: Submit a report of inspection findings (both positive and negative) to Gulfstream Aerospace Corporation; Attention: Technical Operations—Structures Group, Dept. 893, Mail Station D–25, 500 Gulfstream Road, Savannah, Georgia 31408. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

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

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

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions must be done in accordance with Gulfstream GI Customer Bulletin 337B, including Appendix A, dated August 17, 2005. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, Georgia 31402–2206. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; to FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(j) This amendment becomes effective on January 11, 2007.

Issued in Renton, Washington, on November 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20620 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket No. 2006N–0416]

RIN 0910–AF93

Use of Ozone-Depleting Substances; Removal of Essential Use Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulation on the use of ozone-depleting substances (ODSs) in pressurized containers to remove the essential use designations for beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide used in oral pressurized metered-dose inhalers (MDIs). Under the Clean Air Act, FDA, in consultation with the Environmental Protection Agency (EPA), is required to determine whether an FDA-regulated product that releases an ODS is essential. None of these products is currently being marketed, which provides grounds for removing their essential use designation. We are using direct final rulemaking for this action because the agency expects that there will be no significant adverse comment on the rule. In the proposed rule section in this issue of the **Federal Register**, we are concurrently proposing and soliciting comments on this rule. If

significant adverse comments are received, we will withdraw this final rule and address the comments in a subsequent final rule. FDA will not provide additional opportunity for comment.

DATES: The direct final rule is effective April 23, 2007, except for § 2.125(e)(4)(v) (21 CFR 2.125(e)(4)(v)), which is effective August 1, 2007. Submit written or electronic comments on or before February 20, 2007. If we receive no timely significant adverse comments, we will publish a document in the **Federal Register** before March 22, 2007, confirming the effective date of the direct final rule. If we receive any timely significant adverse comments, we will publish a document of significant adverse comment in the **Federal Register** withdrawing this direct final rule before April 23, 2007.

ADDRESSES: You may submit comments, identified by Docket No. 2006N–0416 and RIN Number 0910–AF93, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

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

Written Submissions

Submit written submissions in the following ways:

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

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

Instructions: All submissions received must include the agency name and docket number and Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen or Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

FDA, in consultation with EPA, determines whether a medical product is essential for purposes of Title VI of the Clean Air Act (42 U.S.C. 7671 *et seq.*). If a medical product, including a drug, is determined to be essential and meets the other elements of the definition found in section 601 of the Clean Air Act, the product will be considered a ''medical device.'' ''Medical devices'' are exempt from the general prohibition on nonessential uses of chlorofluorocarbons (CFCs) (a class of ODSs) found in section 610 of the Clean Air Act. ODSs produced for use in ''medical devices'' may also be exempt, if other conditions are met, from the general prohibitions on production and consumption of ODSs found in sections 604 and 605 of the Clean Air Act.

In 1978, we published a rule listing several essential uses of CFCs and providing criteria for adding new essential uses (43 FR 11301 at 11316, March 17, 1978). The rule was codified as § 2.125 (21 CFR 2.125) and § 2.125 was amended at various times to add new essential uses.

Over the years, alternatives were developed to ODS products whose uses were listed in § 2.125 as being essential, while other listed ODS products were removed from the market. In light of these facts, and in furtherance of our obligations under the Clean Air Act and the Montreal Protocol on Substances that Deplete the Ozone Layer (September 16, 1987, 26 I.L.M. 1541 (1987)), we determined that it would be appropriate to revise § 2.125 to remove the essential use designations of some products and provide criteria for the removal of additional essential use designations in the future. Thus, the rule revising § 2.125 was published in the **Federal Register** of July 24, 2002 (67 FR 48370). Among other provisions, the rule removed the essential use designations of various specific products that, at the time the rule was being prepared, were no longer being marketed. The rule went into effect on January 20, 2003. That rule also revised § 2.125(g)(1) (21 CFR 2.125(g)(1)) to provide that if any product that releases an ODS is no longer being marketed, the product may have its essential use designation revoked through notice-and-comment rulemaking.

II. Citizen Petition From Glaxosmithkline

In a citizen petition dated November 15, 2005, GlaxoSmithKline (GSK) requested that MDIs containing the single active moieties beclomethasone, fluticasone, and salmeterol be removed from the essential use list of ODSs. GSK stated that because beclomethasone, fluticasone, and salmeterol are no longer being marketed in MDIs that release ODSs, all three active moieties meet the criterion under revised § 2.125(g) for being removed from the essential use list. GSK requested that the essential use designation for beclomethasone, fluticasone, and salmeterol be revoked through a direct final rule.

In addition, we have determined that dexamethasone, bitolterol, ergotamine tartrate, and ipratropium bromide are no longer being marketed in MDIs that release ODSs, which provides grounds for removing their essential use designation.

III. Direct Final Rulemaking

We have determined that the subject of this rulemaking is suitable for a direct final rule. The actions taken should be noncontroversial, and the agency does not anticipate receiving any significant adverse comments on this rule. However, in the even that significant adverse comment is received, we are also publishing a companion proposed rule to satisfy the requirement under § 2.125(g) that essential uses be removed through notice-and-comment rulemaking.

If we receive no significant adverse comment, we will publish a document in the **Federal Register**, confirming the effective date of the direct final rule. A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment recommending a rule change in addition to this rule will not be considered a significant adverse comment, unless the comment states why this rule would be ineffective

without the additional change. If timely significant adverse comments are received, we will publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule within 30 days after the comment period ends.

Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule, identical in substance to this direct final rule, that provides a procedural framework from which to proceed with standard notice and comment rulemaking in the event the direct final rule is withdrawn because of significant adverse comment. The comment period for the direct final rule runs concurrently with that of the companion proposed rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. Likewise, significant adverse comments submitted to the direct final rule will be considered as comments to the companion proposed rule, and we will consider those comments in developing a final rule. We will not provide additional opportunity for comment on the companion proposed rule.

If a significant adverse comment applies to part of this rule and that part may be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not the subject of a significant adverse comment. A full description of our policy on direct final rule procedures may be found in a guidance document published in the **Federal Register** of November 21, 1997 (62 FR 62466).

IV. Beclomethasone, Dexamethasone, Fluticasone, Bitolterol, Salmeterol, Ergotamine Tartrate, and Ipratropium Bromide

The manufacturers of all approved beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide oral pressurized MDIs containing an ODS have provided information that leads us to conclude that they have removed these products from the market.[1] Accordingly, we are amending our regulation to remove beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide from the list of essential use drugs found in § 2.125(e) (21 CFR 2.125(e)). Essential uses for metered-dose corticosteroid human drugs for oral inhalation, metered-dose short-acting adrenergic bronchodilator human drugs for oral inhalation, and metered-dose salmeterol, ergotamine tartrate, and ipratropium bromide drug products for oral inhalation, are listed in § 2.125(e)(1), (e)(2), and (e)(4) by active moiety. ''Active moiety'' is defined in 21 CFR 314.108(a) as follows: ''the molecule or ion, excluding those appended portions of the molecule that cause the drug to be an ester, salt (including a salt with hydrogen or coordination bonds), or other noncovalent derivative (such as a complex, chelate, or clathrate) of the molecule, responsible for the physiological or pharmacological action of the drug substance.''

MDIs that contain the active moieties beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide, use certain forms of these moieties. Specifically, MDIs that have beclomethasone or fluticasone as their active moieties use those moieties in the forms of beclomethasone dipropionate and fluticasone propionate, respectively. Similarly, MDIs that have dexamethasone, bitolterol, or salmeterol as their active moieties use those moieties in the forms of dexamethasone sodium phosphate, bitolterol mesylate, and salmeterol xinafoate, respectively. Ergotamine tartrate is a salt of ergotamine, and it was used in oral MDIs for the treatment of migraines. Its essential use designation is for the ergotamine tartrate salt rather than the active moiety ergotamine.

A. Beclomethasone

Oral pressurized MDIs that contain beclomethasone are listed in § 2.125(e)(1)(i) as an essential use. BECLOVENT and VANCERIL are the only two oral pressurized MDIs that have been marketed and contain beclomethasone with an ODS. On January 10, 2002, GSK, the manufacturer of BECLOVENT, requested that we withdraw approval of their new drug application (NDA) for BECLOVENT ODS MDIs (NDA 18–153) and informed us that they had stopped marketing BECLOVENT ODS MDIs. On May 2, 2001, Schering-Plough Corp. (Schering), the manufacturer of VANCERIL, requested that we withdraw approval of NDA, for VANCERIL ODS MDIs, 84 micrograms per inhalation (µg/inh), and informed us that they had stopped marketing VANCERIL 84 µg/inh MDIs in November 1999. Also, on July 25, 2002, Schering informed us that they were removing VANCERIL 42 µg/inh from the market. On April 14, 2005, Schering requested withdrawal of approval of NDA 17–573 for VANCERIL 42 µg/inh.

B. Dexamethasone

Oral pressurized MDIs that contain dexamethasone are listed in § 2.125(e)(1)(ii) as an essential use. DEXACORT ORAL MDI is the only oral pressurized MDI that has been marketed and contains dexamethasone with an ODS. On September 13, 2002, Celltech Pharmaceuticals, Inc., the manufacturer of DEXACORT ORAL MDI, requested that we withdraw approval of NDA 01–3413 for DEXACORT ORAL MDIs and informed us that they had stopped marketing DEXACORT ORAL MDIs on August 15, 1996.

C. Fluticasone

Oral pressurized MDIs that contain fluticasone are listed in § 2.125(e)(1)(iv) as an essential use. FLOVENT CFC MDI is the only oral pressurized MDI that has been marketed and contains fluticasone with an ODS. GSK, the manufacturer of FLOVENT CFC MDIs, has informed us that they stopped marketing FLOVENT CFC MDIs in November 2004.

D. Bitolterol

Oral pressurized MDIs that contain bitolterol are listed in § 2.125(e)(2)(ii) as an essential use. TORNALATE MDI is the only oral pressurized MDI that has been marketed and contains bitolterol with an ODS. On January 28, 2003, Sanofi-Synthelabo, Inc., the manufacturer of TORNALATE MDIs, informed us that they had stopped marketing TORNALATE MDIs on October 1, 2000.

E. Salmeterol

Metered-dose salmeterol drug products are listed in § 2.125(e)(4)(i) as an essential use. SEREVENT MDI is the only metered-dose salmeterol drug product with an ODS that has been marketed. GSK, the manufacturer of SEREVENT MDIs, has informed us that they stopped marketing SEREVENT MDIs in January 2003.

F. Ergotamine Tartrate

Oral pressurized MDIs that contain ergotamine tartrate are listed in § 2.125(e)(4)(ii) as an essential use. MEDIHALER ERGOTAMINE is the only oral pressurized MDI that has been marketed and contains ergotamine tartrate with an ODS. 3M Pharmaceuticals, the manufacturer of MEDIHALER ERGOTAMINE, has informed us that they stopped

[1] The drug products discussed in this direct final rule were all approved for marketing under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355). We are unaware of any unapproved beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide oral pressurized MDIs using an ODS as a propellant that are marketed in the United States.

marketing MEDIHALER ERGOTAMINE in November 1991.

G. Ipratropium Bromide

Oral pressurized MDIs that contain ipratropium bromide are listed in § 2.125(e)(4)(v) as an essential use. ATROVENT CFC MDI is the only oral pressurized MDI that has been marketed and contains ipratropium bromide with an ODS. Boehringer Ingelheim Pharmaceuticals, the manufacturer of ATROVENT CFC MDI, has informed us that they stopped marketing ATROVENT CFC MDIs in January 2006. This direct final rule does not affect MDIs containing ipratropium bromide and albuterol sulfate in combination, marketed as COMBIVENT, which are listed in § 2.125(e)(4)(viii) as a separate essential use.

H. Wholesale and Retail Stocks

Based on information given to us by the manufacturers, we have concluded that any beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, and ergotamine tartrate ODS MDIs that may be in retail or wholesale stocks will have passed their expiration dates by the effective date for removal of § 2.125(e)(1)(i), (e)(1)(ii), (e)(1)(iv), (e)(2)(ii), (e)(4)(i), and (e)(4)(ii). Boehringer Ingelheim Pharmaceuticals, the manufacturer of ipratropium bromide, has informed us that any ipratropium bromide that may be in retail or wholesale stocks will have passed its expiration date by July 2007. Accordingly, we have set the effective date for removal of § 2.125(e)(4)(v) as August 1, 2007.

V. Environmental Impact

We have carefully considered, under 21 CFR part 25, the potential environmental effects of this action. We have concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. Our finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

VI. Analysis of Impacts

FDA has examined the impacts of the direct final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this direct final rule is not a significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because we are removing the essential use designations for certain drug products that are either no longer being marketed or are no longer being marketed in a formulation containing ODSs, the agency certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $118 million, using the most current (2004) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this direct final rule to result in any 1-year expenditure that would meet or exceed this amount.

VII. The Paperwork Reduction Act of 1995

This direct final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Federalism

FDA has analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, we do not plan to prepare a federalism summary impact statement for this rulemaking procedure. We invite comments on the federalism implications of this direct final rule.

IX. Request for Comments

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

List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

n Therefore, under the Federal Food, Drug, and Cosmetic Act, the Clean Air Act, and under authority delegated to the Commissioner of Food and Drugs, after consultation with the Administrator of the Environmental Protection Agency, 21 CFR part 2 is amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

n 1. The authority citation for 21 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 402, 409; 21 U.S.C. 321, 331, 335, 342, 343, 346a, 348, 351, 352, 355, 360b, 361, 362, 371, 372, 374; 42 U.S.C. 7671 *et seq.*

§ 2.125 [Amended]

n 2. Section 2.125 is amended by removing and reserving paragraphs (e)(1)(i), (e)(1)(ii), (e)(1)(iv), (e)(2)(ii), (e)(4)(i), (e)(4)(ii), and (e)(4)(v).

Dated: October 13, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20797 Filed 12–6–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 80

[Docket No. 2005N–0077]

Color Additive Certification; Increase in Fees for Certification Services

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim final rule; technical amendment; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is amending an interim final rule (IFR) that was published in the **Federal Register** of March 29, 2005 (70 FR 15755). The IFR amended the color additive regulations by increasing the fees for certification services. The IFR was published with one typographical error regarding fees for repacks of certified color additives and color additive mixtures. FDA also inadvertently omitted the color certification fee study referenced in the IFR from the docket at the time of publication. This document corrects the typographical error in the fees for repacks of certified color additives and color additive mixtures, announces the availability of the referenced color certification fee study, and provides for additional time to submit comments.

DATES: This amendment is effective January 8, 2007. Submit written or electronic comments by February 5, 2007.

ADDRESSES: You may submit comments, identified by Docket No. 2005N–0077, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

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

Written Submissions

Submit written submissions in the following ways:

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

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

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kathleen Klausing, Division of Budget Execution (HFA–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7021; and Theodor J. Dougherty, Division of Accounting (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5032.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 29, 2005 (70 FR 15755), FDA issued an IFR to amend the color additive regulations by increasing the fees for certification services in 21 CFR 80.10. The change in fees was necessary so that FDA could continue to provide, maintain, and equip an adequate color certification program as required by section 721(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379(e)). The fees are intended to recover the full costs of operation of FDA's color certification program. The IFR went into effect on April 28, 2005. FDA requested written or electronic comments by May 31, 2005.

FDA subsequently discovered: (1) That the referenced 2003 color certification fee study had inadvertently been omitted from the docket and (2) that there was a typographical error regarding the fees for repacks of certified color additives and color additive mixtures in the codified portion of the IFR.

II. 2003 Color Certification Fee Study

The agency has made available the color certification fee study that describes the cost estimates reflected in the March 29, 2005, IFR. FDA stated in the IFR that the document entitled ''2003 Color Certification Fee Study'' is on file at the Division of Dockets Management. FDA subsequently discovered that we had inadvertently omitted the document from the docket at the time of publication. The agency made the document available at the Division of Dockets Management (see **ADDRESSES**) on May 16, 2005.

III. Fee Listing Typographical Error

The agency is also amending the March 29, 2005, IFR (70 FR 15755 at 15756) regarding fees for repacks of certified color additives and color additive mixtures. Before issuance of the IFR, § 80.10(b) provided, in relevant part, ''*Fees for repacks of certified color additives and color additive mixtures*. The fees for the services provided under the regulations in this part in the case of each request for certification * * * shall be: * * * (2) Over 100 pounds but not over 1,000 pounds—$*30* plus *six cents* for each pound over 100 pounds'' (emphasis added). In revising that portion of the codified, we intended to increase the fees for repacks of certified color additives and color additive mixtures for the first 100 pounds, i.e., from $30 to $35, but maintain the fee of 6 cents for each pound over 100 pounds. However, we inadvertently specified ''$0.05'' rather than specifying ''$0.06.'' This provision should read, in relevant part, ''(2) Over 100 pounds but not over 1,000 pounds—$35 plus $*0.06* for each pound over 100 pounds.'' FDA is correcting this typographical error in the codified language by way of this technical amendment.

IV. Analysis of Impacts

FDA has examined the impacts of the March 29, 2005, IFR under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandate Reforms Flexibility Act (Public Law 104–4) (70 FR 15755 at 15756). Based on this analysis of the impact of the IFR, the technical amendment to the IFR described in section III would generate a cost of $0 to $2,000 per year. Therefore, this technical amendment is not a significant regulatory action as defined by the Executive Order.

The technical amendment does not necessitate a change in our certification, under the Regulatory Flexibility Act. The IFR, as amended, will not have a significant economic impact on a substantial number of small entities. In addition, the IFR, as amended, does not change our expectation that this rule will not result in any 1-year expenditure that would meet or exceed the threshold amount triggering a written statement under the Unfunded Mandates Reform Act.

V. Environmental Impact

The agency has determined under 21 CFR 25.22(a) that, as amended in this

document, the March 29, 2005, IFR 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.

VI. Opportunity for Public Comment

Under 5 U.S.C. 553(b)(B) and 21 CFR 10.40(e), FDA found in the March 29, 2005, IFR that providing for notice and public comment before the establishment of these fees, and for revising the basis on which these fees are calculated, is contrary to the public interest (70 FR 15755 at 15756). FDA continues to find it necessary to implement the amended fee increase as soon as possible to preserve adequate funds for the program. The agency believes, however, that it is appropriate to invite and consider additional public comments on these requirements. Any comments already received by FDA on the March 29, 2005, IFR do not need to be resubmitted to the agency. The agency is considering them at this time and will address them at a later date.

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

List of Subjects in 21 CFR Part 80

Color additives, Cosmetics, Drugs, Reporting and recordkeeping requirements.

n Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 80 is amended as follows:

PART 80—COLOR ADDITIVE CERTIFICATION

n 1. The authority citation for 21 CFR part 80 continues to read as follows:

Authority: 21 U.S.C. 371, 379e.

n 2. Section 80.10 is amended by revising paragraph (b) (2) to read as follows:

§ 80.10 Fees for certification services.

* * * * *

(b) * * *

(2) Over 100 pounds but not over 1,000 pounds—$35 plus $0.06 for each pound over 100 pounds.

* * * * *

Dated: November 29, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20800 Filed 12–6–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9296]

RIN 1545–BD60

Credit for Increasing Research Activities; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9296) that were published in the **Federal Register** on Thursday, November 9, 2006 (71 FR 65722) relating to the computation and allocation of the credit for increasing research activities for members of a controlled group of corporations or a group of trades or businesses under common control.

DATES: This correction is effective November 9, 2006.

FOR FURTHER INFORMATION CONTACT: Nicole R. Cimino (202) 622–3120 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 41 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9296) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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

PART 1—INCOME TAXES

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

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

n **Par. 2.** Section 1.41–6 is amended by revising paragraph (j)(2), last sentence to read as follows:

§ 1.41–6 Aggregation of expenditures.

(j) * * *

(2) * * * For taxable years ending on or after May 24, 2005, and before November 9, 2006, see § 1.41–6T(d) as contained in 26 CFR part 1, revised April 1, 2006.

n **Par. 3.** Section 1.41–8 is amended by revising paragraph (b)(5), last sentence to read as follows:

§ 1.41–8 Special rules for taxable years ending on or after November 9, 2006.

(b) * * *

(5) * * * For taxable years ending on or after May 24, 2005, and before November 9, 2006, see § 1.41–8T(b)(5) as contained in 26 CFR part 1, revised April 1, 2006.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–20732 Filed 12–6–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9273]

RIN 1545–AX65

Stock Transfer Rules: Carryover of Earnings and Taxes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains correction to final regulations (TD 9273) that were published in the **Federal Register** on Tuesday, August 8, 2006 (71 FR 44887) addressing the carryover of certain tax attributes, such as earnings and profits and foreign income tax accounts, when two corporations combine in a corporate reorganization or liquidation that is described in both section 367(b) and section 381 of the Internal Revenue Code.

DATES: The correction is effective August 8, 2006.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Parry, (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under sections 367(b) and 381 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9273) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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

PART 1—INCOME TAXES

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

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

n **Par. 7.** Section 1.367(b)–7(f)(1)(iii) *Example 1* (iii) is amended by revising the last sentence of paragraph (A) and paragraph (B) to read as follows:

§ 1.367(b)–7 Carryover of earnings and profits and foreign income taxes in certain foreign-to-foreign non-recognition transactions.

* * * * *

(f) * * *

(1) * * *

(iii) * * *

Example 1 * * *

(A) * * * The 100u offset under section 952(c)(1)(B) does not result in a reduction of the hovering deficit for purposes of section 316 or section 902.

(B) Foreign surviving corporation A's 100u of subpart F income not included in income by USP will accumulate and be added to its post-1986 undistributed earnings as of the beginning of 2009. This 100u of post-transaction earnings will be offset by the (100u) hovering deficit. Because the amount of earnings offset by the hovering deficit is 100% of the total amount of the hovering deficit, all $25 of the related taxes are added to the post-1986 foreign income taxes pool as well. Accordingly, foreign surviving corporation A has the following post-1986 undistributed earnings and post-1986 foreign income taxes on January 1, 2009:

Separate category	Earnings & profits		Foreign taxes	
	Positive E&P	Hovering deficit	Foreign taxes available	Foreign taxes associated with hovering deficit
General	0u	(0u)	$45	$0

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–20728 Filed 12–6–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9293]

RIN 1545–BF88

TIPRA Amendments to Section 199; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9293) that were published in the **Federal Register** on Thursday, October 19, 2006 (71 FR 61662) concerning the amendments made by the Tax Increase Prevention and Reconciliation Act of 2005 to section 199 of the Internal Revenue Code.

DATES: This correction is effective October 19, 2006.

FOR FURTHER INFORMATION CONTACT: Concerning §§ 1.199–2T(e)(2) and 1.199–8T(i)(5), Paul Handleman or Lauren Ross Taylor, (202) 622–3040; concerning §§ 1.199–3T(i)(7) and (8), and 1.199–5T, Martin Schaffer, (202) 622–3080; and concerning §§ 1.199–7T(b)(4) and 1.199–8T(i)(6), Ken Cohen, (202) 622–7790 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of this correction are under section 199 of the Internal Revenue Code.

Need for Correction

As published, final and temporary regulations (TD 9293) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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

PART 1—INCOME TAXES

n **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.199–5T also issued under 26 U.S.C. 199(d). * * *

Section 1.199–7T also issued under 26 U.S.C. 199(d). * * *

n **Par. 4.** Section 1.199–2T(e)(2) is amended by revising the eleventh sentence of *Example 2* paragraph (i) and the seventh sentence of *Example 5* paragraph (iv) to read as follows:

§ 1.199–2T Wage limitation (temporary).

Example 2. * * *

(i) * * * For Y's taxable year ending April 30, 2011, the total square footage of Y's headquarters is 8,000 square feet, of which 2,000 square feet is set aside for domestic production activities. * * *

Example 5. * * *

(iv) * * * The EAG's tentative section 199 deduction is $360,000 (.09 × (lesser of combined QPAI of $4,000,000 (B's QPAI of $4,000,000 + S's QPAI of $0) or combined taxable income of $4,200,000 (B's taxable income of $4,000,000 + S's taxable income of $200,000))) subject to the W–2 wage limitation of $50,000 (50% × ($100,000 (B's W–2 wages) + $0 (S's W–2 wages))). * * *

n **Par. 8.** Section 1.199–5T is amended by revising sentences eight through ten of paragraph (e)(4)(ii)(A) and revising paragraph (g) to read as follows:

§ 1.199–5T Application of section 199 to pass-thru entities for taxable years beginning after May 17, 2006, the enactment date of the Tax Increase Prevention and Reconciliation Act of 2005 (temporary).

(e) * * *

(4) * * *

(ii) * * *

(A) * * * In this step, in this example, the portion of the trustee commissions not directly attributable to the rental operation ($2,000) is directly attributable to non-trade or business activities. In addition, the state income and personal property taxes are not directly attributable under § 1.652(b)–3(a) to either trade or business or non-trade or business activities, so the portion of those taxes not attributable to either the PRS interests or the rental operation is not a trade or business expense and, thus, is not taken into account in computing QPAI. The portion of the state income and personal property taxes that is treated as an other trade or business expense is $3,000 ($5,000 × $30,000 total trade or business gross receipts/$50,000 total gross receipts). * * *

* * * * *

(g) *No attribution of qualified activities.* Except as provided in § 1.199–3T(i)(7) regarding qualifying in-kind partnerships and § 1.199–3T(i)(8) regarding EAG partnerships, an owner of a pass-thru entity is not treated as conducting the qualified production activities of the pass-thru entity, and vice versa. This rule applies to all partnerships, including partnerships that have elected out of subchapter K under section 761(a). Accordingly, if a partnership manufactures QPP within the United States, or produces a qualified film or produces utilities in the United States, and distributes or leases, rents, licenses, sells, exchanges, or otherwise disposes of such property to a partner who then, without performing its own qualifying activity, leases, rents, licenses, sells, exchanges, or otherwise disposes of such property, then the partner's gross receipts from this latter lease, rental, license, sale, exchange, or other disposition are treated as non-DPGR. In addition, if a partner manufactures QPP within the United States, or produces a qualified film or produces utilities in the United States, and contributes or leases, rents, licenses, sells, exchanges, or otherwise disposes of such property to a partnership which then, without performing its own qualifying activity, leases, rents, licenses, sells, exchanges, or otherwise disposes of such property, then the partnership's gross receipts from this latter disposition are treated as non-DPGR.

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–20724 Filed 12–6–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9292]

RIN 1545–BB11

Partner's Distributive Share: Foreign Tax Expenditures; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains correction to final regulations (TD 9292) that were published in the **Federal Register** on Thursday, October 19, 2006 (71 FR 61648) regarding the allocation of creditable foreign tax expenditures by partnerships.

DATES: The correction is effective October 19, 2006.

FOR FURTHER INFORMATION CONTACT: Timothy J. Leska, (202) 622–3050 or Michael I. Gilman (202) 622–3850 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 704 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9292) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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

PART 1—INCOME TAXES

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

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

n **Par. 2.** Section 1.704–1 is amended by revising instructional Par. 2, number 2 to read as follows:

1. * * *

2. The heading and text of paragraphs (b)(1)(ii)(*b*), and (b)(5) *Examples 25* through *27* are revised.

* * * * *

n **Par. 3.** Section 1.704–1(d)(5) is amended by revising *Example 25* paragraph (ii), the ninth sentence and *Example 26* paragraph (ii), the eighth sentence to read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

Example 25. * * *

(ii) * * * Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership.

Example 26. * * *

(ii) * * * Because AB's partnership agreement allocates the $80,000 of country X taxes and $40,000 of country Y taxes in proportion to the distributive shares of income to which such taxes relate, the allocations are deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section.

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–20722 Filed 12–6–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–06–005]

RIN 1625–AA09

Drawbridge Operation Regulations; Arkansas Waterway, Arkansas

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the drawbridge operations for the Rob Roy Drawbridge across the Arkansas Waterway at Mile 67.4 at Pine Bluff, Arkansas, the Baring Cross Railroad Drawbridge across the Arkansas Waterway at Mile 119.6 at Little Rock, Arkansas, and the Van Buren Railroad Drawbridge across the Arkansas Waterway at Mile 300.8 at Van Buren, Arkansas, to reflect the actual procedures currently being followed. In addition, the following three bridges will be removed from 33 CFR 117.123 as they are locked in the open-to-

navigation position and are no longer considered to be drawbridges: Missouri Pacific Railroad Drawbridge (Benzal Railroad Drawbridge) across the Arkansas Waterway at Mile 7.6 at Benzal, Arkansas, the Rock Island Railroad Drawbridge across the Arkansas Waterway at Mile 118.2 at Little Rock, Arkansas, and the Junction Railroad Drawbridge across the Arkansas Waterway at Mile 118.7 at Little Rock, Arkansas. Section 117.139 is being revised as paragraph (a) is no longer needed since the Missouri Pacific Railroad Drawbridge (Benzal Railroad Drawbridge) is locked in the open-to-navigation position.

DATES: This rule is effective on January 8, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–06–005 and are available for inspection or copying at room 2.107(f), in the Robert A. Young Federal Building, Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Commander (dwb), Eighth Coast Guard District, Bridge Branch maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, (314) 269–2378.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 7, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Arkansas Waterway, AR in the **Federal Register** (71 FR 32883). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Arkansas Waterway is a part of the McClellan-Kerr Arkansas River Navigation System. The System rises in the vicinity of Catoosa, Oklahoma, and embraces improved natural waterways and a canal to empty into the Mississippi River in southeast Arkansas. The Arkansas Waterway drawbridge operation regulations contained in § 117.123(a), state that the Cotton Belt Railroad (Rob Roy) Bridge, mile 67.4, requires the use of ship's horns and flashing lights on the bridge to communicate between mariners requesting openings and railroad dispatchers remotely operating the bridge. Although not stated in § 117.123(a), records indicate that the method of communication outlined in § 117.123(a) was to be used by mariners and the remote bridge operator as a back-up means of communications. The Coast Guard, however, has determined that the primary method of communications outlined in § 117.123(a) has not been used during the past 20 years. It is doubtful that the system of horns and flashing lights was ever used. Instead, mariners and remote bridge operators have communicated via VHF–FM radiotelephone for opening the Rob Roy Drawbridge. The Coast Guard also determined that editorial changes were needed to correct inaccuracies in the specific requirements for the Baring Cross Railroad Drawbridge and the Van Buren Railroad Drawbridge. Three bridges on the Arkansas Waterway—the Missouri Pacific Railroad Drawbridge (Benzal Railroad Drawbridge) at mile 7.6, the Rock Island Railroad Drawbridge at Mile 118.2, and the Junction Railroad Drawbridge at Mile 118.7—have all been removed from rail service. Meetings with the owners indicate that all three bridges have been permanently locked in the open-to-navigation position and that there are plans to convert them into fixed pedestrian bridges in the future. Therefore, they are considered fixed bridges and will be removed from drawbridge regulations section of the CFR. Section (a) of § 117.139 references the § 117.123 cite for the Missouri Pacific Railroad Drawbridge (Benzal Railroad Drawbridge), mile 7.6, so section (a) also requires removal from the regulations. Therefore, paragraphs (b) and (c) of § 117.139 will be redesignated as (a) and (b).

Discussion of Comments and Changes

There were no comments on nor changes made from the proposed rule.

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. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

The Coast Guard expects that these changes will have a minimal economic impact on commercial traffic operating on the Arkansas Waterway. The procedures are already in place at the three active drawbridges, the other three drawbridges have been locked in the open-to-navigation position, and the changes to the CFR documents the procedures.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule is neutral to all business entities since it affects only how the vessel operators request bridge openings.

Assistance for Small Entities

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

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore this rule is categorically excluded under figure 2–1, paragraph 32(e) of the Instruction from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

n For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

n 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

n 2. Revise § 117.123 to read as follows:

§ 117.123 Arkansas Waterway.

(a) Across the Arkansas Waterway, the draw of the Rob Roy Drawbridge, mile 67.4 at Pine Bluff, Arkansas, is maintained in the closed position and is remotely operated. Any vessel requiring an opening of the draw shall establish contact by radiotelephone with the remote drawbridge operator on VHF–FM Channel 12 in Omaha, Nebraska. The remote drawbridge operator will advise the vessel whether the bridge can be immediately opened and maintain constant contact with the vessel until the span has opened and the vessel passage has been completed. The bridge is equipped with a Photoelectric Boat Detection System to prevent the span from lowering if there is an obstruction under the span. If the drawbridge cannot be opened immediately, the remote drawbridge operator shall notify the calling vessel and provide an estimated time for opening.

(b) Across the Arkansas Waterway, the draw of the Baring Cross Railroad Drawbridge, mile 119.6 at Little Rock, Arkansas, is maintained in the closed position and is remotely operated. Use the following procedures to request an opening of this bridge when necessary for transit:

(1) *Normal Flow Procedures.* Any vessel which requires an opening of the draw of this bridge shall establish contact by radiotelephone with the remote drawbridge operator on VHF–FM Channel 13 in North Little Rock, Arkansas. The remote drawbridge operator will advise the vessel whether the requested span can be immediately opened and maintain constant contact with the vessel until the requested span has opened and the vessel passage has been completed. If the drawbridge cannot be opened immediately, the remote drawbridge operator will notify the calling vessel and provide an estimated time for a drawbridge opening.

(2) *High Velocity Flow Procedures.* The area from mile 118.2 to mile 125.4 is a regulated navigation area (RNA) as described in § 165.817. During periods of high velocity flow, which is defined as a flow rate of 70,000 cubic feet per second or greater at the Murray Lock and Dam, mile 125.4, downbound vessels which require that the draw of this bridge be opened for unimpeded passage shall contact the remote drawbridge operator on VHF–FM Channel 13 either before departing Murray Lock and Dam, or before departing the mooring cells at Mile 121.5 to ensure that the Baring Cross Railroad Drawbridge is opened. The remote drawbridge operator shall immediately respond to the vessel's call, ensure that the drawbridge is open for passage, and ensure that it remains in the open position until the downbound vessel has passed through. If it cannot be opened immediately for unimpeded passage in accordance with § 163.203, the remote drawbridge operator will immediately notify the downbound vessel and provide an estimated time for

a drawbridge opening. Upbound vessels shall request openings in accordance with the normal flow procedures as set forth above. The remote drawbridge operator shall keep all approaching vessels informed of the position of the drawbridge span.

(c) Across the Arkansas Waterway, the draw of the Van Buren Railroad Drawbridge, mile 300.8 at Van Buren, Arkansas, is maintained in the open position except as follows:

(1) When a train approaches the bridge, amber lights attached to the bridge begin to flash and an audible signal on the bridge sounds. At the end of 10 minutes, the amber light continues to flash; however, the audible signal stops and the draw lowers and locks if the photoelectric boat detection system detects no obstruction under the span. If there is an obstruction, the draw opens to its full height until the obstruction is cleared.

(2) After the train clears the bridge, the draw opens to its full height, the amber flashing light stops, and the mid channel lights change from red to green, indicating the navigation channel is open for the passage of vessels.

§ 117.139 [Amended]

n 3. In § 117.139, remove paragraph (a); and redesignate paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

Dated: November 6, 2006.

Ronald W. Branch,

Captain, U.S. Coast Guard Commander, 8th Coast Guard Dist, Acting.

[FR Doc. E6–20706 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–SC–0003; EPA–R04–OAR–2005–SC–0005–200620b; FRL–8252–9]

Approval and Promulgation of Implementation Plans; South Carolina: Revisions to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving several revisions to the South Carolina State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on April 13, 2005, and October 24, 2005. Both revisions include modifications to South Carolina's Regulation 61–62.1 ''Definitions and General Requirements.'' In the April 13, 2005, submission, Regulation 61–62.1 is being amended to be consistent with the new Federal emissions reporting requirements, referred to as the Consolidated Emissions Reporting Rule (CERR), and to streamline the existing emissions inventory requirements. SC DHEC is taking an action that is consistent with the final rule, published on June 10, 2002 (67 FR 39602).

The October 24, 2005 submittal revises the definition of Volatile Organic Compounds (VOC). The revision adds several compounds to the list of compounds excluded from the definition of VOC on the basis that they make a negligible contribution to ozone formation, and similarly removes several compounds from the definition of VOC.

This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective February 5, 2007 without further notice, unless EPA receives adverse comment by January 8, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. ''EPA–R04–OAR–2005–SC–0003, EPA–R04–OAR–2005–SC–0005'' by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.
2. *E-mail: ward.nacosta@epa.gov.*
3. *Fax:* 404–562–9019.
4. *Mail:* ''EPA–R04–OAR–2005–SC–0003, EPA–R04–OAR–2005–SC–0005,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Nacosta Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division floor, U.S. Environmental Protection Agency, Region Forsyth Street, SW., Atlanta, Georgia 30303–8960. 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, 8:30 to 4:30 excluding federal holidays.

Instructions: Direct your comments to EPA Docket ID No. ''R04–OAR–2005–SC–0005–SC–0003, EPA–R04–OAR–2005–SC–005.'' 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 *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about public docket visit the EPA Docket Center at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the electronic docket are listed in the 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 *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management

Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Ward can also be reached via electronic mail at *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Today's Action

Revisions Submitted on April 13, 2005

On April 13, 2005, SC DHEC submitted proposed SIP revisions to EPA for review and approval into the South Carolina SIP. The proposed revisions include changes made by the State of South Carolina to Regulation 61–62.1, regarding CERR reporting requirements. The rules became state effective on February 25, 2005. The purpose of the CERR is to simplify emissions reporting, establish new reporting requirements for PM2.5 and establish statewide reporting of area source and mobile source emissions. Currently, the CERR requires that all facilities needing to obtain a Title V permit must submit an emissions inventory every two years. Approximately 50 of the 354 current Title V sources (Type A sources) will be required to increase their emissions inventory reporting to an annual basis. However, the majority of the Title V sources (Type B sources) with fewer emissions, approximately 80 of 354 current sources, will only need to submit their emissions inventory every three years. Thus, the reporting requirements for these sources will decrease from every other year to every third year. The remaining Title V sources, except those that emit significant hazardous air pollutants (HAPs) will gain an even greater decrease in the reporting requirements. If those sources have submitted an initial inventory, no further reporting will be required. Those sources that emit significant HAPs will also have a decrease in reporting requirements, from every other year to every three years. SC DHEC is revising these revisions to be consistent with the new Federal emissions reporting requirements, and to revise existing State specific requirements to streamline the reporting process. EPA is now taking direct final action to approve the proposed revisions, which include revising the CERR emissions reporting regulations. The proposed revisions summarized above are approvable pursuant to section 110 of the CAA.

Revisions Submitted on October 24, 2005

Tropospheric ozone, a major component of smog, is formed when VOCs and nitrogen oxides react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOCs and that can be released into the atmosphere. VOCs are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate) which form ozone through atmospheric photochemical reactions. Compounds of carbon (or organic compounds) have different levels of reactivity; they do not react at the same speed, or do not form ozone to the same extent. It has been EPA's policy that compounds of carbon with a negligible level of reactivity need not be regulated to reduce ozone (see 42 FR 35314, July 8, 1977). EPA determines whether a given carbon compound has ''negligible'' reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA lists these compounds in its regulations (at 40 CFR 51.100(s)) and excludes them from the definition of VOC. The chemicals on this list are often called ''negligibly reactive.'' EPA may periodically revise the list of negligibly reactive compounds to add compounds to or delete them from the list. EPA promulgated such changes on November 29, 2004 (69 FR 69298).

On October 24, 2005, SC DHEC submitted proposed SIP revisions to EPA for review and approval into the South Carolina SIP. The proposed revisions include changes made by the State of South Carolina to Regulation 61–62.1, regarding the definition of VOC, to reflect EPA's November 29, 2004, changes. The rules became state effective on August 26, 2005. Specifically, South Carolina is removing the following compounds from the definition of VOC:

- 2 (ethoxydifluoromethyl) (1,1,1,2,3,3,3 heptafluoropropane)
- ($C_4F_9OCH_3$) (1,1,1,2,2,3,3,4,4 nonafluoro 4 methoxybutane)
- ($C_4F_9OC_2H_5$) (1 ethoxy 1,1,2,2,3,3,4,4,4 nonafluorobutane)
- CFC–113 (trichlorotrifluoroethane)
- CFC–114 (dichlorotetrafluoroethane)
- HCFC–123 (dichlorotrifluoroethane)
- HCFC–134a (tetrafluoroethane)
- HCFC–141b (dichlorofluoroethane)
- HCFC–142b (chlorodifluoroethane)
- Methylene chloride
- Perchloroethylene

South Carolina is adding the following compounds to the definition of VOC:

- $(CF_3)_2CFCF_2OC_2H_5$ to (2-(ethoxydi&fnl;fluoromethyl)-(1,1,1,2,3,3,3-heptafluoropropane)
- CFC–113 (1,1,2-trichloro-1,2,2-trifluoroethane)
- CFC–114 (1,2-dichloro-1,1,2,2-tetrafluoroethane)
- HCFC–123 (1,1,1-trifluoro-2,2-dichloroethane)
- HCFC–134a (1,1,1,2-tetrafluoroethane)
- HCFC–141b (1,1-dichloro-1-fluoroethane)
- HCFC–142b (1-chloro-1,1-difluoroethane)
- HFC–227ea (1,1,1,2,3,3,3-heptafluoropropane)
- HFE–7000 (1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane) or ($n\text{-}C_3F_7OCH_3$)
- HFE–7100 (1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane) or ($C_4F_9OCH_3$)
- HFE–7200 (1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane) or ($C_4F_9OC_2H_5$)
- HFE–7500 (3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane
- Methylene chloride (dichloromethane)
- Methyle formate ($HCOOCH_3$)
- Perchloroethylene (tetrachloroethylene); and perfluorocarbon compounds that fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated alkanes;

(iii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

II. Final Action

EPA is approving revisions to South Carolina's Regulation 61–62.1 ''Definitions and General Requirements.'' These revisions include changes to the CERR reporting requirements, and the definition of VOCs. These changes are consistent with the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective February 5, 2007 without further notice unless the Agency receives adverse comments by January 8, 2007.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 5, 2007 and no further action will be taken on the proposed rule.

III. 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, U.S.C. section 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 21, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

n Amend 40 CFR part 52 as follows:

PART 52—[AMENDED]

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

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

Subpart PP—South Carolina

n 2. Section 52.2120(c) is amended under Regulation No. 62.1 by revising entries for ''Section I'' and ''Section III'' to read as follows:

§ 52.2120 Identification of Plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	**Federal Register** notice
	Regulation No. 62.1 Definitions and General Requirements			
Section I ...	Definitions	08/26/2005	12/07/2006	[Insert citation of publication].
*	* * *	*	*	*
Section III	Emissions Inventory	02/25/2005	12/07/2006	[Insert citation of publication].

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
*	* * *	*	*	*

* * * * *

[FR Doc. E6–20767 Filed 12–6–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0696; FRL–8252–5]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Revisions to Regulation 1102—Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to Delaware's State Implementation Plan (SIP). The revisions ensure that all preconstruction air quality permits issued pursuant to Delaware's Regulation 1102 are federally enforceable, regardless of whether they are intended to limit a source's potential to emit. EPA is approving these revisions to Delaware's SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on February 5, 2007 without further notice, unless EPA receives adverse written comment by January 8, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0696 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. E-mail: *campbell.dave@epa.gov*.

C. Mail: EPA–R03–OAR–2006–0696, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0696. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *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 *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814–3377, or by e-mail at *nino.rose@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On June 15, 2006, Delaware submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of ''Regulation 1102—Permits'' adopted by the State of Delaware on May 15, 2006 and effective June 11, 2006. The State amended the regulation in order to (1) ensure that the regulatory language is clear that all Regulation 1102 permits are federally enforceable, regardless of whether they are intended to limit potential to emit; and, (2) the renumbering of the regulation to be consistent with the style manual of the Code of Delaware Regulations.

Delaware is seeking approval of these amendments to this rule pursuant to 40 CFR Part 51 Subpart I and Section 110(a)(2)(C) of the federal Clean Air Act (CAA) as amended November 15, 1990.

II. Summary of SIP Revision

EPA is proposing to approve this revision to incorporate into the Delaware SIP amendments to Regulation 1102 (formerly Regulation 2)—''Permits'' as submitted by Delaware Natural Resources and Environmental Control (DNREC) on June 15, 2006. This approval action will effectively replace the previously-approved version of ''Regulation 2—Permits,'' renumbered with this revision to be ''Regulation 1102—Permits,'' as approved into Delaware's SIP on January 11, 2006 (65 FR 2048).

III. Program Review

A. What is being addressed in this document?

On June 15, 2006, DNEC submitted regulatory revision to EPA for approval. The submittal consists of Delaware Rule entitled ''Regulation 1102—Permits'' adopted on May 15, 2006 and effective June 11, 2006.

B. What are the program changes that EPA is approving?

EPA is approving Delaware's revisions to Regulation 1102—Permits.

These revisions clarify Delaware's intention that all permits issued pursuant to Regulation 1102 be federally enforceable regardless of whether they are intended to limit potential to emit.

IV. Final Action

EPA is approving Delaware's revision to Regulation 1102—Permits as a revision to Delaware's SIP.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment because these revisions are to clarify that all Regulation 1102 permits are federally enforceable. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 5, 2007 without further notice unless EPA receives adverse comment by January 8, 2007. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 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 to approve Delaware's Regulation 1102—Permits 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 21, 2006.

William T. Wisniewski,

Acting Regional Administrator, Region III.

n 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart I—Delaware

n 2. In § 52.420, the table in paragraph (c) is amended by revising the entries for Regulation 2—Permits, Sections 1, 6, 11, and 12 to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	* * *	*	*	*
Regulation 1102 Permits (formerly "Regulation 2—Permits")				
Section 1	General Provisions	06/15/06	12/07/06, [Insert page number where the document begins].	
*	* * *	*	*	*
Section 6	Denial, Suspension or Revocation of Operating Permits.	06/15/06	12/07/06, [Insert page number where the document begins].	
*	* * *	*	*	*
Section 11	Permit Application	06/15/06	12/07/06, [Insert page number where the document begins].	
Section 12	Public Participation	06/15/06	12/07/06, [Insert page number where the document begins].	
*	* * *	*	*	*

* * * * *

[FR Doc. E6–20650 Filed 12–6–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–B–7474]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Division Director of FEMA reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities. The changes BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

Executive Order 13132, Federalism. This interim rule involves no policies

that have federalism implications under Executive Order 13132, Federalism.

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

n Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

n 1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

n 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Mobile.	Unincorporated areas of Mobile County, (05–04–2236P).	September 21, 2006; September 28, 2006; *Press-Register*.	Mr. John Pafenbach, County Administrator, Mobile County, 205 Government Street, Mobile, AL 36644.	December 28, 2006 ...	015008
Arizona:					
Greenlee ...	Town of Clifton, (06–09–B068P).	October 25, 2006; November 1, 2006; *Copper Era*.	The Honorable David McCullar, Mayor, Town of Clifton, P.O. Box 1415, Clifton, AZ 85533.	September 29, 2006 ..	040035
Maricopa ...	Unincorporated areas of Maricopa County, (06–09–B067P).	September 14, 2006; September 21, 2006; *Arizona Business Gazette*.	The Honorable Don Stapley, Chairman, Maricopa County, Board of Supervisors, Administration Building, 301 West Jefferson Street, Tenth Floor, Phoenix, AZ 85003.	December 21, 2006 ..	040037
California:					
Alameda	City of Livermore, (06–09–BE71P).	September 21, 2006; September 28, 2006; *Alameda Times Star*.	The Honorable Marshall Kamena, Mayor, City of Livermore, 1052 South Livermore Avenue, Livermore, CA 94550.	December 28, 2006 ...	060008
Alameda	Unincorporated areas of Alameda County, (06–09–B390P).	September 14, 2006; September 21, 2006; *Tri-Valley Herald*.	The Honorable Keith Carson, President, Alameda County, Board of Supervisors, 1221 Oak Street, Suite 536, Oakland, CA 94612.	August 18, 2006	060001
Amador	City of Jackson, (06–09–B819P).	October 20, 2006; October 27, 2006; *Amador Ledger Dispatch*.	The Honorable Al Nunes, Mayor, City of Jackson, 33 Broadway, Jackson, CA 95642.	January 26, 2007	060448
Merced	City of Merced, (06–09–B107P).	October 18, 2006; October 25, 2006; *Chowchilla News*.	The Honorable Ellie Wooton, Mayor, City of Merced, 678 West 18th Street, Merced, CA 95340.	January 25, 2007	060191
Merced	Unincorporated areas of Merced County, (06–09–B107P).	October 18, 2006; October 25, 2006; *Chowchilla News*.	The Honorable Mike Nelson, Chairman, Merced County, Board of Commissioners, 2222 M Street, Second Floor, Merced, CA 95340.	January 25, 2007	060188
Nevada	Town of Truckee, (06–09–B008P).	October 26, 2006; November 2, 2006; *The Sierra Sun*.	The Honorable Beth Ingalls, Mayor, Town of Truckee, 10183 Truckee Airport Road, Truckee, CA 96161.	September 29, 2006 ..	060762
Orange	City of San Juan Capistrano, (05–09–0793P).	September 21, 2006; September 28, 2006; *The Orange County Register*.	The Honorable David M. Swerdlin, Mayor, City of San Juan Capistrano City Hall, 32400 Paseo Adelanto, San Juan Capistrano, CA 92675.	August 31, 2006	060231
Sacramento	City of Citrus Heights, (06–09–B062P).	October 19, 2006; October 26, 2006; *The Daily Recorder*.	The Honorable Bret Daniels, Mayor, City of Citrus Heights, 6237 Fountain Square Drive, Citrus Heights, CA 95621.	September 22, 2006	060765
Sacramento	City of Elk Grove, (06–04–B040P).	September 14, 2006; September 21, 2006; *The Daily Recorder*.	The Honorable Richard Soares, Mayor, City of Elk Grove, 9400 Laguna Palms Way, Elk Grove, CA 95758.	August 25, 2006	060767

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
San Diego	City of La Mesa, (05–09–A362P).	September 21, 2006; September 28, 2006; *San Diego Transcript*.	The Honorable Art Madrid, Mayor, City of La Mesa, 8130 Allison Avenue, La Mesa, CA 92041.	September 5, 2006 ...	060292
San Diego	City of San Diego, (05–09–A362P).	September 21, 2006; September 28, 2006; *San Diego Transcript*.	The Honorable Jerry Sanders, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	September 5, 2006 ...	060295
San Diego	Unincorporated areas of San Diego County, (07–09–0162X).	October 19, 2006; October 26, 2006; *The San Diego Daily Transcript*.	The Honorable Bill Horn, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, CA 92123.	February 16, 2007	060284
San Luis Obispo.	City of San Luis Obispo, (06–09–BA38P).	October 19, 2006; October 26, 2006; *The Tribune*.	The Honorable David F. Romero, Mayor, City of San Luis Obispo City Hall, 990 Palm Street, San Luis Obispo, CA 93401.	January 25, 2007	060310
Santa Barbara.	Unincorporated areas of Santa Barbara County, (05–09–1158P).	September 21, 2006; September 28, 2006; *Santa Barbara News Press*.	The Honorable Salud Carbajal, Chairman, Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Santa Barbara, CA 93101.	December 28, 2006 ..	060331
Santa Barbara.	Unincorporated areas of Santa Barbara County, (06–09–B833P).	October 26, 2006; Novermber 2, 2006; *Santa Barbara News Press*.	The Honorable Joni L. Gray, Chairperson, Santa Barbara County, 511 East Lakeside Parkway, Suite 126, Santa Maria, CA 93455.	February 1, 2007	060331
Shasta	City of Redding, (06–09–B348P).	September 21, 2006; September 28, 2006; *Redding Record Searchlight*.	The Honorable Ken Murray, Mayor, City of Redding, 777 Cypress Avenue, P.O. Box 496071, Redding, CA 96001.	August 31, 2006	060360
Colorado:					
Arapahoe ..	City of Cherry Hills Village, (06–08–B375P).	October 12, 2006; October 19, 2006; *The Littleton Independent*.	The Honorable Mike Wozniak, Mayor, City of Cherry Hills Village, 2450 East Quincy Avenue, Cherry Hills Village, CO 80113.	September 19, 2006 ..	080013
Broomfield	City and County of Broomfield, (06–08–B417P).	September 27, 2006; October 4, 2006; *Broomfield Enterprise*.	The Honorable Karen Stuart, Mayor, City and County of Broomfield, One DesCombes Drive, Broomfield, CO 80020.	September 11, 2006 ..	085073
Douglas	Unincorporated Areas of Douglas County, (06–08–B443P).	October 12, 2006; October 19, 2006; *Douglas County News-Press*.	The Honorable Walter M. Maxwell, Chairman, Douglas County Board of Commissioners, 100 Third Street, Castle Rock, CO 80104.	January 18, 2007	080049
Douglas	City of Lone Tree, (06–08–B443P).	October 12, 2006; October 19, 2006; *Douglas County News-Press*.	The Honorable Jack O'Boyle, Mayor, City of Lone Tree, 9777 South Yosemite Street, Suite 100, Lone Tree, CO 80124.	January 18, 2007	080319
Jefferson ...	City of Arvada, (06–08–B403P).	October 12, 2006; October 19, 2006; *The Golden Transcript*.	The Honorable Ken Fellman, Mayor, City of Arvada, 8101 Ralston Road, Arvada, CO 80002.	January 18, 2007	085072
Jefferson ...	City of Lakewood, (06–08–B318P).	November 9, 2006; November 16, 2006; *The Golden Transcript*.	The Honorable Steve Burkholder, Mayor, City of Lakewood, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, CO 80226.	February 15, 2007	085075
Jefferson ...	Unincorporated areas of Jefferson County, (06–08–B422P).	September 21, 2006; September 28, 2006; *The Golden Transcript*.	The Honorable J. Kevin McCasky, Chairman, Board of Commissioners, Jefferson County, 100 Jefferson County Parkway, Golden, CO 80419–5550.	December 28, 2006 ..	080087

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Delaware: New Castle.	Unincorporated areas of New Castle County, (06–03–B140P).	October 5, 2006; October 12, 2006; *The News Journal*.	The Honorable Chris Coons, County Executive, New Castle County, 87 Read's Way, New Castle, DE 19720.	January 4, 2007	105085
Florida:					
Leon	City of Tallahassee, (05–04–1773P).	September 21, 2006; September 28, 2006; *Tallahassee Democrat*.	The Honorable John Marks, Mayor, City of Tallahassee, 300 South Adams Street, Tallahassee, FL 32301.	December 28, 2006 ...	120144
Monroe	Unincorporated areas of Monroe County, (06–04–BI38P).	September 21, 2006; September 28, 2006; *Key West Citizen*.	The Honorable Dixie Spehar, Mayor, Monroe County, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	August 29, 2006	125129
Pinellas	City of Clearwater, (06–04–B129X).	September 14, 2006; September 21, 2006; *St. Petersburg Times*.	The Honorable Frank Hibbard, Mayor, City of Clearwater, P.O. Box 4748, Clearwater, FL 33758.	December 21, 2006 ...	125096
Polk	Unincorporated Areas of Polk County, (06–04–B694P).	September 21, 2006; September 28, 2006; *The Polk County Democrat*.	Mr. Michael Herr, County Manager, Polk County, P.O. Box 9005, Drawer BC01, Bartow, FL 33831–9005.	August 31, 2006	120261
Sarasota ...	City of Sarasota, (06–04–BH18P).	September 26, 2006; October 3, 2006; *Sarasota Herald-Tribune*.	The Honorable Fred Atkins, Mayor, City of Sarasota, 1565 First Street, Sarasota, FL 34236.	August 28, 2006	125150
Seminole ...	Unincorporated areas of Seminole County, (06–04–BJ43P).	October 19, 2006; October 26, 2006; *Orlando Seminole Sentinel*.	The Honorable Carlton D. Henley, Chairman, Seminole County Board of Commissioners, Seminole County Services Building, 1101 East First Street, Sanford, FL 32771.	October 30, 2006	120289
Georgia:					
Jackson	Unincorporated areas of Jackson County, (06–04–BQ92P).	September 20, 2006; September 27, 2006; *The Jackson Herald*.	The Honorable Ms. Pat Bell , Chairman, Jackson County Board of Commissioners, 67 Athens Street, Jefferson, GA 30549.	December 27, 2006 ..	130345
Walton	Unincorporated areas of Walton County, (05–04–A009P).	October 18, 2006; October 26, 2006; *Walton Tribune*.	The Honorable Kevin W. Little, Chairman, Walton County Board of Commissioners, 303 South Hammond Drive, Monroe, GA 30655.	September 25, 2006	130185
Hawaii:					
Hawaii	Unincorporated areas of Hawaii County, (06–09–B247P).	September 14, 2006; September 21, 2006; *Hawaii Tribune-Herald*.	The Honorable Harry Kim Mayor, County of Hawaii, 25 Aupuni Street, Room 215, Hilo, HI 96720.	December 21, 2006 ..	155166
Hawaii	Unincorporated areas of Hawaii County, (06–09–B685P).	October 5, 2006; October 12, 2006; *Hawaii Tribune-Herald*.	The Honorable Harry Kim, Mayor, County of Hawaii, 25 Aupuni Street, Room 215, Hilo, HI 96720.	January 11, 2007	155166
Illinois:					
De Kalb	Village of Kirkland, (06–05–BF46P).	October 19, 2006; October 26, 2006; *Daily Chronicle*.	The Honorable Michael A Becker, Village President, Village of Kirkland, 511 West Main Street, Kirkland, IL 60146.	January 25, 2006	170186
De Kalb	Unincorporated areas of De Kalb County, (06–05–BF46P).	October 19, 2006; October 26, 2006; *Daily Chronicle*.	Mr. Raymond R. Bockman, County Administrator, De Kalb County, 200 North Main Street, Sycamore, IL 60178.	January 25, 2007	170808
Kane	Village of Hampshire, (06–05–BC30P).	September 21, 2006; September 28, 2006; *Elburn Herald*.	Mr. Jeffrey Magnussen, Village President, Village of Hampshire, Village Hall, 234 South State St., P.O. Box 457, Hampshire, IL 60140.	December 28, 2006 ..	170327

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Kane	Village of Hampshire, (06–05–BT15P).	October 12, 2006; October 19, 2006; *Elburn Herald*.	The Honorable Jeffrey Magnussen, Village President, Village of Hampshire, P.O. Box 457, Hampshire, IL 60140.	January 18, 2007	170327
Kane	Unincorporated areas of Kane County, (06–05–BT15P).	October 12, 2006; October 19, 2006; *Elburn Herald*.	The Honorable Karen McConnaughay, Chairman, Kane County Board, 719 South Batavia Avenue, Building A, Geneva, IL 60134.	January 18, 2007	170896
Will	Village of Frankfort, (05–05–A220P).	September 14, 2006; September 21, 2006; *Daily Southtown*.	The Honorable Raymond Rossi, Mayor, Village of Frankfort, 432 West Nebraska Street, Frankfort, IL 60423.	August 29, 2006	170701
Will	City of Naperville, (06–05–B639P).	October 12, 2006; October 19, 2006; *Naperville Sun*.	The Honorable A. George Pradel, Mayor, City of Naperville, 400 South Eagle Street, Naperville, IL 60566.	January 18, 2007	170213
Will	Unincorporated areas of Will County.	October 12, 2006; October 19, 2006; *Naperville Sun*.	The Honorable Lawrence M. Walsh, Will County Executive, 302 North Chicago Street, Joliet, IL 60432.	January 18, 2007	170695
Indiana:					
Marion	City of Indianapolis, (06–05–B545P).	October 19, 2006; October 26, 2006; *Indianapolis Star*.	The Honorable Bart Peterson, Mayor, City of Indianapolis, 2501 City-County Building, 200 East Washington Street, Indianapolis, IN 46204.	October 25, 2006	180159
Marion	Town of Speedway, (06–05–B545P).	October 19, 2006; October 26, 2006; *Indianapolis Star*.	Mr. Bruce Sherman, Town Manager, Town of Speedway, 1450 North Lynhurst Drive, Speedway, IN 46224.	October 25, 2006	180162
Kansas: Douglas.	City of Lawrence, (06–07–B014P).	September 21, 2006; September 28, 2006; *Lawrence Daily Journal-World*.	The Honorable Mike Amyx, Mayor, City of Lawrence, P.O. Box 708, Lawrence, KS 66044.	August 30, 2006	200090
Maine: Cumberland.	Town of Windham, (06–01–B717P).	October 19, 2006; October 26, 2006; *Portland Press Herald*.	The Honorable John MacKinnon, Council Chairman, Town of Windham, Eight School Road, Windham, ME 04062.	January 25, 2007	230189
Massachusetts:					
Barnstable	Town of Falmouth, (06–01–B133P).	August 24, 2006; August 31, 2006; *Cape Cod Times*.	Mr. Robert L. Whritenour, Jr., Town Administrator, Town of Falmouth, 59 Town Hall Square, Falmouth, MA 02540.	August 8, 2006	255211
Plymouth	Town of Scituate, (06–01–B143P).	September 14, 2006; September 21, 2006; *The Patriot Ledger*.	Mr. Richard Agnew, Town Administrator, Town of Scituate, Scituate Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA 02066.	August 23, 2006	250282
Maryland:					
Carroll	Unincorporated areas of Carroll County, (05–03–A533P).	October 19, 2006; October 26, 2006; *Carroll County Times*.	The Honorable Julia W. Gouge, President, Carroll County, Board of Commissioners, Carroll County Office Building, 225 North Center Street, Westminster, MD 21157.	January 25, 2007	240015
Washington	Town of Boonsboro, (06–03–B016P).	October 5, 2006; October 12, 2006; *Hagerstown Herald-Mail*.	The Honorable Charles F. Kauffman, Jr., Mayor, Town of Boonsboro, 21 North Main Street, Boonsboro, MD 21713.	January 11, 2007	240071
Washington	Unincorporated areas of Washington County, (06–03–B016P).	October 5, 2006; October 12, 2006; *Hagerstown Herald-Mail*.	Mr. Rodney Shoop, County Administrator, Washington County, 100 West Washington Street, Hagerstown, MD 21740.	January 11, 2007	240070

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Minnesota: Hennepin.	City of Plymouth, (05–05–3454P).	August 24, 2006; August 31, 2006; *Minneapolis Star Tribune*.	The Honorable Judy Johnson, Mayor, City of Plymouth, 3400 Plymouth Blvd., Plymouth, MN 55447.	July 28, 2006	270179
Mississippi: Rankin.	City of Pearl, (06–04–B935P).	September 20, 2006; September 27, 2006; *Rankin County News*.	The Honorable Jimmy Foster, Mayor, City of Pearl, 2420 Old Brandon Rd, Pearl, MS 39208.	December 27, 2006 ..	280145
Missouri:					
Clay	Village of Claycomo, (06–07–BD06P).	October 19, 2006; October 26, 2006; *The Sun-Tribune*.	Ms. Lois Anderson, Village Administrator, Village of Claycomo, 115 East 69 Highway, Claycomo, MO 64119.	September 29, 2006 ..	290089
Clay	City of Liberty, (06–07–BD06P).	October 19, 2006; October 26, 2006; *The Sun-Tribune*.	The Honorable Robert T. Steinkamp, Mayor, City of Liberty, 101 East Kansas Street, Liberty, MO 64068.	September 29, 2006 ..	290096
New Mexico:					
Bernalillo ...	City of Albuquerque, (06–06–B638P).	October 12, 2006; October 19, 2006; *The Albuquerque Journal*.	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	September 20, 2006 ..	350002
Santa Fe ...	Unincorporated areas of Santa Fe County, (06–06–B296P).	September 21, 2006; September 28, 2006; *The Santa Fe New Mexican*.	Mr. Gerald T.E. Gonzalez, County Manager, Santa Fe County, P.O. Box 276, Santa Fe, NM 87504.	August 29, 2006	350069
North Carolina:					
Beaufort	Unincorporated areas of Beaufort County, (06–04–BP18P).	October 19, 2006; October 26, 2006; *Washington Daily News*.	Mr. Paul Spruill, County Manager, Beaufort County, P.O. Box 1027, Washington, NC 27889.	September 25, 2006	370013
Beaufort	City of Washington, (06–04–BP18P).	October 19, 2006; October 26, 2006; *Washington Daily News*.	The Honorable Judy Jennette, Mayor, City of Washington, P.O. Box 1988, Washington, NC 27889.	September 25, 2006	370017
Mecklenburg.	City of Charlotte, (06–04–BP55P).	October 19, 2006; October 26, 2006; *The Charlotte Observer*.	The Honorable Patrick McCrory, Mayor, City of Charlotte, 600 East Fourth Street, Charlotte, NC 28202.	September 29, 2006 ..	370159
Guilford	City 0f Greensboro, (05–04–A010P).	July 20, 2006; July 27, 2006; *News & Record*.	The Honorable Keith Holliday, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	October 26, 2006	375351
North Dakota: Morton.	City of Mandan, (06–08–B460P).	September 21, 2006; September 28, 2006; *Bismarck Tribune*.	The Honorable Ken LaMont, Mayor, City of Mandan, 205 Second Avenue, Northwest, Mandan, ND 58554.	August 29, 2006	380072
Ohio:					
Delaware ...	City of Powell, (06–05–BJ86P).	October 19, 2006; October 26, 2006; *Delaware Gazette*.	The Honorable Don Grubbs, Mayor, City of Powell, 47 Hall Street, Powell, OH 43065.	January 25, 2007	390626
Fairfield	Unincorporated areas of Fairfield County, (06–05–BA30P).	October 19, 2006; October 26, 2006; *Lancaster Eagle Gazette*.	The Honorable Jon Myers, County Commissioner, Board of Commissioners, Fairfield County, 210 East Main Street, Room 301, Lancaster, OH 43130.	January 25, 2007	390158
Franklin	City of Columbus, (05–05–0944P).	September 21, 2006; September 28, 2006; *The Columbus Dispatch*.	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, Columbus, OH 43215.	December 28, 2006 ..	390170
Franklin	Unincorporated areas of Franklin County, (05–05–0944P).	September 21, 2006; September 28, 2006; *The Columbus Dispatch*.	The Honorable Paula Brooks, President, Franklin County, Board of Commissioners, 373 South High Street, Columbus, OH 43215.	December 28, 2006 ...	390167
Oklahoma;					

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Cleveland ..	City of Moore, (05–06–0578P).	October 19, 2006; October 26, 2006; *The Norman Transcript*.	The Honorable Glenn Lewis, Mayor, City of Moore, 301 North Broadway, Moore, OK 73160.	September 29, 2006	400044
Oklahoma	City of Edmond; (06–06–B417P).	October 19, 2006; October 26, 2006; *The Edmond Sun*.	The Honorable Saundra G. Naifeh, Mayor, City of Edmond, P.O. Box 2970, Edmond, OK 73083–2970.	January 25, 2007	400252
Oklahoma	City of Edmond, (06–06–BD47P).	October 26, 2006; November 2, 2006; *The Edmond Sun*.	The Honorable Saundra Naifeh, Mayor, City of Edmond, P.O. Box 2970, Edmond, OK 73083.	February 1, 2007	400252
Tulsa	City of Broken Arrow, (06–06–BE22P).	October 19, 2006; October 26, 2006; *Tulsa World*.	The Honorable Richard Carter, Mayor, City of Broken Arrow, P.O. Box 610, Broken Arrow, OK 74012.	January 25, 2007	400236
Oregon: Jackson.	City of Jacksonville, (06–10–B002P).	October 12, 2006; October 19, 2006; *Medford Mail Tribune*.	The Honorable James W. Lewis, Mayor, City of Jacksonville, P.O. Box 7, Jacksonville, OR 97530.	January 18, 2007	410095
Pennsylvania:					
Chester	Township of Sadsbury, (06–03–B160P).	October 19, 2006; October 26, 2006; *Daily Local*.	The Honorable Dale Hensel, Chairman, Board of Supervisors, Sadsbury Township, 6 Ramsey Alley, P.O. Box 261, Sadsburyville, PA 19369.	September 29, 2006 ..	421488
Chester	Township of West Goshen, (05–03–0848P).	September 21, 2006; September 28, 2006; *Daily Local*.	The Honorable Edward G. Meakim, Jr., Chairman, West Goshen Township Board of Supervisors, 1025 Paoli Pike, West Chester, PA 19380–4699.	December 28, 2006 ..	420293
Delaware ...	Borough of Collingsdale, (05–03–A446P).	November 2, 2006; November 9, 2006; *Delaware County Times*.	The Honorable Frank C. Kelly, Mayor, Borough of Collingdale, 800 MacDade Boulevard, Colling-dale, PA 19023.	October 10, 2006	420408
York	Township of Penn, (05–03–0718P).	October 12, 2006; October 19, 2006; *The York Dispatch*.	The Honorable Joseph A. Klunk, President, Penn Township, Board of Commissioners, Penn Township Municipal Building, 20 Wayne Avenue, Hanover, PA 17331.	January 18, 2007	421025
South Carolina:					
Berkeley	Unincorporated areas of Berkeley County, (06–04–BO05P.	October 25, 2006; November 1, 2006; *Berkeley Independent*.	The Honorable James H. Rozier, Jr., Supervisor and County Council Chairman, Berkeley County, 1003 Highway 52, Moncks Corner, SC 29461.	September 28, 2006	450029
Greenville ..	Unincorporated areas of Greenville County, (06–04–B141P).	September 22, 2006; September 28, 2006; *Greenville News*.	The Honorable Butch Kirven, Chairman, Greenville County Council, Seven Ralph Hendricks Drive, Simpsonville, SC 29681.	December 28, 2006 ..	450089
Lexington ..	Unincorporated areas of Lexington County, (06–04–BM33P).	October 5, 2006; October 12, 2006; *The Lexington County Chronicle*.	Ms. Katherine Doucett, County Administrator, Lexington County, 212 South Lake Drive, Lexington, SC 29072.	January 11, 2007	450129
Lexington ..	Unincorporated areas of Lexington County, (06–04–BQ42P).	October 19, 2006; October 26, 2006; *Lexington County Chronicle*.	Ms. Katherine Doucett, County Administrator, Lexington County, 212 South Lake Drive, Lexington, SC 29072.	January 25, 2007	450129
Richland	Unincorporated areas of Richland County, (06–04–BT87P).	October 20, 2006; October 27, 2006; *Columbia Star*.	The Honorable Anthony G. Mizzell, Chair, Richland County Council, 106 Wembley Street, Columbia, SC 29209.	September 25, 2006 ..	450170
Tennessee:					

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Hamilton	City of Chattanooga, (06–04–BV55P).	October 26, 2006; November 2, 2006; *Chattanooga Times Free Press*.	The Honorable Ron Littlefield, Mayor, City of Chattanooga, City Hall, Suite 100, 101 East 11th Street, Chattanooga, TN 37402.	February 1, 2007	470072
Williamson	City of Brentwood, (06–04–C457P).	October 19, 2006; October 26, 2006; *Tennessean/Williamson Journal*.	The Honorable Brian Joe Sweeney, Mayor, City of Brentwood, P.O. Box 788, Brentwood, TN 37024–0788.	January 25, 2007	470205
Texas:					
Brazos	City of Bryan, (05–06–0891P).	October 19, 2006; October 26, 2006; *The Eagle*.	The Honorable Ernie Wentrcek, Mayor, City of Bryan, 300 South Texas Avenue, Bryan, TX 77803.	January 25, 2007	480082
Collin	City of McKinney, (06–06–BD88P).	September 21, 2006; September 28, 2006; *McKinney Courier Gazette*.	The Honorable Bill Whitfield, Mayor, City of McKinney, 222 North Tennessee, McKinney, TX 75069.	October 2, 2006	480135
Collin	City of Princeton, (06–06–B820P).	September 21, 2006; September 28, 2006; *Princeton Herald*.	The Honorable Kathy Davis, Mayor, City of Princeton, P.O. Box 970 Princeton, TX 75407.	August 30, 2006	480757
Dallas	City of Rowlett, (06–06–B822P).	September 8, 2006; September 15, 2006; *Rowlett Lakeshore Times*.	The Honorable C. Shane Johnson, Mayor, City of Rowlett, P.O. Box 99, Rowlett, TX 75030–0099.	December 15, 2006 ...	480185
Dallas	City of Grand Prairie, (06–06–B658P).	September 21, 2006; September 28, 2006; *The Daily Commercial Record*.	The Honorable Charles England, Mayor, City of Grand Prairie, 317 College Street, Grand Prairie, TX 75050.	December 28, 2006 ..	485472
Denton	Town of Bartonville, (06–06–B742P).	October 19, 2006; October 26, 2006; *Denton Record-Chronicle*.	The Honorable Ron Robertson, Mayor, Town of Bartonville, 1941 East Jeter Road, Bartonville, TX 76226.	September 28, 2006 ..	481501
Denton	City of Denton, (06–06–BD25P).	October 19, 2006; October 26, 2006; *Denton Record-Chronicle*.	The Honorable Perry McNeill, Mayor, City of Denton, 215 East McKinney Street, Denton, TX 76201.	September 28, 2006	480194
Denton	City of Fort Worth, (06–06–B018P).	September 21, 2006; September 28, 2006; *Northeast Tarrant Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	August 31, 2006	480596
Denton	City of The Colony, (05–06–A219P).	October 19, 2006; October 26, 2006; *Denton Record-Chronicle*.	The Honorable John Dillard, Mayor, City of The Colony, 6800 Main Street, The Colony, TX 75056.	January 25, 2007	481581
Denton	Unincorporated areas of Denton County, (06–06–BD25P).	October 19, 2006; October 26, 2006; *Denton Record-Chronicle*.	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, Second Floor, Denton, TX 76201.	September 28, 2006	480774
Fort Bend ..	Fort Bend County L.I.D. No. 7, (06–06–B073P).	October 19, 2006; October 26, 2006; *Fort Bend Herald*.	Mr. Epifanio Salazar, P.E., Board President, Fort Bend County L.I.D. No. 7, c/o Schwartz, Page & Harding, L.L.P., 1300 Post Oak Boulevard, Suite 1400, Houston, TX 77027.	January 25, 2007	481594
Fort Bend ..	City of Sugar Land, (06–06–B073P).	October 19, 2006; October 26, 2006; *Fort Bend Herald*.	The Honorable David G. Wallace, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, TX 77487.	January 25, 2007	480234
Fort Bend ..	Unincorporated areas of Fort Bend County, (06–06–B073P).	October 19, 2006; October 26, 2006; *Fort Bend Herald*.	The Honorable Robert E. Hebert, PhD, Fort Bend County Judge, 301 Jackson Street, Suite 719, Richmond, TX 77469.	January 25, 2007	480228
Harris	Unincorporated areas of Harris County, (06–06–B330P).	October 26, 2006; November 2, 2006; *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston, Suite 911, Houston, TX 77002.	September 29, 2006 ..	480287

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Hays	City of Kyle, (06–06–B463P).	October 18, 2006; October 25, 2006; *The Free Press*.	The Honorable Miguel Gonzalez, Mayor, City of Kyle, P.O. Box 40, Kyle, TX 78640.	January 25, 2007	481108
Johnson	City of Burleson, (06–06–A711P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Kenneth Shetter, Mayor, City of Burleson, 141 West Renfro Street, Burleson, TX 76028.	January 25, 2007	485459
McClellan ..	City of Waco, (06–06–B021P).	September 14, 2006; September 21, 2006; *Waco Tribune-Herald*.	The Honorable Virginia DuPuy, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702–2570.	December 21, 2006 ..	480461
Rockwall ...	Unincorporated areas of Rockwall County, (06–06–B819P).	September 20, 2006; September 27, 2006; *Royse City Herald-Banner*.	The Honorable Bill Bell, Rockwall County Judge, 101 East Rusk Street, Suite 202, Rockwall, TX 75087.	December 28, 2006 ..	480543
Tarrant	City of Blue Mound, (06–06–BE05P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Jace Preston, Mayor, City of Blue Mound, 301 Blue Mound Road, Fort Worth, TX 76131.	January 25, 2007	480587
Tarrant	City of Fort Worth, (05–06–A327P).	May 11, 2006; May 18, 2006; *Fort Worth Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	August 17, 2006	480596
Tarrant	City of Fort Worth, (06–06–A711P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Michael J Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	January 25, 2007	480596
Tarrant	City of Fort Worth, (06–06–B569P).	May 18, 2006; May 25, 2006; *Fort Worth Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102–6311.	August 24, 2006	480596
Tarrant	City of Fort Worth, (06–06–BB25P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102.	September 28, 2006 ..	480596
Tarrant	City of Fort Worth, (06–06–BC39P).	September 14, 2006; September 21, 2006; *Northeast Tarrant Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth 1000 Throckmorton Street, Fort Worth, TX 76102.	December 21, 2006 ..	480596
Tarrant	City of Fort Worth, (06–06–BE05P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	January 25, 2007	480596
Tarrant	City of Fort Worth, (06–06–BE06P).	September 21, 2006; September 28, 2006; *Northeast Tarrant Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	December 28, 2006 ..	480596
Tarrant	City of Grapevine, (06–06–B514P).	September 14, 2006; September 21, 2006; *Northeast Tarrant Star-Telegram*.	The Honorable William D. Tate, Mayor, City of Grapevine, P.O. Box 95104, Grapevine, TX 76099.	December 21, 2006 ..	480598
Tarrant	City of North Richland Hills, (06–06–B788P).	September 21, 2006; September 28, 2006; *Dallas Morning News*.	The Honorable Oscar Trevino, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, TX 76182–0609.	August 30, 2006	480607
Tarrant	Unincorporated areas of Tarrant County, (05–06–A327P).	May 11, 2006; May 18, 2006; *Fort Worth Star-Telegram*.	The Honorable Tom Vandergriff, Tarrant County Judge, 100 East Weatherford, Fort Worth, TX 76196.	August 17, 2006	480582
Tarrant	Unincorporated areas of Tarrant County, (06–06–A711P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Tom Vandergriff, Tarrant County Judge, 100 East Weatherford, Suite 502A, Fort Worth, TX 76196.	January 25, 2007	480582

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Tarrant	Unincorporated areas of Tarrant County, (06–06–BB25P).	October 19, 2006; October 26, 2006; *Fort Worth Star-Telegram*.	The Honorable Tom Vandergriff, Tarrant County Judge, Tarrant County Commissioners Court, 100 East Weatherford Street, Room 502A, Fort Worth, TX 76196.	September 28, 2006	480582
Washington	City of Brenham, (06–06–B038P).	September 21, 2006; September 28, 2006; *Brenham Banner-Press*.	The Honorable Milton Tate, Mayor, City of Brenham, P.O. Box 1059, Brenham, TX 77833.	August 28, 2006	480648
Virgina:					
Fauquier	Unincorporated areas of Fauquier County, (05–03–0241P).	September 13, 2006; September 20, 2006; *Fauquier Citizen*.	Mr. Paul McCulla, County Administrator, Fauquier County, 10 Hotel Street, Suite 204, Warrenton VA 20186.	December 20, 2006	510055
Henry	Unincorporated areas of Henry County, (06–03–B321P).	October 27, 2006; November 3, 2006; *Martinsville Bulletin*.	Mr. Benny Summerlin, County Administrator, Henry County, P.O. Box 7, Collinsville, VA 24078.	February 2, 2007	510078
Prince William.	Town of Haymarket, (05–03–A398P).	September 28, 2006; October 5, 2006; *Potomac News & Manassas Journal Messenger*.	The Honorable Pamela E. Stutz, Mayor, Town of Haymarket, P.O. Box 367, Haymarket, VA 20168.	January 4, 2007	510121
Washington:					
Pierce	Unincorporated areas of Pierce County, (06–10–B193P).	September 21, 2006; September 28, 2006; *The News Tribune*.	The Honorable Shawn Bunney, Pierce County Council Chairman, 930 Tacoma Avenue South, County-City Building, Room 1046, Tacoma, WA 98402–2176.	August 30, 2006	530138
Yakima	City of Toppenish, (06–10–B462P).	November 2, 2006; November 9, 2006; *Yakima Herald Republic*.	The Honorable Bill Rogers, Mayor, City of Toppenish, Toppenish City Hall, 21 West First Avenue, Toppenish, WA 98948.	December 14, 2006	530228
Yakima	Unincorporated areas of Yakima County, (06–10–B462P).	November 2, 2006; November 9, 2006; *Yakima Herald Republic*.	The Honorable Jesse Palacios, Chairman, Yakima County, Board of Commissioners, 128 North Second Street, Yakima, WA 98901.	December 14, 2006	530217
Wyoming:					
Laramie	City of Cheyenne, (06–08–B409P).	September 21, 2006; September 28, 2006; *Wyoming Tribune-Eagle*.	The Honorable Jack R. Spiker, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Room 310, Cheyenne, WY 82001.	August 29, 2006	560030
Laramie	Unincorporated areas of Laramie County, (06–08–B409P).	September 21, 2006; September 28, 2006; *Wyoming Tribune-Eagle*.	The Honorable Diane Humphrey, Chairman, Laramie County, Board of Commissioners, 309 West 20th Street, Cheyenne, WY 82001.	August 29, 2006	560029

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 2006.

David I. Maurstad,

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

[FR Doc. E6–20786 Filed 12–6–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps

are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

n Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

n 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

n 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Stokes County, North Carolina and Incorporated Areas **Docket No.:** FEMA–B–7465			
Ash Camp Creek	At the confluence with Town Fork Creek	+619	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	Approximately 1.4 miles upstream of Brook Cove Road (SR 1941).	+660	
Beaverdam Creek	At the confluence with Big Creek	+898	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Palmer Road (SR 1465)	+1,003	
Belews Creek	Approximately 0.9 mile upstream of the confluence with Dan River.	+737	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile downstream of the confluence of East Belews Creek.	+737	
Tributary 2	At the confluence with Belews Creek	+737	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Belews Creek.	+737	
Tributary 3	At the confluence with Belews Creek	+737	Stokes County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Belews Creek.	+737	
Tributary of Tributary 3	At the confluence with Belews Creek Tributary 3	+737	Stokes County (Unincorporated Areas).
	At the Stokes/Rockingham County boundary	+737	
Belews Lake	Entire shoreline within county	+737	Stokes County (Unincorporated Areas).
Big Beaver Island Creek	Approximately 900 feet upstream of the confluence of Big Beaver Island Creek Tributary 12.	+768	Stokes County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Buffalo Road (SR 1636)	+860	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Big Creek	At the confluence with Dan River	+768	Stokes County (Unincorporated Areas).
	At the Stokes/Surry County boundary	+1,084	
Tributary 1	At the confluence with Big Creek	+1,023	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Stevens Road (SR 1404)	+1,074	
Tributary 2	At the confluence with Big Creek	+1,065	Stokes County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence with Big Creek.	+1,124	
Blackies Branch	At the confluence with Dan River	+655	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Dan River.	+669	
Brushy Fork Creek	At the confluence with Town Fork Creek	+873	Stokes County (Unincorporated Areas).
	Approximately 0.2 mile upstream of Mountain View Church Road (SR 1998).	+873	
Buffalo Creek (into Mayo River)	At the Stokes/Rockingham County boundary	+753	Stokes County (Unincorporated Areas).
	Approximately 2.9 miles upstream of the Stokes/Rockingham County boundary.	+822	
Buffalo Creek (into Town Fork Creek).	At the confluence with Town Fork Creek	+662	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Town Fork Creek.	+669	
Bull Run	At the confluence with Town Fork Creek	+605	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	Approximately 0.9 mile upstream of Martin Luther King, Jr. Road.	+645	
Coolico Creek (Morgan Pond)	At the confluence with Old Field Creek	+630	Stokes County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Easley Road (SR 1933)	+661	
Crooked Creek	Approximately 1.6 miles upstream of mouth	+793	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Frank Joyce Road (SR 1617).	+980	
Crooked Run Creek	At the confluence with Little Yadkin River	+788	Stokes County (Unincorporated Areas), City of King.
	Approximately 550 feet upstream of Maple Street	+1,070	
Crooked Run Creek Tributary	Approximately 160 feet upstream of the confluence with Crooked Run.	+904	Stokes County (Unincorporated Areas), City of King.
	Approximately 1,800 feet upstream of the confluence of Crooked Run Creek Tributary 2 of Tributary.	+992	
Crooked Run Creek Tributary 2 of Tributary.	Approximately 500 feet upstream of the confluence with Crooked Run Creek Tributary.	+979	City of King.
	Approximately 0.4 mile upstream of the confluence with Crooked Run Creek Tributary.	+1,000	
Dan River	Approximately 500 feet downstream of the confluence of Dan River Tributary 50.	+586	Stokes County (Unincorporated Areas), Town of Danbury.
	Approximately 100 feet upstream of most upstream crossing of State boundary.	+1,137	
Tributary 48	At the Stokes/Rockingham County boundary	+591	Stokes County (Unincorporated Areas).
	Approximately 350 feet upstream of the Stokes/Rockingham County boundary.	+593	
Tributary 50	At the confluence with Dan River	+586	Stokes County (Unincorporated Areas).
	Approximately 0.8 mile upstream of U.S. Route 311	+599	
Tributary 51	At the confluence with Dan River	+586	Stokes County (Unincorporated Areas).
	Approximately 50 feet downstream of U.S. Route 311	+596	
Tributary 52	At the confluence with Dan River	+597	Stokes County (Unincorporated Areas).
	Approximately 0.3 mile upstream of Middleton Loop (SR 1909)	+608	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Tributary 54	At the confluence with Dan River	+610	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Dan River.	+628	
Tributary 56	At the confluence with Dan River	+616	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Dan River.	+648	
Tributary 57	At the confluence with Dan River	+712	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Dan River.	+745	
Tributary 58	At the confluence with Dan River	+894	Stokes County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Collinstown Road (SR 1432).	+1,096	
Dan River Tributary near Dodgetown Road.	At the confluence with Dan River	+662	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Dan River.	+679	
Dan River Tributary near Mission Road.	At the confluence with Dan River	+686	Stokes County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the confluence with Dan River.	+691	
Danbury Creek	At the confluence with Little Yadkin River	+850	Stokes County (Unincorporated Areas), City of King.
	Approximately 1,000 feet upstream of Goff Road (SR 1138)	+895	
East Prong Little Yadkin River	At the confluence with Little Yadkin River	+862	Stokes County (Unincorporated Areas).
	Approximately 2.6 miles upstream of Volunteer Road (SR 1136).	+918	
Elk Creek	At the confluence with Dan River	+849	Stokes County (Unincorporated Areas).
	Approximately 100 feet downstream of the North Carolina/Virginia State boundary.	+1,006	
Eurins Creek	Approximately 300 feet upstream of the confluence with Dan River.	+588	Stokes County (Unincorporated Areas).
	Approximately 2.2 miles upstream of U.S. Route 311	+657	
Tributary 1	At the confluence with Eurins Creek	+603	Stokes County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Eurins Creek.	+626	
Tributary 2	At the confluence with Eurins Creek	+604	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Eurins Creek.	+627	
Tributary 3	At the confluence with Eurins Creek	+650	Stokes County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Eurins Creek.	+661	
Flat Shoal Creek	At the confluence with Dan River	+684	Stokes County (Unincorporated Areas), Town of Danbury.
	Approximately 0.3 mile upstream of Young Road (SR 1990)	+825	
Fulk Creek	At the confluence with Dan River	+601	Stokes County (Unincorporated Areas), Town of Walnut Grove.
	Approximately 1.5 miles upstream of U.S. Route 311	+649	
Goff Creek	At the confluence with Danbury Creek	+894	Stokes County (Unincorporated Areas), City of King.
	Approximately 1,800 feet upstream of Brown Road (SR 1128)	+927	
Grassy Creek Tributary 8	At the Stokes/Surry County boundary	+918	Stokes County (Unincorporated Areas).
	Approximately 1,100 feet upstream of the Stokes/Surry County boundary.	+927	
Leak Branch	At the confluence with Town Fork Creek	+703	Stokes County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
	Approximately 50 feet upstream of the Stokes/Forsyth County boundary.	+703	
Lick Creek	At the confluence with Town Fork Creek	+609	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	At the Stokes/Forsyth County boundary	+647	
Lick Creek Tributary (near Walnut Cove).	At the confluence with Lick Creek	+628	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	Approximately 900 feet upstream of the confluence with Lick Creek.	+646	
Tributary 1	At the confluence with Lick Creek	+646	Stokes County (Unincorporated Areas).
	At the Stokes/Forsyth County boundary	+647	
Little Beaver Island Creek	Approximately 1.6 miles downstream of Dunlap Road (SR 1683).	+657	Stokes County (Unincorporated Areas).
	Approximately 50 feet upstream of Franklin Moore Road (SR 1679).	+785	
Little Crooked Creek	At the confluence with Crooked Creek	+839	Stokes County (Unincorporated Areas).
	Approximately 1,900 feet upstream of Hope Beasley Road (SR 1615).	+933	
Little Dan River	At the confluence with Dan River	+1,018	Stokes County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence of Little Dan River Tributary 1.	+1,033	
Tributary 1	At the confluence with Little Dan River	+1,029	Stokes County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Little Dan River.	+1,071	
Little Neatman Creek	At the confluence with Neatman Creek	+779	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Neatman Creek.	+807	
Little Peter Creek	At the confluence with Peters Creek	+861	Stokes County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence of Little Peter Creek Tributary.	+1,004	
Little Peter Creek Tributary	At the confluence with Peter Creek Tributary	+992	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Peter Creek Tributary.	+1,015	
Little Snow Creek	At the confluence with Snow Creek	+774	Stokes County (Unincorporated Areas).
	Approximately 1.9 miles upstream of Moorefield Road (SR 1657).	+867	
Little Yadkin River	Flooding affecting Stokes County approximately 850 feet east along county boundary from Little Yadkin River Tributary near Perch Road streamline.	+776	Stokes County (Unincorporated Areas).
	Approximately 1.0 mile upstream of High Bridge Road (SR 1157).	+948	
	At the confluence with the Little Yadkin River	+815	Stokes County (Unincorporated Areas).
Tributary 1	Approximately 2,475 feet upstream of the confluence with Little Yadkin River.	+821	
	At the confluence with Little Yadkin River	+833	Stokes County (Unincorporated Areas).
Tributary 2	Approximately 0.4 mile upstream of Westmoreland Road (SR 1104).	+845	
	At the Stokes/Forsyth County boundary	+775	Stokes County (Unincorporated Areas).
Tributary near Perch Road	Approximately 0.5 mile upstream of the confluence with Little Yadkin River.	+781	
Lynn Branch	At the confluence with Snow Creek	+664	Stokes County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Duggins Road (SR 1696)	+712	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Marshall Creek	At the confluence with Big Creek	+884	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile upstream of George Road (SR 1459)	+1,022	
Martin Creek	At the confluence with Town Fork Creek	+642	Stokes County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Brook Cove Road (SR 1941).	+687	
Miles Creek	At the confluence with Town Fork Creek	+617	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	Approximately 2.5 miles upstream of East Road (SR 1937)	+800	
Mill Creek	At the confluence with Dan River	+693	Stokes County (Unincorporated Areas), Town of Danbury.
	Approximately 1.7 miles upstream of NC Route 8	+820	
Mill Creek (Hawkins Mill Creek)	At the confluence with Snow Creek	+750	Stokes County (Unincorporated Areas).
	Approximately 2.0 miles upstream of the confluence of Snow Creek.	+856	
Neatman Creek	At the confluence with Town Fork Creek	+660	Stokes County (Unincorporated Areas).
	Approximately 900 feet upstream of Flat Shoals Road (SR 2019).	+938	
North Double Creek	At the confluence with Dan River	+758	Stokes County (Unincorporated Areas).
	Approximately 3.1 miles upstream of NC Route 66	+943	
Old Field Creek	At the confluence with Tom Fork Creek	+624	Stokes County (Unincorporated Areas).
	At the Stokes/Forsyth County boundary	+653	
Paynes Branch	At the confluence with Town Fork Creek	+715	Stokes County (Unincorporated Areas).
	Approximately 50 feet upstream of the Stokes/Forsyth County boundary.	+780	
Paynes Branch Tributary	At the confluence with Paynes Branch	+736	Stokes County (Unincorporated Areas).
	At the Stokes/Forsyth County boundary	+863	
Peters Creek	At the confluence with Dan River	+805	Stokes County (Unincorporated Areas).
	Approximately 200 feet downstream of the North Carolina/Virginia State boundary.	+1,015	
Pinch Gut Creek	At the confluence with Big Creek	+916	Stokes County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Jackson Road (SR 1214)	+1,039	
Red Bank Creek	At the confluence with Town Fork Creek	+651	Stokes County (Unincorporated Areas).
	At the Stokes/Forsyth County boundary	+694	
Redman Creek	At the confluence with Snow Creek	+684	Stokes County (Unincorporated Areas).
	Approximately 1.7 miles upstream of the confluence with Snow Creek.	+814	
Reed Creek	Approximately 0.6 mile downstream of Reynolds Road (SR 1688).	+606	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile upstream of NC Route 772	+690	
Scott Branch	At the confluence with Dan River	+694	Stokes County (Unincorporated Areas), Town of Danbury.
	Approximately 500 feet upstream of NC Route 8	+794	
Seven Island Creek	At the confluence with Dan River	+708	Stokes County (Unincorporated Areas).
	Approximately 800 feet upstream of Seven Island Road (SR 1665).	+708	
Snow Creek	At the confluence with Dan River	+664	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Moore Road (SR 1602)	+981	
South Crooked Creek	At the confluence with Little Crooked Creek	+856	Stokes County (Unincorporated Areas).
	Approximately 1.5 miles upstream of the confluence with Little Crooked Creek.	+918	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
South Double Creek	At the confluence with Dan River	+756	Stokes County (Unincorporated Areas).
	Approximately 1.8 miles upstream of NC Route 66	+864	
South Double Creek Tributary	At the confluence with South Double Creek	+765	Stokes County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence with South Double Creek.	+804	
Timmons Creek	At the confluence with Town Fork Creek	+751	Stokes County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Slate Road (SR 1966)	+809	
Town Fork Creek Tributary 3	At the confluence with Town Fork Creek	+626	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Town Fork Creek.	+641	
Town Fork Creek	At the confluence with Dan River	+598	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	Approximately 300 feet upstream of Covington Road (SR 2009).	+957	
Tributary 1	At the confluence with Town Fork Creek	+610	Stokes County (Unincorporated Areas), Town of Walnut Cove.
	Approximately 0.5 mile upstream of Ninth Street	+718	
Tributary 2	At the confluence with Town Fork Creek	+618	(Unincorporated Areas), Town of Walnut Cove.
	Approximately 1,600 feet upstream of NC Route 65	+664	Stokes County.
Tributary 4	At the confluence with Town Fork Creek	+636	Stokes County (Unincorporated Areas).
	Approximately 1,500 feet upstream of Brook Cove Road (SR 1941).	+652	
Voss Creek	At the confluence with Town Fork Creek	+633	Stokes County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Rosebud Road (SR 1945)	+756	
Voss Creek Tributary	At the confluence with Voss Creek	+661	Stokes County (Unincorporated Areas).
	Approximately 1,400 feet upstream of the confluence with Voss Creek.	+673	
Watts Creek	At the confluence with Town Fork Creek	+642	Stokes County (Unincorporated Areas).
	Approximately 1.4 miles upstream of Brook Cove Road (SR 1941).	+723	
West Belews Creek	At the confluence with Belews Lake	+737	Stokes County (Unincorporated Areas).
	At the Stokes/Forsyth County boundary	+737	
West Prong Little Yadkin River	At the confluence with Little Yadkin River	+882	Stokes County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Brims Grove Road (SR 2109).	+1,002	
West Prong Little Yadkin River Tributary.	At the confluence with West Prong Little Yadkin River	+900	Stokes County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with West Prong Little Yadkin River.	+1,006	
Zilphy Creek	At the confluence with Dan River	+633	Stokes County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Power Dam Road (SR 1712).	+659	

Depth in feet above ground.

* National Geodetic Vertical Datum.

+ North American Vertical Datum.

ADDRESSES

City of King

Maps are available for inspection at the King City Hall, 229 South Main Street, King, North Carolina.

Town of Danbury

Maps are available for inspection at the Danbury Town Hall, 201 Courthouse Circle, Danbury, North Carolina.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Town of Walnut Cove			
Maps are available for inspection at the Walnut Cove Town Hall, 208 West Third Street, Walnut Cove, North Carolina.			
Stokes County (Unincorporated Areas)			
Maps available for inspection at the Stokes County Government Center, 1012 Main Street, Danbury, North Carolina.			
Knox County, Tennessee and Incorporated Areas **Docket Nos.:** FEMA–B–7465 and D–7622			
Beaver Creek	Approximately 1.3 miles upstream of confluence with Clinch River.	+796	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 600 feet upstream of Tazewell Pike	+1,081	
Berry Branch	At confluence with Limestone Creek	+877	Knox County (Unincorporated Areas).
	Approximately 3,600 feet upstream of confluence with Limestone Creek.	+889	
Brice Branch	At confluence with Flat Creek	+946	Knox County (Unincorporated Areas).
	Approximately 1,320 feet upstream of confluence with Flat Creek.	+948	
Burnett Creek	At confluence with French Broad River	+827	Knox County (Unincorporated Areas).
	Approximately 763 feet upstream of E. Governor John Sevier Highway.	+865	
Clift Creek	At confluence with Lyon Creek	+849	Knox County (Unincorporated Areas).
	Approximately 2.1 miles upstream of Randles Road	+985	
Conner Creek	Approximately 520 feet downstream of Rippling Drive	+799	Knox County (Unincorporated Areas).
	Approximately 307 feet upstream of Conners Creek Circle	+960	
Cox Creek	At confluence with Beaver Creek	+1,036	Knox County (Unincorporated Areas).
	Approximately 701 feet upstream of Tazewell Pike	+1,092	
Tributary to Cox Creek	At confluence with Cox Creek	+1,044	Knox County (Unincorporated Areas).
	Approximately 149 feet upstream of Cedarbreeze Road	+1,073	
Echo Valley Tributary	At confluence with Ten Mile Creek	+876	Knox County (Unincorporated Areas).
	Approximately 157 feet upstream of Echo Valley Road	+881	
First Creek	At confluence with Tennessee River	+822	City of Knoxville.
	Approximately 379 feet upstream of Knox Road	+967	
Tributary No. 1	At confluence with First Creek	+963	City of Knoxville.
	Approximately 1,341 feet upstream of Rockcrest Road	+994	
Tributary No. 2	At confluence with First Creek	+963	City of Knoxville.
	Approximately 1,011 feet upstream of Meadow Road	+985	
Flat Creek	Approximately 100 feet upstream of confluence with Holston River.	+847	Knox County (Unincorporated Areas).
	Approximately 937 feet upstream of Longmire Road	+992	
Fourth Creek	At confluence with Tennessee River	+818	City of Knoxville.
	Approximately 175 feet upstream of Middlebrook Pike	+925	
Tributary No. 1	At confluence with Fourth Creek	+835	City of Knoxville.
	Approximately 365 feet upstream of Lawford Road	+922	
Tributary No. 3	At confluence with Fourth Creek	+917	City of Knoxville.
	Approximately 586 feet upstream of Picadilly Road	+947	
French Broad River	Approximately 1,000 feet upstream of confluence with Tennessee River and Holston River.	+826	Knox County (Unincorporated Areas), City of Knoxville.
	At Knox County boundary	+860	
Grassy Creek	At confluence with Beaver Creek	+973	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 0.55 mile upstream of Grassy Creek Way	+1,024	
Grassy Creek Tributary	At confluence with Grassy Creek	+993	Knox County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Johnson Road	+1,016	
Hickory Creek	Approximately 500 feet upstream of Campbell Station Road	+926	Knox County (Unincorporated Areas).
	Approximately 4,281 feet upstream of Cooper Lane	+1,025	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Hines Branch	At confluence with Beaver Creek	+1,014	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 1,835 feet upstream of Mynatt Drive	+1,078	
Hines Creek	At confluence with French Broad River	+832	Knox County (Unincorporated Areas).
	Approximately 0.44 mile upstream of Old Sevierville Pike	+921	
Tributary to Hines Creek	At confluence with Hines Creek	+902	Knox County (Unincorporated Areas).
	Approximately 0.47 mile upstream of confluence with Hines Creek.	+919	
Kerns Branch	At confluence with Beaver Creek	+1,058	Knox County (Unincorporated Areas).
	Approximately 842 feet upstream of Coppock Road	+1,130	
Knob Creek	At confluence with Tennessee River	+818	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 0.6 mile upstream of Martin Mill Pike	+903	
Knob Fork	At confluence with Beaver Creek	+994	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 183 feet upstream of Fountain City Road	+1,080	
Limestone Creek	At confluence with Tuckahoe Creek	+872	Knox County (Unincorporated Areas).
	Approximately 1,736 feet upstream of Smith School Road	+889	
Little Flat Creek	At confluence with Flat Creek	+966	Knox County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Clement Road	+1,042	
Little River	At confluence with Tennessee River	+818	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 0.77 mile upstream of Alcoa Highway	+819	
Little Turkey Creek	At the confluence with Turkey Creek	+816	Knox County (Unincorporated Areas), Town of Farragut.
	Approximately 900 feet upstream of Brochardt Boulevard	+916	
Little Turkey Creek Tributary	At confluence with Little Turkey Creek	+910	Town of Farragut.
	Approximately 131 feet upstream of Hickory Woods Road	+947	
Lyon Creek	Approximately 100 feet upstream of confluence with Holston River.	+849	Knox County (Unincorporated Areas).
	Approximately 461 feet upstream of Carter Mill Drive	+987	
Mill Branch	At confluence with Willow Fork	+1,027	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 440 feet upstream of Maynardville Pike	+1,142	
Murphy Creek	At confluence with Whites Creek	+974	Knox County (Unincorporated Areas).
	Approximately 1,350 feet upstream of Link Road	+1,087	
North Fork Beaver Creek	At confluence with Beaver Creek	+1,018	Knox County (Unincorporated Areas).
	Approximately 128 feet upstream of McCloud Road	+1,096	
North Fork Turkey Creek	At confluence with Turkey Creek	+836	Town of Farragut.
	Approximately 1,375 feet upstream of Grigsby Chapel Road	+944	
Plumb Creek	At confluence with Beaver Creek	+940	Knox County (Unincorporated Areas).
	Approximately 400 feet upstream of Hickey Road	+977	
Roseberry Creek	At upstream side of Norfolk Southern Railway	+844	Knox County (Unincorporated Areas).
	Approximately 1,352 feet upstream of Maloneyville Road	+1,030	
Sinking Creek	At confluence with Tennessee River	+817	Knox County (Unincorporated Areas).
	Approximately 1,200 feet upstream of Wallace Road	+913	
Sinking Creek Tributary to Ten Mile Creek.	At confluence with Ten Mile Creek	+900	Knox County (Unincorporated Areas).
Tributary to Ten Mile Creek	Approximately 396 feet upstream of Middlebrook Pike	+997	
Sixmile Branch	At end of Burnett Creek	+865	Knox County (Unincorporated Areas).
	Approximately 636 feet upstream of East Marine Drive	+908	
South Fork Beaver Creek	At confluence with Beaver Creek	+1,074	Knox County (Unincorporated Areas).
	Approximately 392 feet upstream of Maloneyville Road	+1,107	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Stock Creek	Approximately 1.23 miles downstream of Martin Mill Pike	+819	Knox County (Unincorporated Areas).
	Approximately 58 feet upstream of McCammon Road	+892	
Swanpond Creek	At upstream side of Holston River Road	+830	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 3,200 feet upstream of Wooddale Church Road	+996	
Ten Mile Creek	Approximately 2,400 feet downstream of the confluence of Ebenezer Branch.	+876	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 0.5 mile upstream of Robinson Road	+967	
Tennessee River	Approximately 28.0 miles downstream of Pellissippi Parkway	+816	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 0.75 mile downstream of French Broad and Holston Rivers.	+824	
Thompson School Tributary	At confluence with Beaver Creek	+1,067	Knox County (Unincorporated Areas).
	Approximately 545 feet upstream of East Emory Road	+1,086	
Tributary to Love Creek	Approximately 1,200 feet upstream of confluence with Love Creek.	+840	City of Knoxville.
	Approximately 1,086 feet upstream of Chilhowee Court	+866	
Tributary to Turkey Creek	At confluence with Turkey Creek	+909	Knox County (Unincorporated Areas).
	Approximately 1,300 feet upstream of confluence with Turkey Creek.	+909	
Tuckahoe Creek	At confluence with French Broad River	+850	Knox County (Unincorporated Areas).
	At county boundary	+905	
Turkey Creek	At confluence with Tennessee River	+816	Knox County (Unincorporated Areas), Town of Farragut, City of Knoxville.
	Approximately 1,606 feet upstream of Dutchtown Road	+960	
West Hills Tributary	At confluence with Ten Mile Creek	+902	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 295 feet upstream of Corteland Drive	+931	
Whites Creek	At confluence with First Creek	+957	Knox County (Unincorporated Areas), City of Knoxville.
	Approximately 0.6 mile upstream of Clearbrook Drive	+989	
Williams Creek	At confluence with Tennessee River	+823	City of Knoxville.
	Approximately 451 feet upstream of Wilson Avenue	+898	
Willow Fork	At confluence with Beaver Creek	+1,027	Knox County (Unincorporated Areas).
	Approximately 628 feet upstream of Brackett Road	+1,093	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Town of Farragut
Maps available for inspection at the Farragut Town Hall, Engineering Department, 11408 Municipal Center Drive, Farragut, Tennessee.

Knox County (Unincorporated Areas)
Maps available for inspection at Knox County Engineering and Public Works, 205 West Baxter Avenue, Knoxville, Tennessee.

City of Knoxville
Maps available for inspection at the City of Knoxville Engineering Division, City County Building, 400 Main Street, Room 480, Knoxville, Tennessee.

Payne County, Oklahoma and Incorporated Areas
Docket No.: FEMA–B–7460

Bell Creek	At confluence with Bell Creek and Cottonwood Creek	+854	Payne County (Unincorporated Areas), City of Cushing.
	Intersection of Little Avenue and Bell Creek	+917	
East Boomer Creek	At the intersection of Mceleroy Road and East Boomer Creek	+878	Payne County (Unincorporated Areas), City of Stillwater.
	At the intersection of West Peacable Acres Road and East Boomer Creek.	+931	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Knipe Creek	At confluence with Cimarron River and Knipe Creek	+841	Payne County (Unincorporated Areas), Town of Perkins.
	Approximately 11,500 feet upstream the confluence of Knipe Creek and Cimarron River.	+903	
Perkins Creek	At the confluence of Perkins Creek and Cimarron River	+844	Payne County (Unincorporated Areas), Town of Perkins.
	Intersection of 116th Street and Perkins Creek	+916	
Stillwater Creek	Intersection of 44th Avenue and Prairie Road	+844	Payne County (Unincorporated Areas), City of Stillwater, Town of Ripley.
	Approximately 2,000 feet upstream the confluence of Harrington Creek and Stillwater Creek.	+894	
West Boomer Creek	At the intersection of West Hall of Fame Avenue and West Boomer Creek.	+882	Payne County (Unincorporated Areas), City of Stillwater.
	At the intersection of West Liberty Lane and West Boomer Creek.	+916	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of Payne County:

Maps are available for inspection at 315 West 6th Street, Stillwater, OK 74074.

City of Cushing

Maps are available for inspection at Cushing City Hall, 100 Judy Adams Blvd., Cushing, OK 74023.

City of Stillwater

Maps are available for inspection at Stillwater Municipal Building, 723 S. Lewis, Stillwater, OK 74074.

Town of Perkins

Maps are available for inspection at City Hall, 110 N. Main, Perkins, OK 74059.

Town of Ripley

Maps are available for inspection at 203 S. Ripley Street, Ripley, OK 74062.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 2006.

David I. Maurstad,

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

[FR Doc. E6–20803 Filed 12–6–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at

selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

n Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

n 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

n 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Bell County, Kentucky and Incorporated Areas Docket No.: FEMA–B–7454			
Cumberland River	Approximately 6,185 feet downstream of the confluence of Greasy Creek	+1,009	Bell County (Unincorporated Areas).
Cumberland River	Approximately 770 feet upstream of the confluence of Burst Branch	+1,099	City of Pineville.
Hances Creek	At the confluence with Cumberland River	+1,021	Bell County (Unincorporated Areas).
	Approximately 5,630 feet upstream of the confluence with Cumberland River.	+1,021	
Left Fork Straight Creek	At the confluence with Straight Creek	+1,020	Bell County (Unincorporated Areas).
	Approximately 1,915 feet upstream of the confluence of Sims Fork	+1,075	
Little Yellow Creek	At the confluence with Yellow Creek	+1,131	City of Middlesboro.
	Approximately 275 feet upstream of the confluence of Davis Branch	+1,141	
Straight Creek	At the confluence with Cumberland River	+1,020	Bell County (Unincoporated Areas).
	Approximately 3,725 feet upstream of the confluence of Cox Branch	+1,161	
Yellow Creek	At confluence with Cumberland River	+1,034	City of Pineville. Bell County (Uninc. Areas).
	Approximately 375 feet southwest of the intersection of Cumberland Avenue and 34th Street.	+1,141	City of Middlesboro.

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Bell County (Unincorporated Areas):

Maps are available for inspection at Community Map Repository, 1 Courthouse Square, Pineville, Kentucky 40977.

City of Middlesboro

Maps are available for inspection at Community Map Repository, 21 & Loft Avenue, Middlesboro, Kentucky 40965.

City of Pineville

Maps are available for inspection at Community Map Repository, 300 Virginia Avenue, Pineville, Kentucky 40977.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 2006.

David I. Maurstad,

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

[FR Doc. E6–20781 Filed 12–6–06; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket Nos. 03–66, 03–67, 02–68, 00–230, MM Docket No. 97–217, IB Docket No. 02–364, ET Docket No. 00–258; FCC 06–46]

Facilitating the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands

ACTION: Final rule, announcement of effective date.

SUMMARY: The Federal Communications Commission (FCC) received Office of Management and Budget (OMB) approval on October 31, 2006, for the information collection requirements contained in the *Third Memorandum Opinion and Order and Second Report and Order* (FCC 06–46), OMB Control Number 3060–1094, pursuant to the requirements of the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

DATES: The effective date for the rules and the information collection requirements contained in 47 CFR 27.1231(d), (f), and (g), and 47 CFR 27.1235 through 27.1239, published in the **Federal Register** on June 19, 2006, at 71 FR 35178, is October 31, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy Zaczek, Federal Communications Commission, Wireless Telecommunications Bureau, Broadband Division, 445 12th Street, SW., Washington, DC 20554, at (202) 418–7590 or via the Internet at *Nancy.Zaczek@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1094.

OMB Approval Date: 10/31/2006.

OMB Expiration Date: 10/31/2009.

Title: Licensing, Operation, and Transition of the 2500–2690 MHz Band.

Form No.: N/A.

Estimated Annual Burden: 2,500 respondents; 8,355 annual burden hours; 0.25–5 hours per respondent.

Needs and Uses: In the Commission's *Third Memorandum Opinion and Order and Second Report and Order* (FCC 06–46), New Broadband Radio Service (BRS) and Educational Broadband Service (EBS) band plan transitions take place in Basic Trading Areas (BTAs), which will provide both incumbent licensees and potential new entrants in the 2495–2690 MHz band with greatly enhanced flexibility to encourage the efficient and effective use of spectrum domestically and internationally and the growth and rapid development of innovative and efficient communications technologies and services. The information collection requirements are contained in the following rule sections: (1) The pre-transition data request (47 CFR 27.1231(d)); (2) the transition notice (47 CFR 27.1231(e)); (3) the Initiation Plan (47 CFR 27.1231(f)); and (4) the post-transition notification (47 CFR 27.1235). The Pre-transition data request will be collected by a third-party proponent (proponent) to assist in the transitioning the 2500–2690 MHz band. The proponent may use a variety of methods, including a computerized database. The proponent will send the transition notice to all BRS and EBS licensees in the BTA that the proponent is transitioning. The FCC will collect the Initiation Plan and the Post-transition Notification from the proponent to enable the FCC to assess when transitions have begun and when they have ended. The FCC will use our electronic comment and filing system (ECFS) database to collect this information from the proponents.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–20677 Filed 12–6–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051104293–5344–02; I.D. 112406A]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfers

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring 300,000 lb (136,078 kg) of commercial bluefish quota to the State of North Carolina from its 2006 quota and that the State of Maine is transferring 52,000 lb (23,587 kg) of commercial bluefish quota to the State of North Carolina. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective December 6, 2006 through December 31, 2006, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281–9341, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.160.

Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.160(f). The Regional Administrator is required to consider the criteria set forth in § 648.160(f)(1) in the evaluation of requests for quota transfers or combinations.

Virginia has agreed to transfer 300,000 lb (136,078 kg) of its 2006 commercial quota to North Carolina. Maine has agreed to transfer 52,000 lb (23,587 kg) of its 2006 commercial quota to North Carolina. The Regional Administrator has determined that the criteria set forth in § 648.160(f)(1) have been met for each

of these transfers. The revised quotas for calendar year 2006 are: North Carolina, 3,204,869 lb (1,453,704 kg); Virginia, 420,915 lb (190,924 kg); and Maine, 1,230 lb (558 kg).

Classification

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

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

Dated: November 29, 2006.

James P. Burgess,

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

[FR Doc. E6–20713 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 235
Thursday, December 7, 2006

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26233; Directorate Identifier 2006–CE–63–AD]

RIN 2120–AA64

Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed 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 the finding of an improper geometry of some pulley brackets, which can offset the cable in the sheave. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by January 8, 2007.

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: Albert J. Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; 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 proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26233; Directorate Identifier 2006–CE–63–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed 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 proposed AD.

Discussion

The Direction Generale de l' Aviation Civile, which is the aviation authority for France, has issued French AD No. No. F–2005–133, dated August 3, 2005 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states the finding of an improper geometry of some pulley brackets, which can offset the cable in the sheave. If not corrected, this could reduce the ability to control the roll of the aircraft. The MCAI requires that you accomplish a detailed inspection of the aileron control cable pulleys and brackets, and apply corrective actions as necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EADS SOCATA has issued EADS SOCATA Mandatory Alert Service Bulletin SB 70–134, ATA No. 27, dated July 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the 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 proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed 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 proposed 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 proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 55 products of U.S. registry. We also estimate that it would take about 12 work-hours per product to comply with the proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $8,600 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 costs. 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 the proposed AD on U.S. operators to be $525,800, or $9,560 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EADS SOCATA: Docket No. FAA–2006–26233; Directorate Identifier 2006–CE–63–AD.

Comments Due Date

(a) We must receive comments by January 8, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model TBM 700 airplanes, serial numbers 261 through 268 and 270 through 323, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states the finding of an improper geometry of some pulley brackets, which can offset the cable in the sheave. If not corrected, this could reduce the ability to control the roll of the aircraft.

Actions and Compliance

(e) Unless already done, within the next 50 hours time-in-service after the effective date of this AD, accomplish a detailed inspection of the aileron control cable pulleys and brackets, and apply corrective actions as necessary, following EADS SOCATA Mandatory Alert Service Bulletin SB 70–134, ATA No. 27, dated July 2005.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Staff, FAA, ATTN: Albert J. Mercado, Aerospace Safety Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; 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) 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 (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to Direction Generale de l' Aviation Civile Airworthiness Directive No. F–2005–133, dated August 3, 2005, and EADS SOCATA Mandatory Alert Service Bulletin SB 70–134, ATA No. 27, dated July 2005, for related information.

Issued in Kansas City, Missouri, on November 29, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20760 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26311; Airspace Docket No. 06–AWP–19]

RIN 2120–AA66

Proposed Modification of Class D Airspace; Luke Air Force Base, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class D airspace at Luke Air Force Base (LUF), AZ. This modification is necessary to contain and protect circling maneuvers for Category E aircraft executing these maneuvers in conjunction with Standard Instrument Approach Procedures (SIAPs) at the airport. This action would modify the existing LUF Class D airspace to extend upward from the surface to, but not including, 4,000 feet mean sea level (MSL) and extend the lateral limits from 4.4 nautical miles (NM) to 5.6 NM from the 170° bearing from the airport clockwise to the 046° bearing from the airport.

DATES: Comments must be received on or before January 8, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26311/ Airspace Docket No. 06–AWP–19, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Area Director, Terminal Operations, Western Service Area, Federal Aviation Administration, Room 2010, 15000 Aviation Boulevard, Lawndale, California, 90261.

FOR FURTHER INFORMATION CONTACT: Francie Hope, System Support Specialist, Western Service Area, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 725–6502.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–26311/Airspace Docket No. 06–AWP–19.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.gpoaccess.gov/fr/index.html.* Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class D airspace at Luke Air Force Base (LUF), AZ. This action is necessary at LUF to provide controlled airspace for Category E aircraft conducting circling maneuvers in conjunction with published SIAPs. Generally, Category E aircraft are very large and/or high performance aircraft. At LUF, these aircraft require additional airspace when conducting circling maneuvers due to high speed and high performance. This proposal will raise the ceiling of the existing Class D airspace area from 3,600′ MSL to, but not including, 4,000′ MSL. It will also expand the lateral limit of the existing Class D airspace area from 4.4 NM to 5.6 NM starting at the 170° bearing from the airport and proceeding clockwise to the 046° bearing from the airport.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9P, dated September 1, 2006, and effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 16, 2006, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP AZ D Phoenix, Luke AFB, AZ [Amended]

Phoenix Luke AFB, AZ
(Lat. 33°32′06″ N, Long. 112°22′59″ W)

That airspace extending upward from the surface to but not including 4,000 feet MSL within a 5.6-mile radius of Luke AFB bearing 170° clockwise to 046° from the airport; and within 4.4 miles of Luke AFB bearing 046° clockwise through 170° from the airport; and excluding that portion with the Glendale, AZ, and Goodyear, AZ, Class D airspace areas. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continually published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on November 20, 2006.

Anthony J. DiBernardo,

Acting Director, Western Terminal Operations.

[FR Doc. 06–9563 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26086; Airspace Docket No. 06–ASO–14]

Proposed Amendment of Class E Airspace; Covington, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E5 airspace at Covington, GA. As a result of an evaluation, it has been determined a modification should be made to the Covington, GA, Class E5 airspace area to contain the Nondirectional Radio Beacon (NDB) Runway 28, Standard Instrument Approach Procedure (SIAP) to Covington Municipal Airport, Covington, GA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: Comments must be received on or before January 8, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26086/ Airspace Docket No. 06–ASO–14, at the beginning of your comments. You may also submit comments in the Internet at *http://dms.dot.gov.*You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Mark Ward, Manager, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–20064–26086/Airspace Docket No. 06–ASO–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*. Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E5 airspace at Covington, GA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9P, dated September 16, 2006, and effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 16, 2006, and effective September 16, 2006, is amended as follows:

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

* * * * *

ASO GA E5 Covington, GA [Revised]

Covington Municipal Airport, GA
(Lat. 33°37′57″ N., long. 83°50′58″ W.)
Alcovy NDB
(Lat. 33°37′47″ N., long. 83°46′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Covington Municipal Airport and within 4 miles north and 8 miles south of the 096° bearing from the Alcovy NDB extending from the 6.3-mile radius to 16 miles east of the NDB.

* * * * *

Issued in College Park, Georgia, on November 22, 2006.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. 06–9564 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket No. 2006N–0416]

RIN 0910–AF93

Use of Ozone-Depleting Substances; Removal of Essential Use Designations; Companion Document to Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing this companion proposed rule to the direct final rule, published elsewhere in this issue of the **Federal Register**, that is intended to amend our regulation on the use of ozone-depleting substances (ODSs) in pressurized containers to remove the essential use designations for beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide used in oral pressurized metered-dose inhalers (MDIs). Under the Clean Air Act, FDA, in consultation with the Environmental Protection Agency (EPA), is required to determine whether an FDA-regulated product that releases an ODS is essential. None of these products is currently being marketed, which provides grounds for removing their essential use designation.

DATES: Submit written or electronic comments by February 20, 2007.

ADDRESSES: You may submit comments, identified by Docket No. 2006N–0416 and RIN Number 0910–AF93, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

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

Written Submissions

Submit written submissions in the following ways:

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

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

Instructions: All submissions received must include the agency name and docket number and Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen or Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

As described more fully in the related direct final rule, the Clean Air Act prohibits most uses of chlorofluorocarbons (CFCs) (a class of ODSs). Medical products which FDA, in consultation with EPA, determines to be essential are exempt from the general ban. In 1978, we published a rule listing several essential uses of CFCs and providing criteria for adding new essential uses (43 FR 11301 at 11316, March 17, 1978). The rule was codified as § 2.125 (21 CFR 2.125) and was subsequently amended various times to add or remove essential uses. In 2002, we amended § 2.125 to provide, among other things, criteria for the removal of additional essential use designations in the future. The rule provides that if any product that releases an ODS is no longer being marketed, the product may have its essential use designation revoked through notice-and-comment rulemaking.

We are proposing to amend our regulations to remove oral pressurized metered-dose inhalers releasing beclomethasone, dexamethasone, fluticasone, bitolterol, salmeterol, ergotamine tartrate, and ipratropium bromide from the list of essential uses of ODSs found at § 2.125(e) (21 CFR 2.125(e)). None of these products is currently being marketed in MDIs that release ODSs, which, under § 2.125(g)(1) (21 CFR 2.125(g)(1)), is grounds for removing the essential use status. Because these products are no longer being marketed, this action will not result in any drugs being made unavailable to patients.

II. Additional Information

This proposed rule is a companion to the direct final rule published in the final rules section in this issue of the **Federal Register**. This companion proposed rule and the direct final rule are identical in substance. This companion proposed rule will provide the procedural framework to proceed with standard notice-and-comment rulemaking in the event the direct final rule receives significant adverse comment and is withdrawn. The comment period for the companion proposed rule runs concurrently with the comment period of the direct final rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule and vice-versa.

A significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment recommending a rule change in addition to this rule will not be considered a significant adverse comment, unless the comment states why this rule would be ineffective without the additional change.

If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to the companion proposed rule. Instead, we will publish a confirmation notice within 30 days after the comment period ends, and we intend the direct final rule to become effective 30 days after publication of the confirmation notice, except for § 2.125(e)(4)(v) (21 CFR 2.125(e)(4)(v)), which we intend to become effective August 1, 2007.

If we receive significant adverse comments, we will withdraw the direct final rule. We will proceed to respond to all the comments received regarding the direct final rule, treating those comments as comments to this proposed rule. The agency will address the comments in the subsequent final rule. We will not provide additional opportunity for comment. If we receive a significant adverse comment which applies to part of the rule and that part may be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not the subject of significant adverse comment.

For additional background information, see the corresponding direct final rule published in the final rules section in this issue of the **Federal Register**. All persons who may wish to comment should review the complete rationale for this amendment set out in the preamble of the direct final rule.

III. Environmental Impact

We have carefully considered, under 21 CFR part 25, the potential environmental effects of this action. We have concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. Our finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is not a significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because we are proposing to remove the essential use designations for certain drug products that are either no longer being marketed or are no longer being marketed in a formulation releasing ODSs, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $118 million, using the most current (2004) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

V. The Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, we do not plan to prepare a federalism summary impact statement for this rulemaking procedure. We invite comments on the federalism implications of this proposed rule.

VII. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. This comment period runs concurrently with the comment period for the direct final rule; any comments received will be considered as comments regarding the direct final rule. Submit a single copy of electronic comments or two copies of any mailed comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Clean Air Act, and under authority delegated to the Commissioner of Food and Drugs, after consultation with the Administrator of the Environmental Protection Agency, it is proposed that 21 CFR part 2 be amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

1. The authority citation for 21 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 402, 409; 21 U.S.C. 321, 331, 335, 342, 343, 346a, 348, 351, 352, 355, 360b, 361, 362, 371, 372, 374; 42 U.S.C. 7671 *et seq.*

§ 2.125 [Amended]

2. Section 2.125 is amended by removing and reserving paragraphs (e)(1)(i), (e)(1)(ii), (e)(1)(iv), (e)(2)(ii), (e)(4)(i), (e)(4)(ii), and (e)(4)(v).

Dated: October 13, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20796 Filed 12–6–06; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–SC–0003, EPA–R04–OAR–2005–SC–0005–200620a; FRL–8252–8]

Approval and Promulgation of Implementation Plans; South Carolina: Revisions to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve several revisions to the South Carolina State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on April 13, 2005, and October 24, 2005. Both revisions include modifications to South Carolina's Regulation 61–62.1 ''Definitions and General Requirements.'' In the April 13, 2005, submission, Regulation 61–62.1 is being amended to be consistent with the new Federal emissions reporting requirements, referred to as the Consolidated Emissions Reporting Rule (CERR), and to streamline the existing emissions inventory requirements. SC DHEC is taking an action that is consistent with the final rule, published on June 10, 2002 (67 FR 39602).

The October 24, 2005 submittal revises the definition of Volatile Organic Compounds (VOC). The revision adds several compounds to the list of compounds excluded from the definition of VOC on the basis that they make a negligible contribution to ozone formation, and similarly removes several compounds from the definition of VOC.

This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 8, 2007.

ADDRESSES: Comments may be submitted by mail to: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **ADDRESSES** section which is published in the Rules Section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Nacosta Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Ward can also be reached via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: November 21, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6–20768 Filed 12–6–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0696; FRL–8252–6]

Approval and Promulgation of Air Quality Implementation Plans; DE; Revisions to Regulation 1102—Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of establishing clear regulatory language that all preconstruction air quality permits issued pursuant to Delaware's Regulation 1102 are federally enforceable, regardless of whether they are intended to limit potential to emit. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 8, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0696 by one of the following methods:

A. *www.regulations.gov.* Follow the online instructions for submitting comments.

B. E-mail: *campbell.dave@epa.gov.*

C. Mail: EPA–R03–OAR–2006–0696, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R–03–OAR–2006–0696. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your

comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *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 *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814–3377, or by e-mail at *nino.rose@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, entitled Delaware; Revision for Regulation 1102—Permits, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: November 21, 2006.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E6–20652 Filed 12–6–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2006–0517; FRL–8251–7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; MI; Redesignation of Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County 8-Hour Ozone Nonattainment Areas to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make determinations under the Clean Air Act (CAA) that the nonattainment areas of Grand Rapids (Kent and Ottawa Counties), Kalamazoo-Battle Creek (Calhoun, Kalamazoo, and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), Benzie County, Huron County, and Mason County have attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). These determinations are based on two three-year periods of complete, quality-assured ambient air quality monitoring data for the 2002–2004 seasons and the 2003–2005 seasons that demonstrate that the 8-hour ozone NAAQS have been attained in the areas.

EPA is proposing to approve requests from the State of Michigan to redesignate the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas to attainment of the 8-hour ozone NAAQS. The Michigan Department of Environmental Quality (MDEQ) submitted these requests on May 9, 2006 and supplemented them on May 26, 2006 and August 25, 2006. In proposing to approve these requests, EPA is also proposing to approve, as revisions to the Michigan State Implementation Plan (SIP), the State's plans for maintaining the 8-hour ozone NAAQS through 2018 in the areas. EPA also finds adequate and is proposing to approve the State's 2018 Motor Vehicle Emission Budgets (MVEBs) for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas.

DATES: Comments must be received on or before January 8, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0517, by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- E-mail: *mooney.john@epa.gov*.
- Fax: (312) 886–5824.
- Mail: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- Hand delivery: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–0517. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov*

index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886–1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

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

A. Submitting CBI

Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Actions Is EPA Proposing To Take?

EPA is proposing to take several related actions. EPA is proposing to make determinations that the Grand Rapids (Kent and Ottawa Counties), Kalamazoo-Battle Creek (Calhoun, Kalamazoo and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), Benzie County, Huron County, and Mason County, Michigan nonattainment areas have attained the 8-hour ozone standard and that these areas have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve Michigan's requests to change the legal designations of the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve Michigan's maintenance plan SIP revisions for Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County (such approvals being one of the CAA criteria for redesignation to attainment status). The maintenance plans are designed to keep the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas in attainment of the ozone NAAQS through 2018. Additionally, EPA is announcing its action on the Adequacy Process for the newly-established 2018 MVEBs for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas. The adequacy comment periods for the 2018 MVEBs began on June 1, 2006, with EPA's posting of the availability of these submittals on EPA's Adequacy Web site (at *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*). The adequacy comment periods for these MVEBs ended on July 3, 2006. EPA did not receive any requests for these submittals or adverse comments on these submittals during the adequacy comment periods. Please see the Adequacy section of this rulemaking for further explanation on this process. Therefore, we find adequate and are proposing to approve the State's 2018 MVEBs for transportation conformity purposes.

III. What Is the Background for These Actions?

Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO_X and VOCs are referred to as precursors of ozone.

The CAA establishes a process for air quality management through the NAAQS. Before promulgation of the current 8-hour standard, the ozone NAAQS was based on a 1-hour standard. At the time EPA revoked the 1-hour ozone NAAQS, on June 15, 2005, the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas were all designated as attainment under the 1-hour ozone NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard. On April 30, 2004 (69 FR 23857), EPA published a final rule designating and classifying areas under the 8-hour ozone NAAQS. These designations and classifications became effective June 15, 2004. The CAA required EPA to designate as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years of air quality data, 2001–2003.

The CAA contains two sets of provisions, subpart 1 and subpart 2, that

address planning and control requirements for nonattainment areas. (Both are found in title I, part D, 42 U.S.C. 7501–7509a and 7511–7511f, respectively.) Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general requirements for nonattainment areas for any pollutant, including ozone, governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for ozone nonattainment areas. Some ozone nonattainment areas are subject only to the provisions of subpart 1. Other ozone nonattainment areas are subject to the provisions of both subparts 1 and 2. Under EPA's 8-hour ozone implementation rule, (69 FR 23951 (April 30, 2004)), an area was classified under subpart 2 based on its 8-hour ozone design value (i.e., the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration), if it had a 1-hour design value at the time of designation at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2) (69 FR 23954). All other areas are covered under subpart 1, based upon their 8-hour design values (69 FR 23958). The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas were all designated as subpart 1, 8-hour ozone nonattainment areas by EPA on April 30, 2004, (69 FR 23857, 23910–23911) based on air quality monitoring data from 2001–2003 (69 FR 23860).

40 CFR 50.10 and 40 CFR Part 50, Appendix I provide that the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, when rounded. The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness. See 40 CFR Part 50, Appendix I, 2.3(d).

On May 9, 2006, Michigan requested that EPA redesignate the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas to attainment for the 8-hour ozone standard. The redesignation requests included three years of complete, quality-assured data for the period of 2002 through 2004, as well as complete quality assured data for 2005, indicating the 8-hour NAAQS for ozone had been attained for all of the areas covered by the request. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient complete, quality-assured data are available for the Administrator to determine that the area has attained the standard, and the area meets the other CAA redesignation requirements in section 107(d)(3)(E).

IV. What Are the Criteria for Redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

''Ozone and Carbon Monoxide Design Value Calculations'', Memorandum from William G. Laxton, Director Technical Support Division, June 18, 1990;

''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;

''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

''Technical Support Documents (TSD's) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, dated November 30, 1993.

''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

V. Why Is EPA Proposing To Take These Actions?

On May 9, 2006, Michigan requested redesignation of the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas to attainment for the 8-hour ozone standard. Michigan supplemented their submittal on May 26, 2006. EPA believes that the areas have attained the standard and have met the requirements for redesignation set forth in section 107(d)(3)(E) of the CAA.

VI. What Is the Effect of These Actions?

Approval of the redesignation requests would change the official designation of the areas for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Michigan SIP plans for maintaining the 8-hour ozone NAAQS through 2018. The maintenance plans include contingency measures to remedy future violations of the 8-hour NAAQS. They also establish MVEBs for the year 2018 of 40.70 tons per day (tpd) VOC and 97.87 tpd NO_X for the Grand Rapids area, 29.67 tpd VOC and 54.36 tpd NO_X

for the Kalamazoo-Battle Creek area, 28.32 tpd VOC and 53.07 tpd NO_X for the Lansing-East Lansing area, 2.24 tpd VOC and 1.99 tpd NO_X for the Benzie County area, 2.34 tpd VOC and 7.53 tpd NO_X for the Huron County area, and 1.81 tpd VOC and 2.99 tpd NO_X for the Mason County area.

VII. What Is EPA's Analysis of the Requests?

i. Attainment Determination and Redesignation

EPA is proposing to make determinations that the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County nonattainment areas have attained the 8-hour ozone standard and that the areas have met all other applicable section 107(d)(3)(E) redesignation criteria. The basis for EPA's determinations is as follows:

1. The Areas Have Attained the 8-Hour Ozone NAAQS (Section 107(d)(3)(E)(i))

EPA is proposing to make determinations that the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas have attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Part 50, Appendix I, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR Part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Aerometric Information Retrieval System (AIRS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

MDEQ submitted ozone monitoring data for the 2002 to 2004 ozone seasons. They also submitted data for the 2005 ozone season. The MDEQ quality assured the ambient monitoring in accordance with 40 CFR 58.10, and recorded it in the AIRS database, thus making the data publicly available. The data meets the completeness criteria in 40 CFR Part 50, Appendix I, which requires a minimum completeness of 75 percent annually and 90 percent over each three year period. Monitoring data is presented in Table 1 below. Data completeness information is presented in Table 2 below.

TABLE 1.—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATION AND 3-YEAR AVERAGES OF 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS

Area	County	Monitor	2002 4th high (ppm)	2003 4th high (ppm)	2004 4th high (ppm)	2005 4th high (ppm)	2002–2004 average (ppm)	2003–2005 average (ppm)
Grand Rapids	Kent	Grand Rapids 26–0810020.	0.087	0.085	0.068	0.083	0.080	0.079
		Evans 26–0810022	0.088	0.093	0.072	0.083	0.084	0.083
	Ottawa	Jenison 26–1390005	0.093	0.090	0.069	0.086	0.084	0.082
Kalamazoo-Battle Creek.	Kalamazoo	Kalamazoo 26–0770008.	0.090	0.085	0.068	0.086	0.081	0.080
Lansing-East Lansing	Clinton	Rose Lake 26–0370001.	0.085	0.086	0.070	0.078	0.080	0.078
	Ingham	Lansing–East Lansing 26–0650012.	0.088	0.085	0.068	0.082	0.080	0.078
Benzie	Benzie	Frankfort 26–0190003	0.086	0.089	0.075	0.086	0.083	0.083
Huron	Huron	Harbor Beach 26–0633006.	0.087	0.086	0.068	0.077	0.080	0.077
Mason	Mason	Scottville 26–1050007	0.089	0.087	0.071	0.085	0.082	0.081

TABLE 2.—DATA COMPLETENESS IN PERCENT (%)

Area	County	Monitor	2002 (%)	2003 (%)	2004 (%)	2005 (%)	2002–2004 average (%)	2003–2005 average (%)
Grand Rapids	Kent	Grand Rapids 26–0810020	97	98	98	99	98	98
		Evans 26–0810022	100	100	99	98	100	99
	Ottawa	Jenison 26–1390005	99	100	98	99	99	99
Kalamazoo-Battle Creek	Kalamazoo	Kalamazoo 26–0770008	100	97	100	98	99	99
Lansing-East Lansing	Clinton	Rose Lake 26–0370001	99	100	100	100	100	100
	Ingham	Lansing-East Lansing 26–0650012.	100	99	100	98	100	99
Benzie	Benzie	Frankfort 26–0190003	100	100	100	98	100	99
Huron	Huron	Harbor Beach 26–0633006	100	97	100	97	99	98
Mason	Mason	Scottville 26–1050007	100	100	96	95	99	97

In addition, as discussed below with respect to the maintenance plans, MDEQ has committed to continue operating an EPA approved monitoring network in accordance with 40 CFR part 58. In summary, EPA believes that the data submitted by Michigan provide an adequate demonstration that the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas have attained the 8-hour ozone NAAQS.

Furthermore, preliminary monitoring data for the 2006 ozone season show that the areas continue to attain the NAAQS.

2. The Areas Have Met All Applicable Requirements Under Section 110 and Part D; and the Areas Have Fully Approved SIPs Under Section 110(k) (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))

We have determined that Michigan has met all currently applicable SIP requirements for purposes of redesignation for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas under Section 110 of the CAA (general SIP requirements). We have also determined that the Michigan SIP meets all SIP requirements currently applicable for purposes of redesignation under Part D of Title I of the CAA (requirements specific to Subpart 1 nonattainment areas), in accordance with section 107(d)(3)(E)(v). In addition, we have determined that the Michigan SIP is fully approved with respect to all applicable requirements for purposes of redesignation, in accordance with section 107(d)(3)(E)(ii). In making these determinations, we have ascertained what SIP requirements are applicable to the areas for purposes of redesignation, and have determined that the portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

a. *The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas have met all applicable requirements under section 110 and part D of the CAA.* The September 4, 1992 Calcagni memorandum (see ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. See also the September 17, 1993 Michael Shapiro memorandum and 60 FR 12459, 12465–12466 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

General SIP requirements. Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it includes enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provides for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; provides for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; includes provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; includes criteria for stationary source emission control measures, monitoring, and reporting; includes provisions for air quality modeling; and provides for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants (NO_X SIP Call,[1] Clean Air Interstate Rule (CAIR) (70 FR 25162)). However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. When the transport SIP submittal requirements are applicable to a state, they will continue to apply to the state regardless of the attainment designation of any one particular area in the state. Therefore, we believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures which we may consider in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh ozone redesignation (66 FR 50399, October 19, 2001).

As discussed above, we believe that section 110 elements which are not linked to the area's nonattainment status are not applicable for purposes of redesignation. Because there are no section 110 requirements linked to the part D requirements for 8-hour ozone nonattainment areas that have become due, as explained below, there are no Part D requirements applicable for purposes of redesignation under the 8-hour standard.

Part D Requirements. EPA has determined that the Michigan SIP meets applicable SIP requirements under part D of the CAA, since no requirements applicable for purposes of redesignation became due for the 8-hour ozone standard prior to MDEQ's submission of the redesignation request for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas.

[1] On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP call requiring the District of Columbia and 22 states, including portions of Michigan, to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO_X SIP call, MDEQ has developed rules governing the control of NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, and major cement kilns. EPA approved Michigan's rules as fulfilling Phase I of the NO_X SIP Call on May 4, 2005 (70 FR 23029).

Under part D, an area's classification determines the requirements to which it will be subject. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's nonattainment classification. The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas were all classified as subpart 1 nonattainment areas, and, therefore, subpart 2 requirements do not apply.

Part D, Subpart 1 applicable SIP requirements. For purposes of evaluating these redesignation requests, the applicable part D, subpart 1 SIP requirements for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas are contained in sections 172(c)(1)–(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

No requirements applicable for purposes of redesignation under part D became due prior to submission of the redesignation request, and, therefore, none are applicable to the areas for purposes of redesignation. Since the State of Michigan has submitted complete ozone redesignation requests for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas prior to the deadline for any submissions required for purposes of redesignation, we have determined that these requirements do not apply to the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas for purposes of redesignation.

Furthermore, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Michigan has demonstrated that the areas to be redesignated will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State's PSD program will become effective in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas upon redesignation to attainment. See rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

Section 176 conformity requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally-supported or funded activities, including highway projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other federally-supported or funded projects (general conformity). State conformity revisions must be consistent with federal conformity regulations relating to consultation, enforcement and enforceability, which EPA promulgated pursuant to CAA requirements.

EPA believes that it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) for two reasons. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment since such areas would be subject to a section 175A maintenance plan. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of federally-approved state rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and, because they must implement conformity under federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. See also 60 FR 62748, 62749–62750 (Dec. 7, 1995) (Tampa, Florida).

EPA approved Michigan's general and transportation conformity SIPs on December 18, 1996 (61 FR 66607 and 61 FR 66609, respectively). Michigan has submitted on-highway motor vehicle budgets of 40.70 tons per day (tpd) VOC and 97.87 tpd NO_X for the Grand Rapids area, 29.67 tpd VOC and 54.36 tpd NO_X for the Kalamazoo-Battle Creek area, 28.32 tpd VOC and 53.07 tpd NO_X for the Lansing-East Lansing area, 2.24 tpd VOC and 1.99 tpd NO_X for the Benzie County area, 2.34 tpd VOC and 7.53 tpd NO_X for the Huron County area, and 1.81 tpd VOC and 2.99 tpd NO_X for the Mason County area, based on the areas' projected 2018 emissions levels. The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas must use the motor vehicle emissions budgets from the maintenance plans in any conformity determination that is effective on or after the effective date of the maintenance plan approval. Thus, the areas have satisfied all applicable requirements under section 110 and part D of the CAA.

b. *The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas have a fully approved applicable SIP under section 110(k) of the CAA.* EPA has fully approved the Michigan SIP for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (See the September 4, 1992 John Calcagni memorandum, page 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F.3d 984, 989–990 (6th Cir. 1998), *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001)) plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Michigan has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas under the 1-hour ozone standard. No Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, or Mason County area SIP provisions are currently disapproved, conditionally approved, or partially approved.

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions. (Section 107(d)(3)(E)(iii))

EPA finds that Michigan has demonstrated that the observed air quality improvement in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

In making this demonstration, the State has calculated the change in emissions between 1999 and 2002, one of the years the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas monitored attainment. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that Michigan and upwind areas have implemented in recent years. The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas are all impacted, in varying degrees, by the transport of ozone and ozone precursors from upwind areas. Therefore, local controls as well as controls implemented in upwind counties are relevant to the improvement in air quality in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas.

a. *Permanent and enforceable controls implemented.* The following is a discussion of permanent and enforceable measures that have been implemented in the areas:

NO_X rules. In compliance with EPA's NO_X SIP call, Michigan developed rules to control NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, and major cement kilns. These rules required sources to begin reducing NO_X emissions in 2004. However, statewide NO_X emissions actually had begun to decline before 2004, as sources phased in emission controls needed to comply with the State's NO_X emission control regulations. From 2004 on, NO_X emissions from EGUs have been capped at a statewide total well below pre-2002 levels. MDEQ expects that NO_X emissions will further decline as the State meets the requirements of EPA's Phase II NO_X SIP call (69 FR 21604 (April 21, 2004)).

Federal Emission Control Measures. Reductions in VOC and NO_X emissions have occurred statewide as a result of federal emission control measures, with additional emission reductions expected to occur in the future as the state implements additional emission controls. Federal emission control measures include: the National Low Emission Vehicle (NLEV) program, Tier 2 emission standards for vehicles, gasoline sulfur limits, low sulfur diesel fuel standards, and heavy-duty diesel engine standards. In addition, in 2004, EPA issued the Clean Air Non-road Diesel Rule (69 FR 38958 (July 29, 2004)). EPA expects this rule to reduce off-road diesel emissions through 2010, with emission reductions starting in 2008.

Control Measures in Upwind Areas. Upwind ozone nonattainment areas in the Lake Michigan region, including Chicago, Illinois; Gary, Indiana; and Milwaukee, Wisconsin have continued to reduce emissions of VOC and NO_X to meet their rate of progress obligations under the 1-hour ozone standard. Illinois, Indiana and Wisconsin have all developed regulations to control NO_X: Illinois and Indiana pursuant to the NO_X SIP call and Wisconsin to meet rate of progress requirements. These upwind reductions in emissions have resulted in lower concentrations of transported ozone entering Michigan. The emission reductions resulting from these upwind control programs are permanent and enforceable.

b. *Emission reductions.* Michigan is using 1999 for the nonattainment inventory and 2002, one of the years used to demonstrate monitored attainment of the NAAQS, for the attainment inventory. MDEQ took emissions estimates, with the exception of the nonroad sector, from EPA's final 1999 and 2002 National Emissions Inventories (NEI). NEI emissions estimates for the nonroad sector were generated using different versions of EPA's NONROAD model for 1999 and 2002. To provide consistency, Michigan estimated nonroad emissions for both 1999 and 2002 using the most current version of EPA's National Mobile Inventory Model (NMIM).

Based on the inventories described above, Michigan's submittal documents changes in VOC and NO_X emissions from 1999 to 2002 for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas. Emissions data are shown in Tables 3 through 14 below.

TABLE 3.—GRAND RAPIDS AREA: TOTAL VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 1999 IN TONS PER YEAR (TPY)

	Kent		Ottawa		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	4,506	1,134	1,640	37,001	6,146	38,135
Area	18,002	3,122	7,279	1,132	25,281	4,254
Nonroad	5,063	4,938	2,598	2,642	7,661	7,580
Onroad	12,225	15,939	5,071	7,774	17,296	23,713
Total	39,796	25,133	16,588	48,549	56,384	73,682

TABLE 4.—GRAND RAPIDS AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPY)

	Kent		Ottawa		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	2,104	769	1,375	17,690	3,479	18,459
Area	14,546	2,862	6,896	1,216	21,442	4,078
Nonroad	4,956	4,932	2,563	2,629	7,519	7,561

TABLE 4.—GRAND RAPIDS AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPY)—Continued

	Kent		Ottawa		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Onroad	10,392	17,229	3,603	6,079	13,995	23,308
Total	31,998	25,792	14,437	27,614	46,435	53,406

TABLE 5.—GRAND RAPIDS AREA: COMPARISON OF 1999 AND 2002 VOC AND NO_X EMISSIONS (TPY)

Sector	VOC			NO_X		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point	6,146	3,479	·2,667	38,135	18,459	·19,676
Area	25,281	21,442	·3,839	4,254	4,078	·176
Nonroad	7,661	7,519	·142	7,580	7,561	·19
Onroad	17,296	13,995	·3,301	23,713	23,308	·405
Total	56,384	46,435	·9,949	73,682	53,406	·20,276

TABLE 6.—KALAMAZOO-BATTLE CREEK AREA: TOTAL VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 1999 (TPY)

	Calhoun		Kalamazoo		Van Buren		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	499	1,036	547	2,202	32	42	1,078	3,280
Area	5,077	649	7,709	944	3,699	423	16,485	2,016
Nonroad	1,026	982	1,986	1,640	1,105	543	4,117	3,165
Onroad	3,633	5,702	5,410	7,489	1,777	3,582	10,820	16,773
Total	10,235	8,369	15,652	12,275	6,613	4,590	32,500	25,234

TABLE 7.—KALAMAZOO-BATTLE CREEK AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPY)

	Calhoun		Kalamazoo		Van Buren		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	580	817	470	816	22	36	1,072	1,669
Area	3,071	666	8,739	1,033	2,373	303	14,183	2,002
Nonroad	1,007	973	1,907	1,620	1,133	535	4,047	3,128
Onroad	3,158	5,560	4,796	7,958	1,583	2,953	9,537	16,471
Total	7,816	8,016	15,912	11,427	5,111	3,827	28,839	23,270

TABLE 8.—KALAMAZOO-BATTLE CREEK AREA: COMPARISON OF 1999 AND 2002 VOC AND NO_X EMISSIONS (TPY)

Sector	VOC			NO_X		
	1999	2002	Net change (1999–2002)	1999	2002	Net Change (1999–2002)
Point	1,078	1,072	·6	3,280	1,669	·1,611
Area	16,485	14,183	·2,302	2,016	2,002	·14
Nonroad	4,117	4,047	·70	3,165	3,128	·37
Onroad	10,820	9,537	·1,283	16,773	16,471	·302
Total	32,500	28,839	·3,661	25,234	23,270	·1,964

TABLE 9.—LANSING-EAST LANSING AREA: TOTAL VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 1999 (TPY)

	Clinton		Eaton		Ingham		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	188	117	99	2,583	1,668	6,133	1,955	8,833
Area	2,421	213	3,348	356	6,706	1,293	12,475	1,862
Nonroad	879	783	796	876	1,558	1,520	3,233	3,179

TABLE 9.—LANSING-EAST LANSING AREA: TOTAL VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 1999 (TPY)—Continued

	Clinton		Eaton		Ingham		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Onroad	1,638	3,035	2,335	3,921	6,218	8,360	10,191	15,316
Total	5,126	4,148	6,578	7,736	16,150	17,306	27,854	29,190

TABLE 10.—LANSING-EAST LANSING AREA: TOTAL VOC AND NO_X; EMISSIONS FOR ATTAINMENT YEAR 2002 (TPY)

	Clinton		Eaton		Ingham		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	197	168	56	1,919	2,092	6,150	2,345	8,237
Area	1,645	232	2,205	416	3,879	1,043	7,729	1,691
Nonroad	875	755	779	847	1,541	1,509	3,195	3,111
Onroad	1,870	3,432	2,052	3,670	4,678	7,892	8,600	14,994
Total	4,587	4,587	5,092	6,852	12,190	16,594	21,869	28,033

TABLE 11.—LANSING-EAST LANSING AREA: COMPARISON OF 1999 AND 2002 VOC AND NO_X EMISSIONS (TPY)

Sector	VOC			NO_X		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point	1,955	2,345	390	8,833	8,237	·596
Area	12,475	7,729	·4,746	1,862	1,691	·171
Nonroad	3,233	3,195	·38	3,179	3,111	·68
Onroad	10,191	8,600	·1,591	15,316	14,994	·322
Total	27,854	21,869	·5,985	29,190	28,033	·1,157

TABLE 12.—BENZIE COUNTY AREA: COMPARISON OF 1999 AND 2002 VOC AND NO_X EMISSIONS (TPY)

Sector	VOC			NO_X		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point	3	1	·2	4	7	3
Area	1,005	783	·222	78	73	·5
Nonroad	1,536	1,643	107	186	182	·4
Onroad	314	323	9	595	584	·11
Total	2,858	2,750	·108	863	846	·17

TABLE 13.—HURON COUNTY AREA: COMPARISON OF 1999 AND 2002 VOC AND NO_X EMISSIONS (TPY)

Sector	VOC			NO_X		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point	36	76	40	1,282	1,468	186
Area	2,222	1,008	·1,214	300	174	·126
Nonroad	1,428	1,452	24	1,040	1,018	·22
Onroad	660	509	·151	1,245	908	·337
Total	4,346	3,045	·1,301	3,867	3,568	·299

TABLE 14.—MASON COUNTY AREA: COMPARISON OF 1999 AND 2002 VOC AND NO_X EMISSIONS (TPY)

Sector	VOC			NO_X		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point	174	108	·66	587	280	·307
Area	1551	1021	·530	157	147	·10
Nonroad	1382	1532	150	288	287	·1
Onroad	536	435	·101	895	758	·137
Total	3643	3096	·547	1927	1472	·455

Table 5 shows that the Grand Rapids area reduced VOC emissions by 9,949 tpy and NO_X emissions by 20,276 tpy between 1999 and 2002. Table 8 shows that the Kalamazoo-Battle Creek area reduced VOC emissions by 3,661 tpy and NO_X emissions by 1,964 tpy between 1999 and 2002. Table 11 shows that the Lansing-East Lansing area reduced VOC emissions by 5,985 tpy and NO_X emissions by 1,157 tpy between 1999 and 2002. Table 12 shows that the Benzie County area reduced VOC emissions by 108 tpy and NO_X emissions by 17 tpy between 1999 and 2002. Table 13 shows that the Huron County area reduced VOC emissions by 1,301 tpy and NO_X emissions by 299 tpy between 1999 and 2002. Table 14 shows that the Mason County area reduced VOC emissions by 547 tpy and NO_X emissions by 455 tpy between 1999 and 2002.

Based on the information summarized above, Michigan has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

4. The Areas Have a Fully Approved Maintenance Plan Pursuant to Section 175a of the CAA. (Section 107(d)(3)(E)(iv))

In conjunction with its requests to redesignate the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County nonattainment areas to attainment status, Michigan submitted SIP revisions to provide for the maintenance of the 8-hour ozone NAAQS in these areas through 2018.

a. *What is required in a maintenance plan?* Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations.

The September 4, 1992 John Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum clarifies that an ozone maintenance plan should address the following items: the attainment VOC and NO_X emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

b. *Attainment Inventory.* The MDEQ developed a baseline emissions inventory for 2002, one of the years MDEQ used to demonstrate monitored attainment of the 8-hour NAAQS, as required by the EPA Consolidated Emissions Reporting Rule (40 CFR Part 51). MDEQ provided full documentation of the methodologies it used in its submittal. The attainment level of emissions is summarized in Tables 15 to 18, below.

TABLE 15.—GRAND RAPIDS AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPD)

	Kent		Ottawa		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	7.67	2.16	4.74	52.08	12.41	54.24
Area	28.73	3.61	12.18	1.51	40.91	5.12
Nonroad	12.42	14.26	5.32	7.96	17.74	22.22
Onroad	31.13	46.94	10.82	18.00	41.95	64.94
Total	79.95	66.97	33.06	79.55	113.01	146.52

TABLE 16.—KALAMAZOO-BATTLE CREEK AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPD)

	Calhoun		Kalamazoo		Van Buren		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	1.67	2.41	1.58	2.09	0.09	0.17	3.34	4.67
Area	7.66	0.75	12.46	1.19	4.16	0.31	24.28	2.25
Nonroad	2.62	4.49	4.89	6.97	2.87	1.80	10.38	13.26

TABLE 16.—KALAMAZOO-BATTLE CREEK AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPD)—Continued

	Calhoun		Kalamazoo		Van Buren		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Onroad	9.76	17.83	14.29	22.52	5.17	11.16	29.22	51.51
Total	21.71	25.48	33.22	32.77	12.29	13.44	67.22	71.69

TABLE 17.—LANSING-EAST LANSING AREA: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPD)

	Clinton		Eaton		Ingham		Total	
	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	0.66	0.56	0.21	6.51	7.55	19.14	8.42	26.21
Area	3.01	0.24	5.04	0.45	13.69	1.23	21.74	1.92
Nonroad	2.24	2.84	1.80	3.30	4.29	6.16	8.33	12.30
Onroad	6.10	11.91	6.48	11.86	13.90	22.96	26.48	46.73
Total	12.01	15.55	13.53	22.12	39.43	49.49	64.97	87.16

TABLE 18.—BENZIE COUNTY, HURON COUNTY, AND MASON COUNTY AREAS: TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2002 (TPD)

	Benzie		Huron		Mason	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point	0.01	0.03	0.27	6.16	0.39	0.79
Area	1.54	0.06	2.18	0.20	1.89	0.16
Nonroad	4.05	0.61	3.29	5.73	2.88	1.97
Onroad	1.08	2.10	1.68	3.31	1.39	2.48
Total	6.68	2.80	7.42	15.40	6.55	5.40

c. *Demonstration of Maintenance.* Michigan submitted with the redesignation requests revisions to the 8-hour ozone SIP to include 12-year maintenance plans for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas, in compliance with section 175A of the CAA. This demonstration shows maintenance of the 8-hour ozone standard by assuring that current and future emissions of VOC and NO_X for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Michigan is using projected inventories developed by LADCO for the years 2009 and 2018. The exception to this is the 2018 onroad mobile source emissions estimates, which were prepared by the Michigan Department of Transportation. Using projected inventories prepared by LADCO will ensure that the inventories used for redesignation are consistent with regional attainment modeling performed in the future. These emission estimates are presented in Tables 19 to 24 below.

TABLE 19.—GRAND RAPIDS AREA: COMPARISON OF 2002–2018 VOC AND NO_X EMISSIONS (TPD)

Sector	VOC				NO_X			
	2002	2009	2018	Net change (2002–2018)	2002	2009	2018	Net change (2002–2018)
Point	12.41	12.50	15.35	2.94	54.24	21.61	24.39	·29.85
Area	40.91	41.28	43.98	3.07	5.12	5.37	5.59	0.47
Nonroad	17.74	12.03	9.95	·7.79	22.22	16.57	9.55	·12.67
Onroad	41.95	25.39	13.39	·28.56	64.94	44.38	14.38	·50.56
Total	113.01	91.20	82.67	·30.34	146.52	87.93	53.91	·92.61

TABLE 20.—KALAMAZOO-BATTLE CREEK AREA: COMPARISON OF 2002–2018 VOC AND NO_X EMISSIONS (TPD)

Sector	VOC				NO_X			
	2002	2009	2018	Net change (2002–2018)	2002	2009	2018	Net change (2002–2018)
Point	3.34	3.34	4.06	0.72	4.67	4.52	4.75	0.08
Area	24.28	24.01	25.12	0.84	2.25	2.37	2.46	0.21
Nonroad	10.38	7.39	6.08	·4.30	13.26	8.84	5.28	·7.98
Onroad	29.22	17.53	9.05	·20.17	51.51	34.24	10.75	·40.76
Total	67.22	52.89	44.36	·22.86	71.69	49.97	23.24	·48.45

TABLE 21.—LANSING-EAST LANSING AREA: COMPARISON OF 2002–2018 VOC AND NO_X EMISSIONS (TPD)

Sector	VOC				NO_X			
	2002	2009	2018	Net change (2002–2018)	2002	2009	2018	Net change (2002–2018)
Point	8.42	6.70	7.49	·0.93	26.21	18.16	21.85	·4.36
Area	21.74	21.34	22.06	0.32	1.92	2.02	2.08	0.16
Nonroad	8.33	5.99	4.88	·3.45	12.30	8.97	5.34	·6.96
Onroad	26.48	15.88	8.37	·18.11	46.73	31.13	9.69	·37.04
Total	64.97	49.91	42.80	·22.17	87.16	60.28	38.96	·48.20

TABLE 22.—BENZIE COUNTY AREA: COMPARISON OF 2002–2018 VOC AND NO_X EMISSIONS (TPD)

Sector	VOC				NO_X			
	2002	2009	2018	Net change (2002–2018)	2002	2009	2018	Net change (2002–2018)
Point	0.01	0.01	0.01	0.00	0.03	0.03	0.03	0.00
Area	1.54	1.42	1.37	·0.17	0.06	0.07	0.07	0.01
Nonroad	4.05	4.31	2.85	·1.20	0.61	0.55	0.53	·0.08
Onroad	1.08	0.65	0.31	·0.77	2.10	1.40	0.37	·1.73
Total	6.68	6.39	4.54	·2.14	2.80	2.05	1.00	·1.80

TABLE 23.—HURON COUNTY AREA: COMPARISON OF 2002–2018 VOC AND NO_X EMISSIONS (TPD)

Sector	VOC				NO_X			
	2002	2009	2018	Net change (2002–2018)	2002	2009	2018	Net change (2002–2018)
Point	0.27	0.29	0.33	0.06	6.16	1.39	1.69	·4.47
Area	2.18	2.13	2.19	0.01	0.20	0.21	0.22	0.02
Nonroad	3.29	3.27	2.39	·0.90	5.73	5.95	5.20	·0.53
Onroad	1.68	1.01	0.55	·1.13	3.31	2.21	0.65	·2.66
Total	7.42	6.70	5.46	·1.96	15.40	9.76	7.76	·7.64

TABLE 24.—MASON COUNTY AREA: COMPARISON OF 2002–2018 VOC AND NO_X EMISSIONS (TPD)

Sector	VOC				NO_X			
	2002	2009	2018	Net change (2002–2018)	2002	2009	2018	Net change (2002–2018)
Point	0.39	0.49	0.65	0.26	0.79	0.35	0.45	·0.34
Area	1.89	1.86	1.92	0.03	0.16	0.17	0.17	0.01
Nonroad	2.88	3.03	2.02	·0.86	1.97	1.68	1.52	·0.45
Onroad	1.39	0.83	0.43	·0.96	2.48	1.66	0.51	·1.97
Total	6.55	6.21	5.02	·1.53	5.40	3.86	2.65	·2.75

The emission projections show that MDEQ does not expect emissions in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas to exceed the level of the 2002

attainment year inventory during the maintenance period. In the Grand Rapids area, MDEQ projects that VOC and NO_X emissions will decrease by 30.34 tpd and 92.61 tpd, respectively. In the Kalamazoo-Battle Creek area, MDEQ projects that VOC and NO_X emissions will decrease by 22.86 tpd and 48.45 tpd, respectively. In the Lansing-East Lansing area, MDEQ projects that VOC and NO_X emissions will decrease by 22.17 tpd and 48.20 tpd, respectively. In the Benzie County area, MDEQ projects that VOC and NO_X emissions will decrease by 2.14 tpd and 1.80 tpd, respectively. In the Huron County area, MDEQ projects that VOC and NO_X emissions will decrease by 1.96 tpd and 7.64 tpd, respectively. In the Mason County area, MDEQ projects that VOC and NO_X emissions will decrease by 1.53 tpd and 2.75 tpd, respectively.

As part of its maintenance plans, the State elected to include a ''safety margin'' for the areas. A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan which continues to demonstrate attainment of the standard. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas attained the 8-hour ozone NAAQS during the 2002–2004 time period. Michigan used 2002 as the attainment level of emissions for the areas. In the maintenance plans, MDEQ projected emission levels for 2018. For Grand Rapids, the emissions from point, area, nonroad, and mobile sources in 2002 equaled 113.01 tpd of VOC. MDEQ projected VOC emissions for the year 2018 to be 82.67 tpd of VOC. The SIP submission demonstrates that the Grand Rapids area will continue to maintain the standard with emissions at this level. The safety margin for VOC is calculated to be the difference between these amounts or, in this case, 30.34 tpd of VOC for 2018. By this same method, 92.61 tpd (i.e., 146.52 tpd less 53.91 tpd) is the safety margin for NO_X for 2018. For the Kalamazoo-Battle Creek area, 22.86 tpd and 48.45 tpd are the safety margins for VOC and NO_X, respectively. For the Lansing-East Lansing area, 22.17 tpd and 48.20 tpd are the safety margins for VOC and NO_X, respectively. For the Benzie County area, 2.14 tpd and 1.80 tpd are the safety margins for VOC and NO_X, respectively. For the Huron County area, 1.96 tpd and 7.64 tpd are the safety margins for VOC and NO_X, respectively. For the Mason County area, 1.53 tpd and 2.75 tpd are the safety margins for VOC and NO_X, respectively. The safety margin, or a portion thereof, can be allocated to any of the source categories, as long as the total attainment level of emissions is maintained.

d. *Monitoring Network.* Michigan currently operates two ozone monitors in Kent County and one ozone monitor each in Ottawa, Kalamazoo, Clinton, Ingham, Benzie, Huron, and Mason Counties. MDEQ has committed to continue operating and maintaining an approved ozone monitor network in accordance with 40 CFR part 58.

e. *Verification of Continued Attainment.* Continued attainment of the ozone NAAQS in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State's plan for verifying continued attainment of the 8-hour standard in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas consists of plans to continue ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. In addition, MDEQ will periodically review and revise the VOC and NO_X emissions inventories for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas, as required by the Consolidated Emissions Reporting Rule (40 CFR part 51), to track levels of emissions in the future.

f. *Contingency Plan.* The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Michigan has adopted contingency plans for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas to address possible future ozone air quality problems. The contingency plans adopted by Michigan have two levels of response, depending on whether a violation of the 8-hour ozone standard is only threatened (Action Level Response) or has occurred (Contingency Measure Response).

An Action Level Response will occur when a two-year average fourth-high monitored daily peak 8-hour ozone concentration of 85 ppb or higher is monitored within an ozone maintenance area. An Action Level Response will consist of Michigan performing a review of the circumstances leading to the high monitored values. MDEQ will conduct this review within 6 months following the close of the ozone season. If MDEQ determines that contingency measure implementation is necessary to prevent a future violation of the NAAQS, MDEQ will select and implement a measure that can be implemented promptly.

A Contingency Measure Response will be triggered by a violation of the standard (a 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration of 85 ppb or greater). When a Contingency Measure Response is triggered, Michigan will select one or more control measures for implementation. The timing for implementation of a contingency measure is dependent on the process needed for legal adoption and source compliance, which varies for each measure. MDEQ will expedite the process of adopting and implementing the selected measures, with a goal of having measures in place as expeditiously as practicable within 18 months. EPA is interpreting this commitment to mean that the measure will be in place within 18 months.

Contingency measures contained in the maintenance plans are those emission controls or other measures that Michigan may choose to adopt and implement to correct possible air quality problems. These include the following:

i. Lower Reid vapor pressure gasoline requirements;

ii. Reduced VOC content in Architectural, Industrial, and Maintenance (AIM) coatings rule;

iii. Auto body refinisher self-certification audit program;

iv. Reduced VOC degreasing rule;

v. Transit improvements;

vi. Diesel retrofit program;

vii. Reduced VOC content in commercial and consumer products rule;

viii. Reduce idling program.

g. *Provisions for Future Updates of the Ozone Maintenance Plan.* As required by section 175A(b) of the CAA, Michigan commits to submit to the EPA updated ozone maintenance plans eight years after redesignation of the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas to cover an additional 10-year period beyond the initial 10-year maintenance period. Michigan has committed to retain the control measures for VOC and NO_X emissions that were contained in the SIP before redesignation of the areas to attainment, as required by section 175(A) of the CAA.

EPA has concluded that the maintenance plans adequately address the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The maintenance plan SIP revisions submitted by Michigan for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas meet the requirements of section 175A of the CAA.

ii. Adequacy of Michigan's Motor Vehicle Emissions Budgets (MVEBs)

1. How Are MVEBs Developed and What Are the MVEBs for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Mason County, and Huron County Areas?

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and ozone maintenance plans for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard. These emission control strategy SIP revisions (*e.g.*, reasonable further progress SIP and attainment demonstration SIP revisions) and ozone maintenance plans create MVEBs based on onroad mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEBs are the portions of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance.

Under 40 CFR Part 93, an MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB if needed.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (*i.e.*, be consistent with) the part of the SIP that addresses emissions from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS. If a transportation plan does not conform, most new transportation projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must affirmatively find that the MVEBs are ''adequate'' for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining adequacy of an MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and (3) EPA's finding of adequacy. The process of determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was codified in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' published on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

The Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas' maintenance plans contain new VOC and NO_X MVEBs for the year 2018. The availability of the SIP submissions with these 2018 MVEBs was announced for public comment on EPA's Adequacy Web page on June 1, 2006, at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*. The EPA public comment period on adequacy of the 2018 MVEBs for the Grand Rapids, Kalamazoo-Battle Creek, and Lansing-East Lansing, Benzie County, Huron County, and Mason County areas closed on July 3, 2006. No requests for these submittals or adverse comments on these submittals were received during the adequacy comment period. In letters dated July 1, 2006 and July 3, 2006, EPA informed MDEQ that we had found the 2018 MVEBs to be adequate for use in transportation conformity analyses.

EPA, through this rulemaking, is approving the MVEBs for use to determine transportation conformity in the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas because EPA has determined that the areas can maintain attainment of the 8-hour ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs. MDEQ has determined the 2018 MVEBs for the Grand Rapids area to be 40.70 tpd for VOC and 97.87 tpd for NO_X. These MVEBs exceed the onroad mobile source VOC and NO_X emissions projected by MDEQ for 2018, as summarized in Table 19 above (''onroad'' source sector). MDEQ decided to include safety margins (described further below) of 27.31 tpd for VOC and 83.49 tpd for NO_X in the MVEBs to provide for mobile source growth. Michigan has demonstrated that the Grand Rapids area can maintain the 8-hour ozone NAAQS with mobile source emissions of 40.70 tpd of VOC and 97.87 tpd of NO_X in 2018, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

MDEQ has determined the 2018 MVEBs for the Kalamazoo-Battle Creek area to be 29.67 tpd for VOC and 54.36 tpd for NO_X. Again, these MVEBs exceed the onroad mobile source VOC and NO_X emissions projected by MDEQ for 2018, as summarized in Table 20 above (''onroad'' source sector). MDEQ

decided to include safety margins of 20.62 tpd for VOC and 43.61 tpd for NO_X in the MVEBs to provide for mobile source growth. Michigan has demonstrated that the Kalamazoo-Battle Creek area can maintain the 8-hour ozone NAAQS with mobile source emissions of 29.67 tpd of VOC and 54.36 tpd of NO_X in 2018, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

MDEQ has determined the 2018 MVEBs for the Lansing-East Lansing area to be 28.32 tpd for VOC and 53.07 tpd for NO_X. These MVEBs exceed the onroad mobile source VOC and NO_X emissions projected by MDEQ for 2018, as summarized in Table 21 above (''onroad'' source sector) because MDEQ decided to include safety margins of 19.95 tpd for VOC and 43.38 tpd for NO_X in the MVEBs to provide for mobile source growth. Michigan has demonstrated that the Lansing-East Lansing area can maintain the 8-hour ozone NAAQS with mobile source emissions of 28.32 tpd of VOC and 53.07 tpd of NO_X in 2018, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

MDEQ has determined the 2018 MVEBs for the Benzie County area to be 2.24 tpd for VOC and 1.99 tpd for NO_X. These MVEBs exceed the onroad mobile source VOC and NO_X emissions projected by MDEQ for 2018, as summarized in Table 22 above (''onroad'' source sector) because MDEQ decided to include safety margins of 1.93 tpd for VOC and 1.62 tpd for NO_X in the MVEBs to provide for mobile source growth. Michigan has demonstrated that the Benzie County area can maintain the 8-hour ozone NAAQS with mobile source emissions of 2.24 tpd of VOC and 1.99 tpd of NO_X in 2018, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

MDEQ has determined the 2018 MVEBs for the Huron County area to be 2.34 tpd for VOC and 7.53 tpd for NO_X. These MVEBs exceed the onroad mobile source VOC and NO_X emissions projected by MDEQ for 2018, as summarized in Table 23 above (''onroad'' source sector) because MDEQ decided to include safety margins of 1.79 tpd for VOC and 6.88 tpd for NO_X in the MVEBs to provide for mobile source growth. Michigan has demonstrated that the Huron County area can maintain the 8-hour ozone NAAQS with mobile source emissions of 2.34 tpd of VOC and 7.53 tpd of NO_X in 2018, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

MDEQ has determined the 2018 MVEBs for the Mason County area to be 1.81 tpd for VOC and 2.99 tpd for NO_X. These MVEBs exceed the onroad mobile source VOC and NO_X emissions projected by MDEQ for 2018, as summarized in Table 24 above (''onroad'' source sector) because MDEQ decided to include safety margins of 1.38 tpd for VOC and 2.48 tpd for NO_X in the MVEBs to provide for mobile source growth. Michigan has demonstrated that the Mason County area can maintain the 8-hour ozone NAAQS with mobile source emissions of 1.81 tpd of VOC and 2.99 tpd of NO_X in 2018, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

2. What Is a Safety Margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 19, the Grand Rapids area VOC and NO_X emissions are projected to have safety margins of 30.34 tpd for VOC and 92.61 tpd for NO_X in 2018 (the difference between the attainment year, 2002, emissions and the projected 2018 emissions for all sources in the Grand Rapids area). As noted in Table 20, the Kalamazoo-Battle Creek area VOC and NO_X emissions are projected to have safety margins of 22.86 tpd and 48.45 tpd, respectively. As noted in Table 21, the Lansing-East Lansing area VOC and NO_X emissions are projected to have safety margins of 22.17 tpd and 48.20 tpd, respectively. As noted in Table 22, the Benzie County area VOC and NO_X emissions are projected to have safety margins of 2.14 tpd and 1.80 tpd, respectively. As noted in Table 23, the Huron County area VOC and NO_X emissions are projected to have safety margins of 1.96 tpd and 7.64 tpd, respectively. As noted in Table 24, the Mason County area VOC and NO_X emissions are projected to have safety margins of 1.53 tpd and 2.75 tpd, respectively. Even if emissions reached the full level of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

The MVEBs requested by MDEQ contain safety margins for mobile sources smaller than the allowable safety margins reflected in the total emissions for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas. The State is not requesting allocation of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the State is requesting MVEBs that exceed the projected onroad mobile source emissions for 2018 contained in the demonstration of maintenance, the increase in onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VIII. What Actions Is EPA Taking Today?

EPA is proposing to make determinations that the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas have attained the 8-hour ozone NAAQS, and EPA is proposing to approve the redesignations of the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas from nonattainment to attainment for the 8-hour ozone NAAQS. After evaluating Michigan's redesignation requests, EPA has determined that they meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. The final approval of these redesignation requests would change the official designations for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas from nonattainment to attainment for the 8-hour ozone standard.

EPA is also proposing to approve the maintenance plan SIP revisions for the Grand Rapids, Kalamazoo-Battle Creek, Lansing-East Lansing, Benzie County, Huron County, and Mason County areas. EPA's proposed approval of the maintenance plans is based on Michigan's demonstration that the plans meet the requirements of section 175A of the CAA, as described more fully above. Additionally, EPA is finding adequate and proposing to approve the 2018 MVEBs submitted by Michigan in conjunction with the redesignation requests.

IX. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

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.

Paperwork Reduction Act

This proposed 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.*).

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. 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.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve 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).

Executive Order 13132 Federalism

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). Redesignation is an action that merely affects the status of a geographical area, does not impose any new requirements on sources, or allows a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule also does not have tribal implications, as specified in Executive Order 13175, because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands. Thus, Executive Order 13175 does not apply to this rule.

Although Executive Order 13175 does not apply to this rule, EPA met with interested tribes in Michigan to discuss the redesignation process and the impact of a change in designation status of these areas on the tribes.

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

This proposed 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.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' 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).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act.

Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air Pollution Control, National parks, Wilderness areas.

Dated: November 21, 2006.

Mary A. Gade,

Regional Administrator, Region 5.

[FR Doc. E6–20639 Filed 12–6–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7700]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The

respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD)	
				Existing	Modified
Town of Austin, Arkansas					
AR	Town of Austin	Unnamed Creek	Approximately 1,500 feet downstream of Ed Haymes Road.	None	+235
		Approximately 3000 feet upstream from Ed Haymes Road.	None	+269	

*National Geodetic Vertical Datum.

#Depth in feet above ground.
+North American Vertical Datum.

ADDRESSES

Town of Austin
Maps are available for inspection at City Hall, 202 W Hendricks, Austin, AR 72007.
Send comments to The Honorable Bernie Chamberlain, Mayor, City of Austin, PO Box 129, Austin, AR 72007.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective [1]	Modified	
Lowndes County, Georgia, and Incorporated Areas				
Sugar Creek	At confluence with Withlacoochee River	+132	+131	Lowndes County (Unincorporated Areas), City of Valdosta.
	Approximately 175 feet downstream of Gornto Road.	+132	+131	
Two Mile Branch	At confluence with Sugar Creek	+132	+131	Lowndes County (Unincorporated Areas), City of Valdosta.
	Approximately 1,800 feet upstream of confluence with Sugar Creek.	+132	+131	
Withlacoochee River	Approximately 9,250 feet downstream of State Highway 31.	None	+90	Lowndes County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective [1]	Modified	
	Approximately 4,950 feet upstream of abandoned railroad.	None	+97	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.
[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum to the NAVD88 datum, please subtract 0.684 feet.

ADDRESSES

Lowndes County (Unincorporated Areas)

Maps are available for inspection at the County Office, 325 West Savannah Avenue, Valdosta, Georgia 31601.

Send comments to Mr. Joseph D. Pritchard, County Manager, 325 West Savannah Avenue, Valdosta, Georgia 31601.

City of Valdosta

Maps are available for inspection at the County Office, 327 West Savannah Avenue, Valdosta, Georgia 31601.

Send comments to The Honorable John J. Fretti, Mayor, City of Valdosta, 216 East Central Avenue, Valdosta, Georgia 31603.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
East Baton Rouge Parish, Louisiana and Incorporated Areas				
Bayou Duplantier and Corporation Canal.	Confluence with Dawson Creek	*27	+25	East Baton Rouge Parish.
	Intersection with Nicholson Drive on-ramp	None	+29	
Bayou Fountain	Confluence with Bayou Manchac	*15	+14	East Baton Rouge Parish.
	500 feet upstream from the intersection with Nicholson Drive.	*24	+23	
Bayou Fountain North Branch.	Confluence with Bayou Fountain	*20	+21	East Baton Rouge Parish.
	Approximately 2100 feet upstream from the intersection with Nicholson Drive (at pedestrian bridge).	None	+22	
Bayou Fountain South Branch.	Confluence with Bayou Fountain	*24	+23	East Baton Rouge Parish.
	Approximately 2100 feet upstream from the intersection with Gourrier Ave.	*25	+24	
Bayou Fountain Tributary 1.	Upstream face—Fulmer Skipwith Road	*17	+16	East Baton Rouge Parish.
	Approximately 1200 feet upstream from the intersection with Highland Road.	*17	+18	
Clay Cut Bayou	Approximately 4400 feet downstream from Tiger Bend Road.	*27	+26	East Baton Rouge Parish.
	Approximately 600 feet upstream from the intersection with Bluebonnet Road.	None	+32	
Dawson Creek	Confluence with Ward's Creek	*25	+24	East Baton Rouge Parish.
	Approximately 1200 feet upstream from the intersection with Clay Cut Road.	*37	+36	
Elbow Bayou	Upstream face of Illinois Central Railroad	*20	+18	East Baton Rouge Parish.
	Approximately 3.1 miles upstream from Ben Hur Road.	None	+21	
Jacks Bayou	Confluence with Clay Cut Bayou	*29	+30	East Baton Rouge Parish.
	Approximately 2400 feet upstream from the intersection with Parkforest Drive.	*41	+37	
Mississippi River	Intersection of Bluebonnet Blvd. and Nicholson Dr. (East Baton Rouge Parish limits)	None	+42	East Baton Rouge Parish
	Mississippi River west of W. Mount Pleasant Road (East Baton Rouge Parish limits).	None	+52	
Mississippi River	West of W. Mount Pleasant Road (East Baton Rouge Parish Boundary).	None	+42	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
	At confluence of Mississippi River and Bayou Manchac (East Baton Rouge. Parish Boundary)	None	+52	
North Branch	Confluence with Wards Creek	*30	+29	East Baton Rouge Parish.
Wards Creek	Approximately 1100 feet upstream from the intersection with Connells Village Lane.	*43	+44	
South Canal Diversion	Approximately 2300 feet upstream from the intersection with Plank Road.	*83	+82	East Baton Rouge Parish, City of Baker.
	Approximately 2300 feet upstream from the intersection with Plank Road.	*83	+82	
East Baton Rouge Parish.	East Baton Rouge Parish	None	+16	East Baton Rouge Parish.
	Approximately 2300 feet upstream from the intersection with Elvin Drive.	None	+16	
Unnamed Tributary to North Branch Wards Creek (Harelson Lateral).	Confluence with North Branch Wards Creek.	None	+40	East Baton Rouge Parish.
	Confluence with North Branch Wards Creek.	None	+43	
Upper Cypress Bayou	Approximately 2800 feet upstream from the intersection with Heck Young Rd.	*80	+81	City of Zachary.
	Approximately 100 feet downstream from the intersection with Rollins Road.	*97	+94	
Upper White Bayou	Confluence with South Canal	*81	+82	City of Zachary, East Baton Rouge Parish.
	Approximately 2700 feet upstream from Old Scenic Highway.	None	+119	
Wards Creek	Confluence with Bayou Manchac	None	+18	East Baton Rouge Parish.
	Approximately 100 feet upstream from the intersection with Choctaw Drive.	None	+51	
Weiner Creek	Confluence with Jones Creek	*40	+39	East Baton Rouge Parish.
	Approximately 1100 feet upstream from the intersection with Church Entrance Road.	None	+42	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Baker

Maps are available for inspection at City Hall, 3325 Groom Road, Baker, LA 70714.

Send comments to The Honorale Harold Rideau, Mayor, City of Baker, P.O. Box 707, Baker, LA 70714.

City of Zachary

Maps are available for inspection at City Hall, 4650 Main Street, Zachary, LA 70791.

Send comments to The Honorable Charlene Smith, Mayor, City of Zachary, P.O. Box 310, Zachary, LA 70791.

East Baton Rouge Parish

Maps are available for inspection at 4th Floor Municipal Building, 300 North Blvd, Baton Rouge, LA 70802.

Send comments to The Honorable Melvin L. Holden, Mayor-President, P.O. Box 1471, Baton Rouge, LA 70821.

Columbia County, Pennsylvania, and Incorporated Areas

Briar Creek	Approximately 130 feet downstream of U.S. Route 11 (West Front Street).	*492	+492	Borough of Briar Creek.
	Approximately 2350 feet downstream of U.S. Route 11 (West Front Street).	*492	+492	
Catawissa Creek	Approximately at 1100 feet downstream of Second Street.	*474	+476	Borough of Catawissa.
	Approximately 200 feet upstream of Numidia Drive.	*476	+476	
Fishing Creek	Approximately 2180 feet downstream of Covered Bridge No. 56.	*477	+479	Town of Bloomsburg, Township of Montour.
	Approximately 2800 feet upstream of Red Mill Road.	*480	+480	
Hemlock Creek	Approximately 650 feet downstream of Legislative Route 19010 (Perry Avenue).	*478	+479	Hemlock Township of, Township of Montour.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
	Approximately at 510 feet upstream of Legislative Route 19100 (Perry Avenue).	*478	+480	
Kinney Run	Approximately at 900 feet downstream of the confluence with Tributary No. 1 to Kinney Run, at Scott Township corporate limit.	*480	+481	Township of Scott.
	Approximately at 250 feet upstream of the confluence with Tributary No. 2 to Kinney Run.	*482	+481	
Roaring Creek	Approximately 1320 feet downstream of Legislative Route 19011 (Mount Zion Rd.).	*468	+470	Township of Franklin.
	Approximately 1020 feet upstream of Legislative Route 19011 (Mount Zion Rd.).	*468	+470	
Susquehanna River	Approximately 3.5 miles downstream of Rupert Drive.	*467	+470	Borough of Berwick, Borough of Briar Creek.
	Approximately 1200 feet upstream of Route 93.	*500	+500	Borough of Catawissa, Town of Bloomsburg, Township of Catawissa, Township of Franklin, Township of Main, Township of Mifflin, Township of Montour, Township of Scott, Township of South Centre.
Tributary No. 1 to Catawissa Creek.	Approximately 240 feet downstream of State Route 42.	*476	+476	Borough of Catawissa.
	Approximately 85 feet downstream of State Route 42.	*476	+476	
Tributary No. 1 to Kinney Run.	Approximately 1530 feet downstream of U.S. Route 11 (New Berwick Hwy).	*480	+481	Township of Scott.
	Approximately 638 feet downstream of U.S. Route 11 (New Berwick Hwy).	*480	+481	
Tributary No. 10 to Susquehanna River.	Approximately 450 feet downstream of Old Berwick Road.	*482	+483	Township of Scott.
	Approximately 590 feet upstream of Tractor Road.	*484	+483	
Tributary No. 11 to Susquehanna River.	Approximately 960 feet downstream of Old Berwick Road.	*484	+485	Township of South Centre.
	Just upstream of Old Berwick Road	*484	+485	
Tributary No. 12 to Susquehanna River.	Approximately 1508 feet downstream of Legislative Route 19117 (Old Berwick Road).	*487	+487	Township of South Centre.
	Approximately 1130 feet downstream of Legislative Route 19117 (Old Berwick Road).	*487	+487	
Tributary No. 13 to Susquehanna.	Approximately 980 feet downstream of State Road 339.	*488	+489	Township of Mifflin.
	Approximately 600 feet downstream of State Road 339.	*488	+489	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Borough of Berwick

Maps are available for inspection at 344 Market Street, Berwick, PA 18603.

Send comments to The Honorable Gary Pinterich, President of Borough Council, 344 Market Street, Berwick, PA 18603.

Borough of Briar Creek

Maps are available for inspection at 6029 Park Road, Berwick, PA 18603.

Send comments to The Honorable Bruce Michael, Rittenhouse Mill Road, Berwick, PA 18603.

Borough of Catawissa

Maps are available for inspection at 307 Main Street, Catawissa, PA 17820.

Send comments to The Honorable George Romania, 195 5th Street, Catawissa, PA 17820.

Township of Hemlock

Maps are available for inspection at 26 Firehall Road, Bloomsburg, PA 17815.

Send comments to Mr. Albert L. Hunsinger, Chairman of Board of Supervisors, 26 Firehall Road, Bloomsburg, PA 17815.

Town of Bloomsburg

Maps are available for inspection at 301 East Second Street, Bloomsburg, PA 17815.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	

Send comments to The Honorable Claude Renninger, Mayor, 301 East Second Street, Bloomsburg, PA 17815.

Township of Catawissa

Maps are available for inspection at 153 Old Reading Road, Catawissa, PA 17820.

Send comments to Mr. James Molick, Chairman of Board of Supervisors, 6 Meadow Road, Catawissa, PA 17820.

Township of Franklin

Maps are available for inspection at 277 Long Woods Road, Catawissa, PA 17820.

Send comments to Mr. Edwin F. Lease, Chairman of Board of Supervisors, 260 Orchard Drive, Catawissa, PA 17820.

Township of Main

Maps are available for inspection at 345 Church Road, Bloomsburg, PA 17815.

Send comments to Mr. Tom Shuman, Supervisor, 345 Church Road, Bloomsburg, PA 17815.

Township of Mifflin

Maps are available for inspection at P.O. Box 359, Mifflinville, PA 18631.

Send comments to Mr. Ricky Lee Brown, Chairman Of Board of Supervisors, P.O. Box 359, Mifflinville, PA 18631.

Township of Montour

Maps are available for inspection at 195 Rupert Drive, Bloomsburg, PA 17815.

Send comments to Mr. Elmer F. Folk, Chairman of Board of Supervisors, 195 Rupert Drive, Bloomsburg, PA 17815.

Union County, Pennsylvania, and Incorporated Areas

Buffalo Creek	Approximately at Mill Road	*462	+461	Township of Kelly.
	Approximately 1950 feet downstream of Strawbridge Road.	*463	+462	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Township of Kelly

Maps are available for inspection at 551 Zeigler Rd, Lewisburg, PA 17837.

Send comments to Mr. David S. Hassenplug, Chairman of Board of Supervisors, 551 Zeigler Rd, Lewisburg, PA 17837.

Blount County, Tennessee and Incorporated Areas

Brown Creek	At confluence with Pistol Creek	None	+880	City of Maryville.
	At Grandview Dr	None	+961	
Cross Creek	At confluence with Pistol Creek	None	+956	City of Maryville.
	At Oxford Hills Dr	None	+1002	
Culton Creek	At confluence with Pistol Creek	None	+848	City of Alcoa, Blount County (Unincorporated Areas), City of Maryville.
	At Middlesettlements Rd	None	+858	
Duncan Branch	At U.S. 129 bypass	None	+906	City of Maryville.
	At confluence with Brown Creek	None	+929	
Laurel Bank Branch	At Middlesettlements Rd	None	+856	Blount County (Unincorporated Areas), City of Maryville.
	At Big Springs Rd	None	+871	
Little River	At Wildwood Bridge	None	+859	Blount County (Unincorporated Areas), City of Townsend.
	At Webb Road	None	+1045	
Pistol Creek	At Carpenter's Grade Rd	None	+957	City of Alcoa.
	At Campground Bridge/Davey Crockett Drive.	None	+1112	
Russell Branch	At Confluence with Little River	None	+826	City of Rockford.
	At Wright Rd	None	+911	
Springfield Branch	At Eagleton Rd	None	+846	City of Maryville.
	At Old Knoxville Pike	None	+869	
Unnamed Tributary to Brown Creek.	At confluence with Brown Creek	None	+919	City of Maryville.
	At Amerine Rd	None	+1002	
Unnamed Tributary to Laurel Bank Branch.	At confluence with Laurel Bank Branch	None	+871	Blount County (Unincorporated Areas), City of Maryville.
	At U.S. Hwy 129	None	+1008	
Unnamed Tributary To Springfield Branch.	At confluence with Springfield Branch	None	+842	City of Maryville.
	At Harding St	None	+859	

* National Geodetic Vertical Datum.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	

Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of Blount County

Maps are available for inspection at: Blount County Zoning Department, 1006 East Lamar Alexander Parkway, Maryville, Tennessee 37804.

Send comments to the Honorable Beverly Woodruff, Mayor, Blount County, 341 Court Street, Maryville, TN 37804.

City of Alcoa

Maps are available for inspection at: City of Alcoa Planning And Codes Department, 223 Associate Blvd., Alcoa, Tennessee 37701.

Send comments to the Honorable Donald Mull, Mayor, City of Alcoa, 223 Associate Blvd., Alcoa, TN 37014.

City of Maryville

Maps are available for inspection at: City of Maryville Engineering Department, 416 West Broadway Avenue, Maryville, Tennessee 37801.

Send comments to the Honorable Joe Sawnn, Mayor, City of Maryville, 416 West Broadway Avenue, Maryville, TN 37932.

City of Rockford

Maps are available for inspection at: Rockford Town Hall, 3719 Little River Road, Rockford, Tennessee 37853.

Send comments to the Honorable Steve Simon, Mayor, City of Rockford, 3719 Little River Road, Rockford, TN 37853.

City of Townsend

Maps are available for inspection at: Townsend City Hall, 133 Tiger Drive, Townsend, Tennessee 37882.

Send comments to the Honorable Kenneth Myers, Mayor, City of Townsend, 133 Tiger Drive, Townsend, TN 37882.

McMinn County, Tennessee and Incorporated Areas

Guthrie Creek	At confluence with North Mouse Creek	None	+822	McMinn County (Unincorporated Areas).
	At County Highway 172	None	+822	
Forest Branch	At North Jackson Street	None	+952	City of Athens.
	At North Avenue	None	+962	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of McMinn County, Tennessee

Maps are available for inspection at: McMinn County Mayor's Office, 6 East Madison Avenue, Athens, Tennessee 37303.

Send comments to: The Honorable John Gentry, Mayor, McMinn County, 6 West Mason Avenue, Athens, Tennessee 37303.

City of Athens

Maps are available for inspection at: City of Athens GIS Department, 815 North Jackson Street, Athens, Tennessee 37371

Send comments to the Honorable John Proffitt, Mayor, City of Athens, 815 North Jackson Street, Athens, Tennessee 37371.

Unincorporated Areas of Baltimore County, Maryland

Dead Run	Approximately 180 feet upstream of Gwynn Oak Avenue.	+336	+337	Baltimore County (Unincorporated Areas).
	Approximately 726 feet upstream of Dogwood Road.	None	+427	
Tributary No. 1 to Dead Run.	At the confluence with Dead Run	+351	+356	Baltimore County (Unincorporated Areas).
	Approximately 500 feet upstream of I–695	None	+395	
Tributary No. 3 to Dead Run.	At the confluence with Dead Run	+386	+388	Baltimore County (Unincorporated Areas).
	Approximately 400 feet upstream of Kennicott Road.	None	+410	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+North American Vertical Datum.

ADDRESSES

Baltimore County (Unincorporated Areas)

Maps are available for inspection at the Baltimore County Office Building, 111 West Chesapeake Avenue, Room 307, Towson, Maryland.

Send comments to Mr. James T. Smith, Jr., Baltimore County Executive, 400 West Washington Avenue, Towson, Maryland 21204.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 2006.

David I. Maurstad,

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

[FR Doc. E6–20790 Filed 12–6–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23, 36, and 52

[FAR Case 2006–008; Docket 2006–0020; Sequence 12]

RIN 9000–AK63

Federal Acquisition Regulation; FAR Case 2006–008, Implementation of Section 104 of the Energy Policy Act of 2005

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to address implementation of Section 104 of the Energy Policy Act of 2005.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before February 5, 2007 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2006–008 by any of the following methods:

- Federal eRulemaking Portal:*http://www.regulations.gov*. Search for any document by first selecting the proper document types and selecting ''Federal Acquisition Regulation'' as the agency of choice. At the ''Keyword'' prompt, type in the FAR case number (for example, FAR Case 2006–008) and click on the ''Submit'' button. You may also search for any document by clicking on the ''Advanced search/document search'' tab at the top of the screen, selecting from the agency field ''Federal Acquisition Regulation'', and typing the FAR case number in the keyword field. Select the ''Submit'' button.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2006–008 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT For clarification of content, contact Mr. William Clark, Procurement Analyst, at (202) 219–1813. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. The TTY Federal Relay Number for further information is 1–800–877–8973. Please cite FAR case 2006–008.

SUPPLEMENTARY INFORMATION:

A. Background

The Government's policy is to acquire supplies and services that promote energy and water efficiency, advance the use of renewable energy products, and help foster markets for emerging technologies. This policy extends to all acquisitions, including those below the simplified acquisition threshold, and those for the design, construction, renovation, or maintenance of a facility.

The purpose of this rule is to ensure compliance with the Federal mandate to promote energy efficiency when specifying or acquiring energy-consuming products. This mandate stems from Section 104 of the Energy Policy Act of 2005. Section 104 requires that all acquisitions of energy consuming-products and all contracts for energy-consuming products require acquisition of ENERGY STAR® or Federal Energy Management Program (FEMP) designated products.

As the world's largest volume-buyer of energy consuming products, the Federal Government can reduce energy consumption and achieve enormous cost savings by purchasing energy-efficient products. ENERGY STAR® and FEMP are two Federal programs concerned with energy efficient products for Federal purchase. The ENERGY STAR® and FEMP websites (*http://www.energystar.gov/products* and *http://www.eere.energy.gov/femp/procurement/eep_requirements.cfm*, respectively) assist Federal purchasers and contractors to identify these types of highly efficient products.

The ENERGY STAR® program is jointly sponsored by the Environmental Protection Agency and the Department of Energy. Begun in 1992, Energy Star's original focus was office equipment, but has been expanded to include many other consumer products as well as business products. Over the past decade, ENERGY STAR® has been a driving force behind the more widespread use of such technological innovations as LED traffic lights, compact fluorescent lighting, power management systems for office equipment and consumer electronics, and low standby energy use. The ENERGY STAR® program allows manufacturers of products with superior energy efficiency that meet or exceed specified criteria to use the ENERGY STAR® logo on their products to assist consumers in selecting the energy efficient products. It has been so successful that, in 2005, it saved U.S. consumers, businesses, and Government agencies enough energy to avoid greenhouse gas emissions equivalent to those from 23 million cars while saving $12 billion on utility bills.

FEMP was designed to reduce energy consumption in Federal buildings. The program began in 1993 to assist Federal purchasers in specifying and acquiring energy efficient products in direct acquisitions, as part of capital projects, and as products supplied through service contracts. FEMP publishes Energy Efficient Purchasing specifications that identify the energy efficiency requirements. Energy efficiency in the FEMP program is targeted to those products in the top 25% of energy efficiency in their class as well as products with low standby power. FEMP has many other user aids for acquiring efficient energy consuming products at their website.

When acquiring energy-using products, FAR 23.203 currently requires the purchase of ENERGY STAR® or other energy-efficient items listed on the FEMP Product Energy Efficiency Recommendations list. Furthermore, FAR 23.203(a)(2) requires that when contracting for services that will include the provision of energy-using products, including contracts for design, construction, renovation, or maintenance of a public building, the specifications shall incorporate ENERGY STAR® and FEMP energy-efficient products. While these requirements are stated at FAR 23.2, they are often overlooked in services and construction contracts because there is no clause to implement the requirements. Therefore, this proposed rule provides for a clause to be inserted in solicitations and contracts to ensure that suppliers and service and construction contractors recognize when

energy-consuming products must be ENERGY STAR® or FEMP-designated.

The proposed rule—

(1) Defines ''FEMP-designated product,'' as used in FAR Subpart 23.2, as a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency (42 U.S.C. 8259b);

(2) Provides that the term ''product,'' as used in the subpart, does not include any energy consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b);

(3) Consistent with the Energy Policy Act of 2005, provides for use of the terms ''energy-consuming'' and ''FEMP-designated product'' vice ''energy-using'' and ''FEMP Product Energy Efficiency Recommendations product list'', respectively;

(4) Transfers the responsibility for imposing the requirement for ENERGY STAR® or FEMP-designated products from contract specifications to a contract clause;

(5) Provides two exemptions for acquiring ENERGY STAR® or FEMP-designated products; and

(6) Prescribes a contract clause to be used in all solicitations and contracts when energy-consuming products will be—

(a) Delivered by the contractor;

(b) Furnished by the contractor in the performance of services at a Federally-controlled facility; or

(c) Specified in the design, construction, renovation, or maintenance of a facility.

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

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it only emphasizes existing requirements. Whereas the Councils recognize that the rule may affect small entities performing contracts for those agencies that have not fully implemented the program in service and construction contracts, the number of entities affected, and the extent to which they will be affected, is not expected to be significant. The rule may affect the types of products these businesses use during contract performance. Assistance (including product listings and recommendations) is available to all firms at the ENERGY STAR® and FEMP websites, *http://www.energystar.gov/products* and *http://www.eere.energy.gov/femp/procurement/eep_requirements.cfm*, respectively. Options to comply with the requirements of the rule can be as simple as purchasing ENERGY STAR® or FEMP-designated products when performing service and construction contracts. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 23, 36, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 20006–008), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 23, 36, and 52

Government procurement.

Dated: November 27, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

Therefore, DOD, GSA, and NASA propose amending 48 CFR parts 23, 36, and 52 as set forth below:

1. The authority citation for 48 CFR parts 23, 36, and 52 continues to read as follows:

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

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Amend Subpart 23.2 by—

a. Redesignating sections 23.201, 23.202, 23.203, and 23.204 as 23.202, 23.203, 23.204, and 23.206, respectively;

b. Adding a new sections 23.201, 23.205, and 23.207;

c. Removing from paragraph (b) of the newly designated section 23.202 ''8253,'' and adding ''8253, 8259b,'' in its place;

d. Revising the newly designated section 23.204.

The added and revised text reads as follows:

23.201 Definitions.

As used in this subpart—

FEMP-designated product means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency (42 U.S.C. 8259b).

Product does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

* * * * *

23.204 Energy-efficient products.

(a) Unless exempt as provided at 23.205—

(1) When acquiring energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP)—

(i) Agencies shall purchase ENERGY STAR® or FEMP-designated products; and

(ii) For products that consume power in a standby mode and are listed on FEMP's Low Standby Power Devices product listing, agencies shall—

(A) Purchase items which meet FEMP's standby power wattage recommendation or document the reason for not purchasing such items; or

(B) If FEMP has listed a product without a corresponding wattage recommendation, purchase items which use no more than one watt in their standby power consuming mode. When it is impracticable to meet the one watt requirement, agencies shall purchase items with the lowest standby wattage practicable; and

(2) When contracting for services or construction that will include the provision of energy-consuming products, agencies shall specify products that comply with the applicable requirements in paragraph (a)(1) of this section.

(b) Information is available via the Internet about—

(1) ENERGY STAR® at *http://www.energystar.gov/products*; and (2) FEMP at *http://www.eere.energy.gov/femp/ procurement/eep_requirements.cfm*.

23.205 Procurement exemptions.

An agency is not required to procure an ENERGY STAR® or FEMP-designated product if the head of the agency determines in writing that—

(a) No ENERGY STAR® or FEMP-designated product is reasonably available that meets the functional requirements of the agency; or

(b) No ENERGY STAR® or FEMP-designated product is cost effective over the life of the product taking energy cost savings into account. Such determinations should be rare as such products are normally life cycle cost effective.

* * * * *

23.207 Contract clause.

Unless exempt pursuant to 23.205, insert the clause at 52.223–XX, Energy Efficiency in Energy-Consuming Products, in solicitations and contracts when energy-consuming products listed in the ENERGY STAR® Program or FEMP will be—

(a) Delivered by the contractor;

(b) Furnished by the contractor in the performance of services at a Federally-controlled facility; or

(c) Specified in the design, construction, renovation, or maintenance of a facility.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

3. Amend section 36.601–3 by redesignating paragraph (a) as paragraph (a)(1) and adding a new paragraph (a)(2) to read as follows:

36.601–3 Applicable contracting procedures.

(a)(1) * * *

(2) Facility design solicitations and contracts that include the specification of energy-consuming products must comply with the requirements at Subpart 23.2.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.212–5 by revising the date of the clause; redesignating paragraphs (b)(23) through (b)(35) as (b)(24) through (b)(36), respectively; and adding a new paragraph (b)(23) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (DATE)

* * * * *

(b) * * *

l (23) 52.223–XX, Energy Efficiency in Energy-Consuming Products (Date).

* * * * *

5. Amend section 52.213–4 by revising the date of the clause; redesignating paragraphs (b)(1)(viii) through (b)(1)(xi) as paragraphs (b)(1)(ix) through (b)(1)(xii), respectively; and adding a new paragraph (b)(1)(viii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (DATE)

* * * * *

(b) * * *

(1) * * *

(viii) 52.223–XX, Energy Efficiency in Energy-Consuming Products (Date) (42 U.S.C. 8259b). Unless exempt pursuant to 23.205, applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or FEMP will be—

(A) Delivered by the Contractor;

(B) Furnished by the Contractor in the performance of services at a Federally-controlled facility; or

(C) Specified in the design, construction, renovation, or maintenance of a facility.

* * * * *

6. Add section 52.223–XX to read as follows:

52.223–XX Energy Efficiency in Energy-Consuming Products.

As prescribed in 23.207, insert the following clause:

ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DATE)

(a) *Definition*. As used in this clause, *FEMP-designated product* means a product that is designated under the Federal Energy Management Program (FEMP) of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

(b) The Contractor shall ensure that energy-consuming products are ENERGY STAR® products, or FEMP-designated products, for products that are—

(1) Delivered;

(2) Furnished by the Contractor in performing services at a Federally-controlled facility;

(3) Specified in architect-engineer designs, plans and specifications; or

(4) Provided as an article, material, or supply brought to the construction site for incorporation into the building or work.

(c) The requirements of paragraph (b) apply unless—

(1) The energy-consuming product is not listed in the ENERGYSTAR® Program or FEMP; or

(2) Otherwise approved in writing by the Contracting Officer.

(d) Information about these products is available for—

(1) ENERGYSTAR® at *http://www.energystar.gov/products*; and

(2) FEMP at *http://www.eere.energy.gov/femp/procurement/eep_requirements.cfm*.

(End of clause)

[FR Doc. 06–9523 Filed 12–6–06; 8:45 am]

BILLING CODE 6820–EP–S

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Part 719

RIN 0412–AA58

Mentor-Protege Program

AGENCY: U.S. Agency for International Development (USAID).

ACTION: Proposed rulemaking; correction.

SUMMARY: The United States Agency for International Development (USAID) is correcting the date for receiving public comments on the proposed rule published on November 22, 2006 in Vol. 71, No. 225, pp. 67518–67523. The date printed was December 8, 2006 but should read February 22, 2007.

DATES: Written comments on the proposed rulemaking at 71 FR 67518 must be received on or before February 22, 2007.

FOR FURTHER INFORMATION CONTACT: If further questions remain please contact Rockfeler P. Herisse, Ph.D. on 202–712–0064 or *rherisse@usaid.gov*.

Dated: December 1, 2006.

Marilyn Marton,

Director, Office of Small and Disadvantaged Business Utilization (OSDBU).

[FR Doc. E6–20782 Filed 12–6–06; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 061113298–6298–01; I.D. 110106A]

RIN 0648–AU91

Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to revise the method for renewing and replacing permits issued under the Fishery Management Plan(FMP) for U.S. West Coast Fisheries for Highly Migratory Species (HMS). Permits are required for all commercial vessels and all recreational charter vessels participating in HMS fisheries managed under the FMP. NMFS proposes to modify the renewal process by substituting the month corresponding to the vessel identification number with the last day of the vessel owner's birth month as the renewal date. NMFS also proposes to require that vessel owners who want a duplicate permit submit a completed application form to NMFS. These proposed regulations are needed to improve the efficiency and timeliness of the permit system.

DATES: Comments must be received by 5 p.m. Pacific Standard Time January 8, 2006.

ADDRESSES: You may submit comments on this proposed rule identified by [I. D. 110106A] by any of the following methods:

- E-mail: *0648–AU91.swr@noaa.gov*. Include [I.D. 110106A] in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 562–980–4047, Attn. Mark Helvey.
- Mail to: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.
- Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Mark Helvey, Sustainable Fisheries Division (SFD) Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802 and by e-mail to David1Rostker@omb.eop.gov, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Mark Helvey, NMFS, Southwest Region, SFD, (562) 980–4040.

SUPPLEMENTARY INFORMATION: These proposed regulations would modify the process NMFS uses to renew and replace permits in the U. S. West Coast HMS fisheries managed under the HMS FMP. The FMP was prepared by the Pacific Fishery Management Council and was implemented through regulations at 50 CFR part 660 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*

Background

NMFS requires a permit for all commercial vessels and all recreational charter vessels that fish for HMS in the U.S. exclusive economic zone (EEZ) off the States of California, Oregon, and Washington, or land or transship HMS shoreward of the outer boundary of the U.S. EEZ off the States of California, Oregon, and Washington. The purpose of the HMS permit is to identify vessels in the HMS fisheries so that NMFS knows those participants who need to be contacted when management information is required and who to notify when potential management actions affecting the fisheries are being considered.

The requirement for a permit was established by final rule implementing the approved portions of the FMP for HMS published on April 7, 2004 (69 FR 18444). These permits were initially issued in 2005 after publishing a **Federal Register** notice on February 10, 2005 (70 FR 7022), that announced approval by the Office of Management and Budget of the collection-of-information components of the permit system.

Permit Renewal

Permits are issued to the managing owner of a specific vessel for a 2–year term. The initial issuance of HMS permits began in 2005 and these permits will expire beginning in 2007. NMFS initially developed a permit term renewal process intentionally staggered so that there will be less likelihood of an excessive number of renewals at any one time of the year. NMFS used the last day of the month designated by the last digit of the vessel identification number as determining the renewal date for expiring permits (e.g., if the vessel identification number ends in 3, the renewal date is March 31, 2 years later). This procedure extends the renewal process over a 10–month term: January through October.

Based on the high number of permits in effect, NMFS proposes to modify this process by using the last day of the managing vessel owner's birth month as the renewal date. The managing vessel owner's date of birth is required in the Pacific HMS Vessel Permit Application and is currently contained in the Pacific HMS Vessel Permit database. NMFS believes that staggering the renewal process over 12 months rather than 10 months will improve the efficiency of the permit renewal process. This first renewal date under the new system would be the last day of the vessel owner's birthday month in the second calender year after the permit is issued. NMFS anticipates that the system presented in this proposed rule should result in delivery of permits to vessel operators in a more efficient manner. This proposed rule does not require any new information to be provided by the applicant. A Southwest Region Pacific HMS Vessel Permit Application form may still be obtained from the SFD (see **ADDRESSES**) or downloaded from the Southwest Region home page (*http://swr.nmfs.noaa.gov/permits.htm*) to apply for a permit under this section. A completed application is one that contains all the required information and signatures.

Replacement Permits

Replacement permits are issued by NMFS to vessel owners to replace lost or mutilated permits. Vessel owners with a lost or mutilated permit primarily notify NMFS by telephone when requesting a replacement permit. NMFS has never established a formal process to provide replacement permits, but the number of requests for replacements over the past year make it clear that such a process is required. NMFS proposes that vessel owners requiring a replacement permit submit a new completed application form to NMFS by mail or fax (see **ADDRESSES**).

Classification

This proposed rule revises procedures for renewing and replacing permits issued under regulations implementing the HMS FMP published in 69 FR 18444 on April 7, 2004. The Regional Administrator, NMFS Southwest Region, determined that this proposed rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act, codified at 16 U.S.C. 1801 *et seq.*

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

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, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

Based on the high number of permits in effect, NMFS proposes to modify this process by using the last day of the managing vessel owner's birth month as the renewal date. The managing vessel owner's date of birth is required in the Pacific HMS Vessel Permit Application (application) and is currently contained in the Pacific HMS Vessel Permit database. Staggering renewals over 12 months rather than 10 months is expected to maximize the efficiency of the permit renewal process. This proposed rule does not

require any new information to be provided by the applicant or impose any substantive costs.

Replacement permits are issued by NMFS to vessel owners to replace lost or mutilated permits. Vessel owners with a lost or mutilated permit primarily notify NMFS by telephone when requesting a replacement permit. NMFS has never established a formal process to provide replacement permits, but the number of requests for replacements over the past year (approximately 50) make it clear that such a process is required. NMFS proposes that vessel owners requiring a replacement permit submit a completed application form to NMFS by mail or fax. The estimated reporting burden to prepare the single page, application averages 0.42 hours per vessel, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information NMFS recognizes that the duration of time between the initial application and completing a second one to obtain a replacement permit dictates the reporting burden and certainly the longer the time span between the two, the closer the applicant would come to the 0.42 hour estimate. NMFS has also estimated that of the 1800 permits issued since April, 2005, approximately 50 were replaced in 2006 creating an annualized burden of 21 hours. The permits are currently free and the only cost (other than time) would be that of submitting the application (e.g., up to 39 cents postage).

The revised method for renewing permits will not place any new or additional burdens on HMS vessel owners. For replacing permits, HMS vessel owners will need to take the time to complete a second application form and mail or fax it to NMFS. NMFS also does not anticipate a drop in profitability based on this rule, as it should not have an affect on a vessel owner's ability to harvest HMS. Therefore, the proposed action, if implemented, will not have a significant impact on a substantial number of small entities.

A fishing vessel is considered a ''small'' business by the U.S. Small Business Administration (SBA) if its annual receipts not in excess of $3.5 million. Since all of the vessels fishing for West Coast HMS have annual receipts below $3.5 million they would all be considered small businesses under the SBA standards. Therefore this rule will not create disproportionate costs between small and large vessels/businesses.

Based on the analysis above, the Department of Commerce has determined that there will not be a significant economic impact to a substantial number of these small entities. Therefore, NMFS did not prepare an Initial Regulatory Flexibility Analysis.

As a result, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule for permit renewals references a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that was approved by OMB under control number 0648–0204. Public reporting burden for preparing a HMS Vessel Permit Application is estimated to average 0.42 hours per vessel, including 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 this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSEES) and by e-mail to *David1Rostker@omb.eop.gov*, or fax to (202) 395–7285.

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

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, Permits.

Dated: November 30, 2006.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.707, paragraphs (b)(4) and (b)(5)are revised to read as follows:

§ 660.707 Permits.

(b) * * *

(4) Permits issued under this subpart will remain valid until the first date of renewal, and permits may be subsequently be renewed for 2–year terms. The first date of renewal will be the last day of the owner's birth month in the second calendar year after the permit is issued (e.g., if the birth month is March and the permit is issued on October 3, 2007, the permit will remain valid through March 31, 2009).

(5) Replacement permits may be issued without charge to replace lost or mutilated permits. Replacement permits may be obtained by submitting to the SFD c/o the Regional Administrator a complete, signed vessel permit application. An application for a replacement permit is not considered a new application.

* * * * *

[FR Doc. E6–20721 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No 061127309–6309–01; I.D. 110706D]

RIN 0648–AU72

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Reporting Requirements and Conservation Measures

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes a regulation to implement new reporting and conservation measures under the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). These reporting requirements and prohibitive measures would require coastal pelagic species (CPS) fishermen/vessel operators to employ avoidance measures when southern sea otters are present in the area they are fishing and to report any interactions that may occur between their vessel and/or fishing gear and sea otters. The purpose of this proposed rule is to comply with the terms and conditions of an incidental take statement from a biological opinion issued by the U.S. Fish and Wildlife Service regarding the implementation of Amendment 11 to the CPS FMP.

DATES: Comments must be received by January 8, 2007.

ADDRESSES: You may submit comments on this proposed rule, identified by [insert ID] by any of the following methods:

- E-mail: *0648–AU72.SWR@noaa.gov* Include the I.D. number in the subject line of the message.
- Federal e-Rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.
- Fax: (562) 980–4047.
- Written comments regarding the burden-hour estimates or other aspects of the collection-of-information

requirements contained in this proposed rule may be submitted to the Southwest Regional Office and by e-mail to *David1Rostker@omb.eop.gov* or fax to (202) 395–7285

Copies of Amendment 11 and its Environmental Assessment/ Regulatory Impact Review may be obtained from the Southwest Regional Office (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Joshua B. Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: This action proposes to implement new reporting requirements and conservation measures under the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The purpose of the proposed rule is to comply with the terms and conditions set forth in the incidental take statement section of a biological opinion issued by the U.S. Fish and Wildlife Service (USFWS) regarding the implementation of Amendment 11 and to provide further conservation efforts for the threatened southern sea otter. These reporting requirements and conservation measures would require all coastal pelagic species (CPS) fishermen and vessel operators to employ avoidance measures when sea otters are present in the fishing area and to report any interactions that may occur between their vessel and/or fishing gear and the otters.

In accordance with the regulations implementing the Endangered Species Act (ESA), the National Marine Fisheries Service (NMFS) initiated an ESA section 7 consultation with USFWS regarding the possible effects of implementing Amendment 11 to the CPS FMP. The purpose of the Amendment was to achieve optimal utilization of the resource and equitable allocation of Pacific sardine harvest opportunity. On June 16, 2006, USFWS completed a biological opinion on Amendment 11 and concluded that it was not likely to jeopardize the continued existence of the southern sea otter. The final rule to implement Amendment 11 was then published on June 29, 2006 (71 FR 36999) and changed the framework for annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast.

These new measures and regulations would include:

1. CPS fishing boat operators and crew would be prohibited from deploying their nets if a southern sea otter is observed within the area that would be encircled by the purse seine.

2. If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, such an occurrence must be reported within 24 hours to the Regional Administrator, NMFS Southwest Region.

3. While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entaglement, which will be initially reported as described in ι2 above, all other observations must be reported within 20 days to the Regional Administrator.

When contacting NMFS after an interaction, fishermen would be required to provide information regarding the location (latitude and longitude) of the interaction and a description of the interaction itself. If available, location information should also include: Water depth, distance from shore, and relation to port or other landmarks. Descriptive information of the interaction should include: whether or not the otters were seen inside or outside the net, if inside the net, had the net been completely encircled, did contact occur with net or vessel, the number of otters present, duration of interaction, otter's behavior during interaction, and measures taken to avoid interaction.

Classification

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for this otter interaction requirement is estimated to average 10 minutes per individual per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of infromation technology. Send comments on these or any other aspects of the collection of information to NMFS Southwest Region at the ADDRESSES above, and e-mail to David1Rostker@omb.eop.gov or fax to (202) 395–7285.

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

These proposed specifications are issued under the authority of, and NMFS has preliminarily determined that it is in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and the regulations implementing the FMP.

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

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, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

A fishing vessel is considered a ''small'' business by the U.S. Small Business Administration (SBA) if its annual receipts are not in excess of $3.5 million. Since all of the vessels fishing for CPS have annual receipts below $3.5 million they would all be considered small businesses under the SBA standards. Therefore this rule will not create disproportionate costs between small and large vessels/businesses.

Otter interactions as described in this proposed rule are extremely rare; therefore the burden to small businesses as a result of these new regulations is expected to be minimal. The only expected cost to the respondents will be the cost associated with contacting NMFS, which may be made through mail, phone, fax, or email. NMFS also does not anticipate a drop in profitability based on this rule, as the proposed action should not have a substantial effect on the methods fishermen use or the areas in which they fish. The overlap between the distribution of the southern sea otter and CPS fishing grounds is very limited. Where overlap does occur, a small portion of Monterey Bay, otter interactions with CPS fishermen have been very rare. Due to the limited potential for overlap the fishermen's ability to harvest CPS will not be effected.

NMFS has determined that there will not be a significant economic impact to a substantial number of these small entities. Therefore, NMFS did not prepare an Initial Regulatory Flexibility Analysis.

As a result, a regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: December 4, 2006.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.505, add paragraph (n) to read as follows:

§ 660.505 Prohibitions.

* * * * *

(n) When fishing for CPS, deploy a net if a southern sea otter is observed within the area that would be encircled by the purse seine net.

3. Section 660.520 is added to read as follows:

§ 660.520 Reporting requirements.

(a) *Otter interaction.* (1) If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, the vessel operator must report this interaction within 24 hours to the Regional Administrator.

(2) While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which must be initially reported as described in paragraph (a)(1)of this section, all other observations must be reported within 20 days to the Regional Administrator.

(3) When contacting NMFS after an interaction, vessel operators must provide the location (latitude and longitude) of the interaction and a description of the interaction itself. If available, location information should also include water depth, distance from shore, and relation to port or other landmarks. Descriptive information of the interaction should include: whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; whether any otters came in contact with either the net or the vessel; the number of otters present; duration of interaction; otter's behavior during interaction; measures taken to avoid interaction.

(b) [Reserved]

[FR Doc. E6–20770 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 112006I]

RIN 0648–AU48

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Allocations in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 85 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to NMFS for review. If approved, Amendment 85 would revise the current Bering Sea and Aleutian Islands management area (BSAI) Pacific cod allocations of total allowable catch (TAC) among various harvest sectors, modify the management of Pacific cod incidental catch in other non-target fisheries, eliminate the groundfish reserve for Pacific cod, increase the percentage of the BSAI Pacific cod TAC apportioned to the Community Development Quota (CDQ) Program, and add a new appendix to the FMP that summarizes the Consolidated Appropriations Act of 2005. Amendment 85 is necessary to reduce uncertainty about the availability of yearly harvests within sectors caused by reallocations, and to maintain stability between sectors in the BSAI Pacific cod fishery. This would be accomplished by establishing allocations that more closely reflect actual use by sector than do current allocations while considering socioeconomic and community factors, thus reducing the need for reallocations during the fishing year. This proposed amendment also is necessary to implement recent changes to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that require a directed fishing allocation of 10 percent to the CDQ Program upon the establishment of a sector allocation. This action is intended to promote the goals and objectives of the Magnuson-Stevens Act, the FMP, and other applicable laws. The amendment is available for public review and comment.

DATES: Comments on Amendment 85 must be received on or before February 5, 2007.

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

- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK;
- E-mail: *0648–AU48–BSA85–NOA@noaa.gov*. Include in the subject line the following document identifier: ''Pacific cod RIN 0648 AU48.'' E-mail comments, with or without attachments, are limited to 5 megabytes;
- Fax: 907–586–7557;
- Mail: P.O. Box 21668, Juneau, AK 99802–1668; or
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of the Amendment 85 Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from the NMFS Alaska Region website at *www.fakr.noaa.gov* or from the mailing and street addresses listed above.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228 or *becky.carls@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** that the FMP or amendment is available for public review and comment. This requirement is satisfied by this notice of availability for Amendment 85.

The BSAI Pacific cod TAC, after subtraction of reserves, currently is subdivided, or allocated, among eight non-CDQ fishing industry sectors based on the type of fishing gear used pursuant to regulations at 50 CFR 679.20(a)(7). Basically, these gear

sectors include trawl gear, fixed gear (hook-and-line and pot), and jig gear. These basic allocations are further subdivided between catcher/processor vessels (CPs) that process their catch and catcher vessels (CVs) that catch fish but do not process it, and by length of vessel in some cases. Some allocations are further apportioned between seasons. The purpose of these allocations and apportionments is to prevent one industry sector from unfairly affecting the harvesting opportunities of other sectors and to ensure temporal dispersion of harvest to protect Steller sea lions. Several FMP amendments, implemented beginning in 1994, have allocated Pacific cod among these harvesting sectors. The previous and current allocations by sector, and those proposed under Amendment 85, are summarized in the following table.

PERCENT SECTOR ALLOCATIONS BY AMENDMENT OF BSAI PACIFIC COD NON-CDQ TAC

Sector	Amendment 24 (59 FR 4009, January 28, 1994)	Amendment 46 (61 FR 59029, November 20, 1996)	Amendment 64 (65 FR 51553, August 24, 2000)	Amendment 77 (68 FR 49416, August 18, 2003)(Current)	Proposed Amendment 85
Jig	2.0	2.0	2.0	2.0	1.4
Hook-and-line/pot CV < 60ft (18.3 m) LOA	44.0	51.0	0.7	0.7	2.0
Hook-and-line CV ≥ 60ft (18.3 m) LOA			0.2	0.2	0.2
Hook-and-line CP			40.8	40.8	48.7
Pot CP			9.3	1.7	1.5
Pot CV ≥ 60ft (18.3 m) LOA				7.6	8.4
Trawl CV	54.0	23.5	23.5	23.5	22.1
AFA trawl CP		23.5	23.5	23.5	2.3
Non-AFA trawl CP					13.4

Abbrevations: AFA = American Fisheries Act and LOA = length overall.

The BSAI Pacific cod non-CDQ TAC currently is fully distributed among eight competing harvest sectors. The Pacific cod TAC allocations and apportionments for 2006 and 2007 are located in Table 5 of the groundfish specifications published March 3, 2006 (71 FR 10900), and may be changed as necessary during any fishing year pursuant to 50 CFR 679.20(a)(7)(ii) and 679.25(a).

Under the existing allocations, one or more sectors are typically unable to harvest their annual allocation of the Pacific cod TAC. To provide an opportunity for the full harvest of the BSAI Pacific cod non-CDQ TAC, existing allocations of Pacific cod that are projected to be unharvested by some sectors are annually reallocated by NMFS to other sectors. Since 1994, NMFS has reallocated Pacific cod each year from the trawl and jig sectors to fixed gear sectors. In 2002 and in 2004, reallocations also were made from the pot gear sectors to the hook-and-line CP sector. Reallocations within gear types (e.g., trawl CPs to trawl CVs, or hook-and-line CVs to hook-and-line CPs) have occurred less frequently and in lower amounts. Unharvested amounts typically result from gear specific PSC limitations closing directed fishing for Pacific cod, low catch rates during certain times of the year that can result from seasonal apportionments of the Pacific cod TAC, or insufficient effort by a sector.

In developing Amendment 85, the Council determined that current allocations do not correspond with actual dependence and use by the existing sectors, as demonstrated by the need for annual reallocations. Reallocations maintain a level of uncertainty for some sectors regarding the amount of Pacific cod available for harvest. The Council expects that uncertainty to decrease due to the revisions to the Pacific cod non-CDQ allocations under this proposed amendment. Members of various gear sectors expressed concern that the current allocations are overdue for review, as the overall division of TAC among the trawl, jig, and fixed gear sectors has been in place since 1997. Participants in the BSAI Pacific cod fishery that have made significant investments and have a long-term dependence on the resource, assert that they need enhanced stability in the sector allocations.

Under Amendment 85, the Council selected nine individual non-CDQ sectors to receive separate BSAI Pacific cod non-CDQ TAC allocations (see table above). These sectors are jig, fixed gear (pot and hook-and-line gear) CVs less than 60 ft (18.3 m) length overall (hereafter, < 60 ft LOA), hook-and-line CVs greater than or equal to 60 ft LOA (hereafter, ≥ 60 ft LOA), hook-and-line CPs, pot CVs ≥ 60 ft LOA, pot CPs, trawl CPs, and trawl CVs. The Council selected allocations using catch histories from 1995 through 2003 and other socio-economic and community considerations. The Council determined that the new allocations better reflect actual dependency and use by sector, with specific consideration to allow for additional growth in the small boat, entry-level sectors (fixed gear CVs < 60 ft LOA and jig). The primary objective of the Council in revising the BSAI Pacific cod non-CDQ TAC allocations to each sector was to reduce the level and frequency of annual reallocations, and thus enhance sector stability so that each sector may better plan its fishing year and operate more efficiently.

The proposed rule to implement Amendment 85 would make the following changes in regulations for the management of the BSAI directed Pacific cod fishery:

- Increase the percentage of the BSAI Pacific cod TAC apportioned to the CDQ Program.

• Revise the allocations of BSAI Pacific cod non-CDQ TAC among various gear sectors.

• Modify the management of Pacific cod incidental catch that occurs in other groundfish fisheries.

• Eliminate the Pacific cod nonspecified reserve.

• Establish a hierarchy for the reallocation of projected unused sector allocations to other sectors.

• Adjust the seasonal allowances of Pacific cod to various sectors.

• Subdivide among sectors the annual PSC limits apportioned to the Pacific cod trawl and hook-and-line gear fisheries.

• Modify the sideboard restrictions for Pacific cod that are applied to the CP vessels listed as eligible under the American Fisheries Act (AFA).

• Revise the definition for AFA trawl catcher/processor and add definitions for hook-and-line catcher/processor, non-AFA trawl catcher/processor, and pot catcher/processor.

Two additional pieces of Federal legislation affect Amendment 85. First, on December 8, 2004, the President signed into law the Consolidated Appropriations Act of 2005 (Act; Public Law 108–447). With respect to fisheries off Alaska, the Act establishes catcher processor sector definitions for participation in: (1) the catcher processor subsectors of the BSAI non-pollock groundfish fisheries, and (2) the BSAI Catcher Processor Capacity Reduction Program. The following subsectors are defined in section 219(a) of the Act and are not repeated here: AFA trawl catcher processor; non-AFA trawl catcher processor; longline catcher processor; and pot catcher processor.

Section 219(a) of the Act also defines ''non-pollock groundfish fishery'' as target species of Atka mackerel, flathead sole, Pacific cod, Pacific ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI. Thus, the Act provides the qualification criteria that each participant in the CP subsectors must meet in order to operate as a CP in the BSAI non-pollock groundfish fishery and/or participate in the BSAI Catcher Processor Capacity Reduction Program.

The Act includes numerous provisions that are not related to the management of groundfish and crab fisheries off Alaska. Only the portions of the legislation related to eligibility of the catcher processor subsectors would be provided for reference in a new appendix to the FMP, Appendix J. The portions of the legislation authorizing and governing the development of the BSAI Catcher Processor Capacity Reduction Program would not be provided in the appendix.

Second, the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241), signed into law on July 11, 2006, amended section 305(i)(1) of the Magnuson-Stevens Act. Section 305(i)(1)(B)(ii)(I) of the Magnuson-Stevens Act now requires that a directed fishing allowance of 10 percent be allocated to the CDQ Program upon the establishment of sector allocations in a fishery. Currently, the CDQ Program receives a fishing allocation of 7.5 percent of the Pacific cod TAC, as the CDQ reserve, that is used by CDQ groups for directed fishing for Pacific cod (targeted fishing for Pacific cod), plus incidental catch (Pacific cod that are caught and retained while targeting other species) and bycatch (Pacific cod that are caught and released while targeting other species). Because Amendment 85, if approved, would establish sector allocations in the BSAI Pacific cod fishery, this action would allocate 10 percent of the BASI Pacific cod TAC to the CDQ reserve as a directed fishing allowance. The 10 percent directed fishing allocation of Pacific cod to the CDQ reserve is only for directed fishing and does not include amounts of Pacific cod needed for incidental catch or bycatch in other CDQ groundfish fisheries. Therefore, this proposed amendment also would allocate a CDQ incidental catch allowance for Pacific cod to the CDQ reserve. Currently, the CDQ reserve is deducted from the Pacific cod TAC before the remaining Pacific cod TAC is allocated to the other fishing sectors. As intended by the Council, this amendment would continue this procedure: the 10 percent directed fishing allowance and the CDQ incidental catch allowance would be subtracted from the Pacific cod TAC before allocations of Pacific cod are made to the non-CDQ sectors.

Public comments are being solicited on proposed Amendment 85 through the end of the comment period stated (see **DATES**). A proposed rule to implement Amendment 85 will be published in the **Federal Register** for public comment, following NMFS' evaluation under Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on Amendment 85 to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on Amendment 85, whether specifically directed to the amendment or the proposed rule, will be considered in the decision to approve, partially approve, or disapprove the proposed amendment. Comments received after the comment period for the amendment will not be considered in that decision. To be considered, written comments must be received by NMFS, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

Dated: November 30, 2006.

James P. Burgess,

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

[FR Doc. E6–20700 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 71, No. 235
Thursday, December 7, 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

Forest Service

Lassen National Forest, Almanor Ranger District, California, Creeks Forest Health Recovery Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to the environmental impact statement.

SUMMARY: In response to Federal District Judge Damrell's August 16, 2006 order regarding the Creeks Forest Health Recovery Project Environmental Impact Statement (EIS) and Record of Decision (ROD), I am preparing a Supplement to the September 2005 Final EIS. Consistent with the Court's findings, this supplement will address the following points from the court order: ''(1) The Forest Service violated NEPA by failing to analyze an adequate range of alternatives, particularly alternatives involving less intensive logging. (2) The Forest Service violated NEPA by failing to take a hard look at the Creeks Forest Health Recovery Project's impact on the American marten and the California spotted owl. (3) The Forest Service violated NFMA by failing to insure viable, well-distributed populations of the American marten and the California spotted owl. (4) The Forest Service violated NFMA by approving the Project without appropriate or sufficient population and habitat data for the American marten, the pileated woodpecker, and the black bear.''

SUPPLEMENTARY INFORMATION: On September 9, 2005, Forest Supervisor, Laurie Tippin signed a ROD and released the final EIS for the Creeks Project. This EIS and ROD were challenged in federal district court by the Sierra Nevada Forest Protection Campaign, Sierra Club, and the Lassen Forest Preservation Group. The plaintiffs raised several issues including whether the ROD violated NEPA and NFMA. On August 16, 2006, United States Eastern District Court of California Judge Damrell issued his order granting plaintiff's motion with respect to sufficiency of the range of alternatives analyzed, impacts to and viability of the American marten and the California spotted owl and population and habitat data for the American marten, the pileated woodpecker and the black bear. The judge's order affirmed the Forest Service's motion regarding all other issues raised by plaintiffs. After review of the court's findings, Council on Environmental Quality (CEQ) regulations, Forest Service policy and a review of the FEIS/ROD and administrative record, I have decided that the court order and the public can best be served by preparing a Supplement to the FEIS.

Alternatives: Alternatives considered in the Creeks Forest Health Recovery Project FEIS (September 2005) include Alternative 1—Proposed Action, Alternative 2—No Action, Alternative 14—the Selected Alternative from the Creeks Forest Health Recovery Project Record of Decision (September 2005), and eleven other Alternatives. Alternative 14—the Selected Alternative was developed in response to the significant issue, which is the maintenance of habitat connectivity between areas of suitable habitat for the California spotted owl and American marten. Alternative 14 would implement 9,190 acres of fuel treatments including 5,905 acres of defensible fuel profile zones (DFPZs) and 3,285 acres of individual tree selection (ITS) or area thinning, which would be accomplished by treating surface, ladder and canopy fuels utilizing a combination of commercial timber sales, service contracts, and force account crews. Alternative 14 would also implement 1,186 acres of group selection (GS) and improvements to the existing transportation system including construction of 1.9 miles of new system road, 3.7 miles of new temporary roads, and the upgrade of 5.0 miles of existing non-system road to temporary roads will occur. Other improvements include the reduction of sedimentation from over 80% of the 179 locations where existing roads cross streams (crossings) by improving the road surface at the crossing locations.

Decision to be Made: The purpose and need from the Creeks Forest Health Recovery Project remain unchanged from the September 2005 FEIS. I will use the public response plus interdisciplinary team analysis to decide whether to revise, amend or reaffirm the original Creeks Forest Health Recovery Project Record of Decision.

Scoping Process: The project was initially listed in the Forest's February 2004 quarterly edition of the *Schedule of Proposed Actions* (SOPA). Scoping letters were sent in June 2004 to those who responded to the SOPA and other identified interested and affected individuals and government agencies. A second scoping process was initiated in February of 2005 when it was determined that the environmental analysis would be documented in an environmental impact statement. Scoping is not required for supplements to environmental impact statements (40 CFR 1502.9(c)4(4)). A public scoping meeting for this Supplement is not anticipated at this time. Scoping letters received by the Forest Service from prior scoping periods will be used for this process.

Identification of Permits or Licenses Required: No permits or licenses have been identified to implement the proposed action.

Lead, Joint Lead, and Cooperating Agencies: The USDA Forest Service is the lead agency for this proposal; there are no cooperating agencies.

Estimated Dates for Filing: The expected filing date with the Environmental Protection Agency for the draft SEIS is April 2007. The expected filing date for the final SEIS is September 2007.

Person to Which Comments May be Mailed: Comments may be submitted to Alfred Vazquez, District Ranger, Almanor Ranger District, at P.O. Box 767, Chester, CA 96020 or (530) 258–5194 (fax) during normal business hours. The Almanor Ranger District business hours are from 8 a.m. to 4:30 p.m. Monday through Friday. Electronic comments in acceptable plain text (.txt), rich text (.rtf), or Word (.doc) formats, may be submitted to: *comments-pacificsouthwest-lassen-almanor@fs.fed.us* using Subject: Creeks Forest Health Recovery Project.

Reviewer's Obligation to Comment: The comment period on the draft SEIS

will be 45 days from the date the Environmental Protection Agency publishes the notice of availability of the draft EIS in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553* (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

FOR FURTHER INFORMATION CONTACT: Al Vazquez, District Ranger, or Robin Bryant, Interdisciplinary Team Leader, may be contacted by phone at (530) 258–2141 for more information about the supplemental environmental impact statement or at the Almanor Ranger District, P.O. Box 767, Chester, CA 96020.

Responsible Official and Mailing Address: Laurie Tippin, Forest Supervisor, 2550 Riverside Drive, Susanville, CA 96130, is the responsible official for the Record of Decision.

Dated: December 1, 2006.

Jeff Withroe,

Acting Forest Supervisor, Lassen National Forest.

[FR Doc. 06–9567 Filed 12–6–06; 8:45 am]

BILLING CODE 5410–99–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

DATE AND TIME: Thursday, December 14, 2006, 9 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Rm. 540, Washington, DC 20425.

The meeting is also accessible to the public through the following: Call-In Number: 1–800–597–0731. Access Code Number: 43783773. Federal Relay Service: 1–800–877–8339.

Meeting Agenda

I. Approval of Agenda
II. Approval of Minutes of November 17, Meeting
III. Announcements
IV. Staff Director's Report
V. Management and Operations
- Quality Information Guidelines
- Proposed Rule on Conduct Regulations
- Proposed Rule on Outside Employment
- Strategic Planning
- Procedures for Briefing Reports
- Procedures for National Office Work Products

VI. Program Planning
- January Business Meeting and Briefing
- Revised 2007 Business Meeting and Briefing Calendar
- Affirmative Action in Law Schools Briefing Report
- Campus anti-Semitism Public Education Campaign
- Kentucky SAC Report
- Florida SAC Report

VII. State Advisory Committee Issues
- California SAC Members
- Arizona SAC

VIII. Future Agenda Items
X. Adjourn

Briefing Agenda

Commission Briefing: Elementary and Secondary School Desegregation
- Introductory Remarks by Chairman
- Speakers' Presentation
- Questions by Commissioners and Staff Director

CONTACT PERSON FOR FURTHER INFORMATION: Manuel Alba, Press and Communications (202) 376–7700.

David P. Blackwood,

General Counsel.

[FR Doc. 06–9584 Filed 12–4–06; 4:21 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Docket T–5–2006

Foreign–Trade Zone 196 - Fort Worth, Texas, Application for Temporary/ Interim Manufacturing Authority, Motorola, Inc. (Mobile Phone Kitting)

An application has been submitted to the Acting Executive Secretary of the Foreign–Trade Zones Board (the Board) by the Alliance Corridor, Inc., grantee of FTZ 196, requesting temporary/interim manufacturing (T/IM) authority within FTZ 196, at the facilities of Motorola, Inc. (Motorola) located in Fort Worth, Texas. The application was filed on November 28, 2006.

The Motorola facilities (3,800 employees, annual capacity for up to 50 - 60 million mobile phone sets) are located at multiple locations (including those of affiliates and third–party contractors) within Sites 1 and 2 of FTZ 196, and include 4801 Westport Parkway and 15005 Peterson Court, in Fort Worth, Texas. Under T/IM procedures, Motorola has requested authority to process (kit) certain imported components into mobile phone sets (HTSUS 8525.20 - the phones enter the United States duty–free). The company may source the following potentially dutiable components from abroad for processing under T/IM authority, as described in its application: batteries (HTSUS 8507.80), power supplies (HTSUS 8504.40), lithium batteries (HTSUS 8507.30), cables (HTSUS 8544.41), housing assemblies (HTSUS 8529.90), and printed circuit connectors (HTSUS 8536.69). Duty rates on these inputs range from duty–free to 3.4 percent, *ad valorem*. T/IM authority could be granted for a period of up to two years. Motorola has also submitted a request for permanent FTZ manufacturing authority (for which Board filing is pending), which includes a range of additional inputs.

FTZ T/IM procedures would allow Motorola to elect the finished–product duty rate for the imported components listed above. The application indicates that most of the FTZ savings would result from choosing the duty–free rate on mobile phones for imported batteries (HTSUS 8507.80, duty rate - 3.4%). The company indicates that it would also realize logistical/paperwork savings and duty–deferral savings under FTZ procedures. Motorola's application states that the above–cited savings from zone procedures could help improve the company's international competitiveness.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Acting Executive Secretary at the following address: Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2814B, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; Tel: (202) 482–2862. The closing period for their receipt is January 8, 2007.

A copy of the application will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the address listed above.

Dated: November 28, 2006.

Andrew McGilvray,

Acting Executive Secretary.

[FR Doc. E6–20784 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Canned Pineapple Fruit from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 4, 2006, the Department of Commerce (Department) published in the **Federal Register** the preliminary results and partial preliminary rescission of the administrative review of the antidumping duty order on canned pineapple fruit from Thailand. This review covers two manufacturers/exporters: Vita Food Factory (1989) Ltd. (Vita) and Tropical Food Industries Co., Ltd. (TROFCO). The period of review (POR) is July 1, 2004, through June 30, 2005. In these final results, we have made no changes to the weighted–average dumping margins determined for Vita and TROFCO in the preliminary results of this administrative review.

EFFECTIVE DATE: December 7, 2006.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4162 and (202) 482–5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 4, 2006, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on canned pineapple fruit from Thailand. *See Canned Pineapple Fruit from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 44256 (August 4, 2006) (*Preliminary Results*). On August 23, 2006, we received a case brief from Vita in response to the Department's invitation to comment on the *Preliminary Results*. On September 11, 2006, we received a rebuttal brief from the petitioners. The Department received no comments regarding its preliminary decision to base TROFCO's margin on adverse facts available (AFA).

Scope of the Order

The product covered by the order is canned pineapple fruit, defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. Imports of canned pineapple fruit are currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS 2008.20.0010 covers canned pineapple fruit packed in a sugar–based syrup; HTSUS 2008.20.0090 covers canned pineapple fruit packed without added sugar (*i.e.*, juice–packed). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by this order is dispositive.

Partial Final Rescission of Review

As stated in the *Preliminary Results*, the Department concluded that Prachuab Fruit Canning Co., Ltd. (PRAFT) made no shipments of subject merchandise during the POR. Therefore, consistent with the *Preliminary Results*, and in accordance with 19 CFR § 351.213(d)(3), we are rescinding the instant review with respect to PRAFT. We received no comments on the Department's decision in the *Preliminary Results* to rescind this review with respect to PRAFT.

Analysis of Comments Received

The one issue raised in Vita's case brief is addressed in the Issues and Decision Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated concurrently herewith (Decision Memorandum), which is adopted herein, by reference (that issue is identified in the appendix attached to this notice). The Decision Memorandum is on file in the Central Records Unit, Room B–099 of the Herbert C. Hoover Building, and may be accessed on the Web at http://trade.gov/ia/index.asp, ''**Federal Register** Notices.''

Final Results of Review

We determined that the following weighted–average percentage margins exist for the period July 1, 2004, through June 30, 2005:

Manufacturer/Exporter	Margin (percent)
Vita Food Factory (1989) Ltd.	16.14
Tropical Food Industries Co., Ltd.	51.16

Assessment

The Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR § 351.212(b)(1), we calculated importer/customer–specific assessment rates for Vita's subject merchandise. Since Vita did not report the entered value for its sales, we calculated per–unit assessment rates for its merchandise by summing, on an importer or customer–specific basis, the dumping margins calculated for all U.S. sales of subject merchandise to the importer or customer and dividing this amount by the total quantity of those sales. To determine whether the per–unit duty assessment rates were *de minimis (i.e.*, less than 0.50 percent *ad valorem*), in accordance with the requirement set forth in 19 CFR § 351.106(c)(2), we calculated importer/customer- specific *ad valorem* ratios based on adjusted export prices. Where the importer/customer- specific assessment rate is above *de minimis*, we will instruct CBP to assess this rate uniformly on all appropriate entries. For TROFCO, the respondent receiving a dumping margin based upon AFA, we will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification applies to POR entries of subject merchandise produced by companies included in these final

results for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company involved in the transaction. For a full discussion of this clarification, see *id*.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act of 1930, as amended (Act): (1) the cash deposit rates for the companies examined in the instant review will be the rates listed above (except that if the rate for a particular company is *de minimis, i.e.*, less than 0.50 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 24.64 percent. These cash deposit rates, when imposed, shall 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)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR § 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: November 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

Comment 1: Whether the Department Should Continue to Reject the Post–Sale Price Adjustments That Vita Reported for U.S. Sales

[FR Doc. E6–20779 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–827

Certain Cased Pencils from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has preliminarily determined that sales by the respondents in this review, covering the period December 1, 2004, through November 30, 2005, have been made at prices at less than normal value (''NV''). If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. The Department invites interested parties to comment on these preliminary results.

EFFECTIVE DATE: December 7, 2006.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1766 and (202) 482–3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1994, the Department published in the **Federal Register** an antidumping duty order on certain cased pencils from the People's Republic of China (''PRC''). *See Antidumping Duty Order: Certain Cased Pencils From the People's Republic of China*, 59 FR 66909 (December 28, 1994).

On December 1, 2005, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on certain cased pencils from the PRC covering the period December 1, 2004, through November 30, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 72109 (December 1, 2005).

On December 9, 2005, in accordance with 19 CFR 351.213(b), a PRC exporter/producer, Shandong Rongxin Import and Export Co., Ltd. (''Rongxin''), requested an administrative review of the order on certain cased pencils from the PRC. On December 30, 2005, the petitioner[1] requested a review of three companies.[2] In addition, on January 3, 2006, the following exporter/producers requested their own reviews[3]: CFP, Three Star, Beijing Dixon Stationary Company Ltd. (''Dixon''), and Oriental International Holding Shanghai Foreign Trade Co., Ltd. (''SFTC'') requested their own reviews.

On January 27, 2006, the Department published in the **Federal Register** a notice of initiation for this administrative review covering the companies listed in the requests received from the interested parties. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 5241 (February 1, 2006) (''*Initiation Notice*'').

On February 8, 2006, the Department issued quantity and value (''Q&V'') questionnaires to each PRC company

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[1] The petitioner includes Sanford L.P., Musgrave Pencil Company, RoseMoon Inc., and General Pencil Company.

[2] These companies are: China First Pencil Company, Ltd. (''CFP''), Shanghai Three Star Stationery Industry Corp. (''Three Star''), and Tianjin Custom Wood Processing Co., Ltd. (''TCW'').

[3] CFP, Three Star, Dixon, and SFTC filed submissions dated December 31, 2005, requesting a review, in accordance with 19 CFR 351.213(b). However, because the Department was closed on December 31, 2005, the Department accepted these submissions for filing on January 3, 2006, the next business day.

listed in the *Initiation Notice*.[4] These questionnaires requested the quantity and value for the identified companies that produced and/or exported certain cased pencils from the PRC. On February 14, 2006, SFTC timely withdrew its review request in accordance with 19 CFR 351.213(d)(1).

In response to the Department's Q&V questionnaire, the following companies responded on February 22, 2006, that they exported subject merchandise to the United States during the period of review (''POR''): (1) CFP; (2) Three Star; (3) Dixon; and (4) Rongxin. TCW indicated that it had no exports, sales or entries of subject merchandise to the United States during the POR.

On March 10, 2006, we met with counsel for CFP, Three Star, and Dixon, at its request, to discuss respondent selection in this administrative review (*see* Memorandum to the File, entitled *Ex–Parte Meeting with Counsel for Beijing Dixon Stationary Company Ltd., China First Pencil Company, et al.*, dated March 10, 2006).

Because it was not practicable for the Department to individually examine all of the companies covered by the review, the Department limited its examination for these preliminary results to the largest producers/exporters that could reasonably be examined, accounting for the greatest possible export volume, pursuant to section 777A(c)(2)(B) of the Tariff Act of 1930, as amended (''the Act''). Therefore, the Department selected CFP and Three Star as the mandatory respondents in this review and designated Dixon and Rongxin as Section A respondents. *See* Memorandum From Irene Darzenta Tzafolias, Acting Office Director, to Stephen Claeys, Deputy Assistant Secretary, entitled *Antidumping Duty Administrative Review of Certain Cased Pencils from the People's Republic of China: Selection of Respondents*, dated March 23, 2006. Accordingly, on March 23, 2006, we issued the full antidumping duty questionnaire to CFP and Three Star and only Section A of the questionnaire to Dixon and Rongxin.

On July 19, 2006, we placed on the record of this segment of the proceeding documentation submitted by CFP and Three Star in prior segments for purposes of examining whether these companies should be collapsed in this review. *See* Memorandum to the File from Brian C. Smith, Team Leader, entitled *2004–2005 Administrative Review of the Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China: Placement of Additional Documents on the Record of This Review*, dated July 19, 2006.

On August 9, 2006, we extended the time limit for the preliminary results in this review until December 1, 2006. *See Certain Cased Pencils From the People's Republic of China: Notice of Extension of Time Limit for 2004–2005 Administrative Review*, 71 FR 45519 (August 9, 2006).

On August 10, 2006, in accordance with section 751(a)(3)(A) of the Act, the Department rescinded this review with respect to SFTC because it withdrew its request for a review in a timely manner. The Department also rescinded this review with respect to TCW because it did not have shipments of subject merchandise to the United States during the POR. *See Certain Cased Pencils From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 47169 (August 16, 2006).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Mandatory Respondents

On March 23, 2006, the Department issued the full antidumping duty questionnaire to CFP and Three Star. On April 20 and 25, 2006, CFP and Three Star submitted their section A questionnaire response (''section A response''). On May 15, 2006, CFP and Three Star submitted their sections C and D questionnaire responses (''sections C and D responses'').

On June 1, 2006, the Department issued CFP and Three Star a section A supplemental questionnaire and they submitted their response on June 29, 2006 (''supplemental section A response''). On June 19, 2006, the Department issued CFP and Three Star a section C supplemental questionnaire and they submitted their response on July 11, 2006. On July 11, 2006, the Department issued CFP and Three Star a section D supplemental questionnaire and CFP and Three Star submitted their response on August 30 and September 6, 2006, respectively. On October 20 and 24, 2006, the Department issued CFP and Three Star additional section D supplemental questionnaires and they submitted their responses on October 31, 2006.

On November 29, 2006, Three Star submitted information per the Department's request. On December 1, 2006, the Department issued CFP and Three Star a supplemental questionnaire for purposes of clarifying certain items in their response. As the due date for submitting their response to this questionnaire is after these preliminary results, the Department will consider CFP's and Three Star's response to this supplemental questionnaire for the final results.

Section A Respondents

On March 23, 2006, the Department issued the section A questionnaire to Dixon and Rongxin. Rongxin and Dixon submitted their section A questionnaire responses on April 14 and 26, 2006, respectively.

On May 3, 2006, the Department issued Rongxin a section A supplemental questionnaire, to which it responded on May 24, 2006. On May 16, 2006, the Department issued Dixon a section A supplemental questionnaire, to which it responded on June 9, 2006.

Surrogate Country and Factors

On February 9, 2006, the Department identified five countries, including India, that are comparable to the PRC in terms of overall economic development to use as surrogates in this review for purposes of valuing factors of production (*see Memorandum from Ron Lorentzen, Director, Office of Policy, to Irene Darzenta–Tzafolias, Acting Office Director, Office 2*, dated February 9, 2006). On May 17, 2006, the Department solicited comments on surrogate country selection from interested parties. The Department received no comments from the interested parties. *See* the ''Normal Value'' section below for further detail.

On July 7, 2006, the Department received surrogate–value information from the petitioner. On November 6, 2006, CFP and Three Star submitted surrogate–value information. Because CFP's and Three Star's surrogate–value information was submitted four months past the original deadline (*i.e.*, July 7, 2006), we did not consider it for purposes of these preliminary results. However, we will consider CFP's and Three Star's surrogate–value information for purposes of the final results. For a detailed discussion of the Department's selection of surrogate values and financial ratios, *see* ''Factor Valuations'' section below. *See also* Memorandum from the Team to the File, entitled *2004–2005 Antidumping Duty Administrative Review of Certain Cased Pencils from the People's Republic of China - Factors Valuation*

[4] In two prior administrative reviews of this antidumping duty order, the Department collapsed CFP with Three Star. *See Certain Cased Pencils From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 42301 (July 22, 2005), and accompanying Issues and Decision Memorandum at Comment 1; and *Certain Cased Pencils From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006), and accompanying Issues and Decision Memorandum at Comment 7 (''*PRC Pencils 2003-2004 AR*'').

For the Preliminary Results (''*Factor Valuation Memorandum*''), dated December 1, 2006, which is on file in Central Records Unit (''CRU'') in Room B–099 of the main Department building.

Scope of the Order

Imports covered by this order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man–made materials, whether or not decorated and whether or not tipped (*e.g.*, with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non–cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above–referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) length: 13.5 or more inches; (2) sheath diameter: not less than one–and-one quarter inches at any point (before sharpening); and (3) core length: not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three–and-one eighth inches in circumference, composed of turned wood encasing one–and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Affiliation - CFP and Three Star

To the extent that section 771(33) of the Act does not conflict with the Department's application of separate rates and enforcement of the non–market economy (''NME'') provision, section 773(c) of the Act, the Department will determine that exporters and/or producers are affiliated if the facts of the case support such a finding.[5] For the reasons discussed below, we find that this condition has not prevented us from examining in this administrative review whether CFP and its subsidiary producers[6] are affiliated with Three Star.

In prior administrative reviews involving CFP and Three Star, the Department found CFP to be affiliated with Three Star as a result of Shanghai Light Industry, Ltd.'s (''SLI'') direct oversight and control over both CFP and Three Star.[7]

In this review, CFP and Three Star claim that they are no longer affiliated and should not be collapsed because SLI no longer has oversight of their operations. In addition, CFP and Three Star maintain that the Department has no basis to collapse them because SLI transferred the shares it held in trust for CFP to the Huangpu District State Assets Administration Office (''HSAO'') on October 11, 2005, and SLI transferred oversight of the assets it held in trust for Three Star to the HSAO on September 8, 2005.[8] In this review, the Department has examined whether CFP and its pencil–producing subsidiaries are still affiliated with Three Star for purposes of determining whether they should be collapsed in this review. For further discussion on this matter, *see* Memorandum From Team to James P. Maeder, Jr., Office Director, entitled *Certain Cased Pencils from the People's Republic of China: Whether to Continue To Collapse CFP and its Pencil–Producing Subsidiaries with Three Star*, dated December 1, 2006 (''Affiliation/Collapsing Memo'').

Based on our analysis, we preliminarily find that during this POR, CFP and its pencil–producing subsidiaries were still affiliated with Three Star through the common control by SLI, pursuant to section 771(33)(F) and (G) of the Act. As for CFP's and Three Star's claim that SLI transferred the shares and/or oversight of assets it held in trust for both companies, the evidence indicates that these alleged events took place at the end of this POR. Therefore, because SLI continued to hold in trust a significant amount of CFP's sales and has oversight over all of Three Star's assets for the vast majority of the POR, these share and/or asset oversight transfers do not alter our conclusion that CFP, its pencil–producing subsidiaries, and Three Star were affiliated during the POR through common control by SLI. *See Affiliation/Collapsing Memo* for further discussion.

Collapsing–CFP and Three Star

Pursuant to 19 CFR 351.401(f), the Department will collapse producers and treat them as a single entity where (1) those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. We also note that the rationale for collapsing, to prevent manipulation of price and/or production (*see* 19 CFR 351.401(f)), applies to both producers and exporters, if the facts indicate that producers of like merchandise are affiliated as a result of their mutual relationship with an exporter.

To the extent that this provision does not conflict with the Department's application of separate rates and enforcement of the NME provision, section 773(c) of the Act, the Department will collapse two or more affiliated entities in a case involving an NME country if the facts of the case warrant such treatment. Furthermore, we note that the factors listed in 19 CFR 351.401(f)(2) are not exhaustive, and in the context of an NME investigation or administrative review, other factors unique to the relationship of business entities within the NME may lead the Department to determine that collapsing is either warranted or unwarranted, depending on the facts of the case. *See Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d 1323, 1342 (Ct. Int'l. Trade 2003) (noting that the application of collapsing in the NME context may differ from the standard factors listed in the regulation).

In summary, if there is evidence of significant potential for manipulation or control between or among producers which produce similar and/or identical merchandise, but may not all produce their product for sale to the United States, the Department may find such evidence sufficient to apply the collapsing criteria in an NME context in order to determine whether all or some of those affiliated producers should be treated as one entity (*see, e.g., Certain Preserved Mushrooms From the People's*

[5] *See, e.g., Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 64930, 64934 (November 6, 2006), and *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results and Partial Rescission of Fifth Antidumping Duty Administrative Review*, 70 FR 10965, 10969 (March 7, 2005).

[6] CFP's pencil-producing subsidiaries include the following companies: Shanghai First Writing Instrument Co., Ltd., Shanghai Great Wall Pencil Co., Ltd., and China First Pencil Fang Zheng Co. Ltd.

[7] *See, e.g., PRC Pencils 2003-2004 AR*, 71 FR 38366, and accompanying *Issues and Decision Memorandum* at Comment 7.

[8] *See* page A-5 of CFP's section A response and page A-2 of Three Star's section A response.

Republic of China: Preliminary Results and Partial Rescission of Fifth Antidumping Duty Administrative Review, 70 FR at 10971 (unchanged in final results); and *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Sixth Antidumping Duty New Shipper Review and Final Results and Partial Rescission of the Fourth Antidumping Duty Administrative Review*, 69 FR 54635, 54637 (September 9, 2004), and accompanying Issues and Decision Memorandum at Comment 1). We also note that the rationale for collapsing, to prevent manipulation of price and/or production (*see* 19 CFR 351.401(f)), applies to both producers and exporters, if the facts indicate that producers of like merchandise are affiliated as a result of their mutual relationship with an exporter.

As noted above in the ''Affiliation - CFP and Three Star'' section of this notice, we find a sufficient basis to conclude that CFP and its pencil–producing subsidiaries and Three Star are affiliated through the common control by SLI pursuant to section 771(33)(F) and (G) of the Act. All of CFP's three pencil–producing subsidiaries and Three Star produced cased pencils during the POR, which would be subject to the antidumping duty order if this merchandise entered the United States (*see* factors of production data submitted by CFP and Three Star in their section D responses). Therefore, we find that the first and second collapsing criteria are met because these producers have production facilities for producing similar or identical products, such that no retooling at any of the three facilities is required in order to restructure manufacturing priorities.

Finally, we find that the third collapsing criterion is met in this case because a significant potential for manipulation of price or production exists among CFP and Three Star. *See Affiliation/Collapsing Memo* for further discussion. Therefore, based on the reasons mentioned in the *Affiliation/Collapsing Memo* and the guidance of 19 CFR 351.401(f), we have preliminarily collapsed CFP, its pencil–producing subsidiaries, and Three Star because there is a significant potential for manipulation of production and/or sales decisions among these parties. Consequently, we have considered CFP, its pencil–producing subsidiaries, and Three Star as a single entity for purposes of determining whether or not the collapsed entity as a whole is entitled to a separate rate. This decision is specific to the facts presented in this review and is based on several considerations, including the structure of the collapsed entity, the level of control between/among affiliates, and the level of participation by each affiliate in the proceeding. Given the unique relationships which arise in NMEs between individual companies and the government, a separate rate will be granted to the collapsed entity only if the facts, taken as a whole, support such a finding (*see* ''Separate–Rates Determination'' section below for further discussion).

Separate–Rates Determination

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a country–wide rate). One respondent in this review, Dixon, is wholly owned by a company located outside the PRC. Therefore, an additional separate–rates analysis is not necessary to determine whether Dixon's export activities are independent from government control. *See e.g.*, *Polyethylene Retail Carrier Bags From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021, 54024 (September 13, 2006), citing *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999) (the Department determined that the respondent wholly owned by persons located in Hong Kong qualifies for a separate rate).

The other Section A respondent, Rongxin, is a limited liability company. The mandatory respondents, CFP and Three Star, are a joint stock limited company and a company ''owned by all of the people,'' respectively. However, CFP's shares are held in trust in part by SLI, which is also owned by ''all of the people.'' Moreover, SLI, as trustee, has oversight over Three Star's assets. As discussed above in the ''Collapsing–CFP and Three Star'' section of this notice, we have preliminarily considered CFP and Three Star as a collapsed entity.

To establish whether a respondent is sufficiently independent from government control of its export activities so as to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991), at Comment 1, and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (''*Silicon Carbide*''). In accordance with the separate–rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. Thus, a separate–rates analysis is necessary to determine whether the export activities of Rongxin and the CFP–Three Star collapsed entity are independent from government control.

1. Absence of *De Jure* Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over exporter activities includes: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See, e.g., Certain Preserved Mushrooms From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 71 FR at 64935.

The CFP–Three Star collapsed entity and Rongxin have placed on the administrative record the following documents to demonstrate absence of *de jure* control: the 1994 ''Foreign Trade Law of the People's Republic of China;'' the ''Company Law of the PRC,'' effective as of July 1, 1994; and ''The Enterprise Legal Person Registration Administrative Regulations,'' promulgated on June 13, 1988. In other cases involving products from the PRC, respondents have submitted the following additional documents to demonstrate absence of *de jure* control, and the Department has placed these additional documents on the record of this segment, as well: the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988; and the 1992 ''Regulations for Transformation of Operational Mechanisms of State–Owned Industrial Enterprises.'' *See* December 1, 2006, memorandum to the file which places the above–referenced laws on the record of this segment.

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of joint ventures and companies owned by ''all of the people'' absent proof on the record to the contrary. *See, e.g.*, *Notice of Final Determination of Sales at Less than Fair*

Value: Furfuryl Alcohol from the People's Republic of China, 60 FR 22544 (May 8, 1995) (''*Furfuryl Alcohol*''), and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial–Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571, 29573 (June 5, 1995).

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide*, 59 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The Department typically considers the following four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a government agency; (2) whether the respondent has the authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87 and *Furfuryl Alcohol*, 60 FR at 22545.

The affiliates in the CFP–Three Star collapsed entity (where applicable) and Rongxin each has asserted the following: (1) each establishes its own export prices; (2) each negotiates contracts without guidance from any government entities or organizations; (3) each makes its own personnel decisions; and (4) each retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each respondent's questionnaire responses indicate that its pricing during the POR was not coordinated among exporters. As a result, there is a sufficient basis to preliminarily determine that each respondent listed above (including the CFP–Three Star collapsed entity as a whole) has demonstrated a *de facto* absence of government control of its export functions and is entitled to a separate rate. Consequently, we have preliminarily determined that each of these respondents has met the criteria for the application of separate rates. Moreover, with respect to the affiliates included in the CFP–Three Star collapsed entity, we have assigned to all of them the same antidumping rate in these preliminary results for the above–mentioned reasons.

Fair–Value Comparisons

To determine whether the respondents' sales of subject merchandise were made at less than NV, we compared the export price (''EP'') to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

In accordance with section 772(a) of the Act, the Department calculated EPs for sales by the CFP–Three Star collapsed entity to the United States because the subject merchandise was sold directly to unaffiliated customers in the United States (or to unaffiliated resellers outside the United States with knowledge that the merchandise was destined for the United States) prior to importation, and constructed export price methodology was not otherwise indicated. In accordance with 19 CFR 351.401(c), we made deductions from the net sales price for foreign inland freight and foreign brokerage and handling for all U.S. sales. Each of these services was provided by an NME vendor and, thus, as explained in the ''Normal Value'' section below, we based the amounts of the deductions for these movement charges on values from a surrogate country.

Where appropriate for certain sales, we also made deductions from the net sales price for international freight and marine insurance in accordance with 19 CFR 351.401(c). For international freight (*i.e.*, ocean freight), we used the reported expenses because the respondent used a market–economy freight carrier and paid for those expenses in a market–economy currency. However, because the respondent used a non–market economy service provider for marine insurance, we valued this expense based on a publicly available price quote from a marine insurance provider obtained from http://www.rjgconsultants.com/insurance.html.

For the reasons stated in the ''Normal Value'' section below, we selected India as the primary surrogate country. To value brokerage and handling, the Department used an average of the publicly summarized data from the following two sources, which we have placed on the record of this review: (1) data reported in the U.S. sales listing in the February 28, 2005, submission from Essar Steel Ltd. in the antidumping duty administrative review of Certain Hot–Rolled Carbon Steel Flat Products from India, A–533–820 (covering December 2003 - November 2004); and (2) data reported in Pidilite Industries' March 9, 2004, public version response submitted in the antidumping duty investigation of Carbazole Violet Pigment 23 from India, A–533–838 (covering the period November 2002 - September 2003). We identify the source used to value foreign inland freight in the ''Normal Value'' section of this notice, below. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for these values using the wholesale price indices (''WPI'') for India as published in the *International Financial Statistics Online Service* maintained by the Statistics Department of the International Monetary Fund at the website *http://www.imfstatistics.org* (''*IFS*'').

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using a factors of production (''FOP'') methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act.

The Department will base NV on FOPs because the presence of government controls on various aspects of these NME economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by respondents for materials, energy, labor, and packing.

In accordance with section 773(c)(4) of the Act, the Department valued the FOPs, to the extent possible, using the costs of the FOPs in one or more market–economy countries that are at a level of economic development comparable to that of the PRC and are significant producers of comparable merchandise. We determined that India is comparable to the PRC in terms of *per capita* gross national product and the

national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. *See Memorandum from Ron Lorentzen, Director, Office of Policy, to Irene Darzenta–Tzafolias, Acting Office Director, Office 2*, dated February 9, 2006, regarding potential surrogate countries, which is available in the CRU - Public File.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market–economy country and pays for it in market–economy currency, the Department will normally value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market–based prices to value certain FOPs). Where a portion of the input is purchased from a market–economy supplier and the remainder from an NME supplier, the Department will normally use the price paid for the inputs sourced from market–economy suppliers to value all of the input, provided the volume of the market–economy inputs as a share of total purchases from all sources is ''meaningful.'' *See Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27295, 27366 (May 19, 1997); *Shakeproof v. United States*, 268 F.3d 1376, 1382 (Fed. Cir. 2001). *See also* 19 CFR 351.408(c)(1).

With regard to both the Indian import–based surrogate values and the market–economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 57420 (November 15, 2001), and accompanying Issues and Decision Memorandum at Comment 1. We have found that India, Indonesia, South Korea, and Thailand maintain broadly available, non–industry-specific export subsidies, and it is reasonable to infer that exports to all markets from these countries may be subsidized. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005) (unchanged in final results); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334, 1336 (Ct. Int'l. Trade 2003), *aff'd* 104 Fed. App. 183 (Fed. Cir. 2004).

We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100–576 at 590–91 (1988), *reprinted* in 1988 U.S.C.C.A.N. 1547, 1623. Rather, the Department bases its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries either in calculating the Indian import–based surrogate values or in calculating market–economy input values. *See Factor Valuation Memorandum*.

Factor Valuations

Section 773(c)(3) of the Act states that ''the factors of production utilized in producing merchandise include, but are not limited to the quantities of raw materials employed.'' Therefore, the Department is required under the Act to value all inputs. To calculate NV, we multiplied the reported per–unit factor quantities by publicly available Indian surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value the FOPs using surrogate values that were in effect during the POR. If we were unable to obtain surrogate values that were in effect during the POR, we adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, as applicable, except labor, using the WPI for the appropriate surrogate country as published in the IFS.

As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the Indian import surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port of export to the factory where appropriate (*i.e.*, where the sales terms for the market–economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). We valued the FOPs as follows:

(1) Except where noted below, we valued all reported material, energy, and packing inputs using Indian import data from the World Trade Atlas (''WTA'') for December 2004 through November 2005, in accordance with the Department's established practice in this case (*see e.g., Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 70 FR 76755, 76759 (December 28, 2005) (''*Prelim PRC Pencils 2003–2004 AR*'') (unchanged in the final results).

(2) For tallow, we used inflated Indian import data from the WTA for the period December 2003 through November 2004 because contemporaneous data were not available.

(3) For ferrules, kaolin clay, pigment, plastic toppers, master cartons, packing boxes, and plastic boxes, we used inflated Indian import data from the WTA for the period December 2002 through November 2003 because contemporaneous data were not available.

(4) For a certain input (for which the respondent claims proprietary treatment), we used inflated Indian import data from the WTA for the period December 2002 through November 2003 because contemporaneous data were not available.

(5) To value lindenwood pencil slats, we used publicly available, published U.S. prices for American basswood lumber because price information for Chinese lindenwood and American basswood is not available from any of the potential surrogate countries.[9] The U.S. lumber prices for basswood are published in the 2006 Hardwood Market Report for the period December 4, 2004, through November 26, 2005.

(6) The CFP–Three Star collapsed entity reported that meaningful percentages of its purchases of specific inputs were sourced from market–economy countries and paid for in market–economy currencies. Pursuant to 19 CFR 351.408(c)(1), we used the actual price paid by the CFP–Three Star collapsed entity for these inputs.

[9] In the antidumping investigation of certain cased pencils from the PRC, the Department found Chinese lindenwood and American basswood to be virtually indistinguishable and thus used U.S. prices for American basswood to value Chinese lindenwood. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils From the People's Republic of China*, 59 FR 55625, 55632 (November 8, 1994). This methodology was upheld by the Court of International Trade. *See Writing Instrument Manufacturers Association, Pencil Section, et. al. v. United States*, 984 F. Supp. 629, 639 (Ct. Int'l. Trade 1997), aff'd 178 F.3d 1311 (Fed. Cir. 1998).

Where applicable, we also adjusted these values to account for freight costs incurred between the supplier and respondent. *See Factor Valuation Memorandum* and Memorandum from the Team to the File, entitled *Analysis for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Preserved Mushrooms from the People's Republic of China: China First Pencil Company, Ltd. (''CFP'') and Shanghai Three Star Stationery Industry Corp. (''Three Star'')* (*''Preliminary Calculation Memorandum''*), dated December 1, 2006.

(7) We valued electricity using rates from *Energy Prices and Taxes: Second Quarter 2003*, published by the International Energy Agency. We valued steam coal using the *Teri Energy Data Directory & Yearbook* (2004). We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR.

(8) We valued steam using January–June 1999 Indian price data from the July 24, 2000 issue of *PR Newswire*. We adjusted this value, as appropriate, to account for inflation between the effective period and the POR.

(9) We valued labor, consistent with 19 CFR 351.408(c)(3), using the PRC regression–based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2005, and posted to Import Administration's website at *http://ia.ita.doc.gov/wages*. The source of this wage rate data is the Yearbook of Labour Statistics 2003, International Labor Office, (Geneva: 2003), Chapter 5B: Wages in Manufacturing (*http://laborsta.ilo.org*). The years of the reported wage rates range from 1998 to 2003. Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent.

(10) We derived ratios for factory overhead, depreciation, and selling, general and administrative expenses, interest expenses, and profit for the finished product using the 2003–2004 (''FY04'') financial statement of Camlin Inc. (''Camlin''), an Indian producer of the subject merchandise, in accordance with the Department's practice with respect to selecting financial statements for use in NME cases (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 2. The Department prefers to derive financial ratios using data from those surrogate producers whose financial data will not be distorted or otherwise unreliable. In prior reviews of this product, the Department derived the surrogate financial ratios from the financial statement of Asia Wood International Corporation (''Asia Wood''), a Filipino producer of wood products (*see e.g., Prelim PRC Pencils 2003–2004 AR*, 70 FR at 76760, unchanged in *PRC Pencils 2003–2004 AR*, 71 FR 38366). However, we determined to use the FY04 financial statement of Camlin for purposes of the preliminary results of this review because: (a) India is our primary surrogate country; (b) Camlin is an Indian producer of the subject merchandise; and (c) Camlin's FY04 data, like Asia Wood's data, is equally contemporaneous with our POR. The copy of Camlin's FY04 financial report that the Department obtained appeared to be missing a few pages. However, we find Camlin's FY04 report to be more reliable and less distortive than Asia Wood's financial data because Asia Wood is not a producer of subject merchandise and is located in the Philippines. Moreover, we were able to obtain the omitted information in Camlin's FY04 financial report from Camlin's 2004–2005 (''FY05'') financial report. The FY05 report contained certain relevant portions of Camlin's FY04 data. Taken together, these two financial statements provide complete financial data for Camlin's FY04 period.

Also, in accordance with the Department's current practice, although part of Camlin's FY05 period was contemporaneous with the POR, we did not use Camlin's FY05 financial data in deriving surrogate ratios because Camlin did not realize a profit during its FY05 period (*see e.g., Certain Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 28274 (May 17, 2005), and accompanying *Issues and Decision Memorandum* at Comment 8; and *Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People's Republic of China*, 68 FR 46577 (August 6, 2003), and accompanying *Issues and Decision Memorandum* at Comment 6). Finally, we applied these ratios to the CFP–Three Star collapsed entity's costs (determined as noted above) for materials, labor, and energy.

(11) We used truck rates published at *http://www.infreight.com* to value freight services provided to transport: (a) the finished product to the port; and (b) direct materials, packing materials, and coal from the suppliers of the inputs to the producers. We also used, where appropriate, 2003 train rates obtained from www.Indianrailways.gov and a July 1997 inland water rate published by the Inland Waterways Authority of India.

For further discussion of the surrogate values we used for these preliminary results of review, see the *Factor Valuation Memorandum*, which is on file in the CRU - Public File.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following margins exist for the period December 1, 2004, through November 30, 2005:

Manufacturer/exporter	Margin (percent)
China First Pencil Company, Ltd.(which includes its affiliates China First Pencil Fang Zheng Co., Shanghai First Writing Instrument Co., Ltd., Shanghai Great Wall Pencil Co., Ltd., and Shanghai Three Star Stationary Industry Corp.)[10]	1.33
Pany Beijing Dixon Stationary Company, Ltd.	1.33
Shandong Rongxin Import & Export Co., Ltd.	1.33

[10]For this review, we consider China First Pencil Company, Ltd., China First Pencil Fang Zheng Co., Shanghai First Writing Instrument Co., Ltd., Shanghai Great Wall Pencil Co., Ltd., and Shanghai Three Star Stationary Industry Corp. to constitute a single entity

As stated above in the ''Separate–Rates Determination'' section of this notice, Dixon and Rongxin both qualify for a separate rate in this review. Moreover, as stated above in the ''Background'' section of this notice, we limited this review by selecting the largest exporters. As Section A respondents, Dixon and Rongxin will be assigned the weighted–average dumping margin based on the calculated margins of mandatory respondents which are not

de minimis or based on adverse facts available, in accordance with Department practice. *See e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*, 62 FR 9160, 9174 (February 28, 1997). Accordingly, we have assigned these two respondents the dumping margin assigned to the CFP–Three Star collapsed entity.

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties within five days of the date of publication of this notice the calculations it performed for the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. We will issue a memorandum identifying the date of a hearing, if one is requested. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. For the CFP–Three Star collapsed entity, we have calculated customer–specific antidumping duty assessment amounts for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. We calculated these assessment amounts because there is no information on the record which identifies entered values or the importers of record for the CFP–Three Star collapsed entity's reported U.S. sales transactions. For Dixon and Rongxin (*i.e.*, respondents which are being assigned the margin calculated for the CFP–Three Star collapsed entity), we will instruct CBP to assess antidumping duties on each of these company's entries equal to the margin these companies receive in the final results, regardless of the importer or customer.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment amounts, calculated as described above, on each of the applicable entries during the review period.

Cash Deposit Requirements

The following deposit requirements will apply to all shipments of certain cased pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non–PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company–specific rate established in the most recent segment of this proceeding; (3) for all other PRC exporters, the cash deposit rate will be the PRC–wide rate established in the final results of this review; and (4) the cash deposit rate for any non–PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing the preliminary results determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 1, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–20777 Filed 12–6–06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–862]

Foundry Coke Products from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 1, 2006, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty Order on Foundry Coke Products (''Foundry Coke'') from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews*, 71 FR 43443 (August 1, 2006) (''*Sunset Initiation*''); *see also Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Coke Products From the People's Republic of China*, 66 FR 48025 (September 17, 2001) (''*Order*''). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties and lack of response from respondent interested parties, the Department conducted an expedited sunset review of the Order pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations. As a result of this sunset review, the Department finds that revocation of the Order would likely lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: December 7, 2006.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik at (202) 482–6905 or Juanita Chen at (202) 482–1904; AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2006, the Department initiated a sunset review of the Order on

Foundry Coke from the PRC pursuant to section 751(c) of the Act. *See Sunset Initiation*. The Department received notices of intent to participate from the following domestic parties within the deadline specified in 19 CFR 351.218(d)(1)(i): ABC Coke, Citizens Gas & Coke Utility, Erie Coke, Sloss Industries Corporation, and Tonawanda Coke Corporation (collectively, ''Petitioners''). These parties claimed interested party status under section 771(9)(C) of the Act and 19 CFR 351.102(b), as domestic manufacturers and producers of the domestic like product. The Department received a substantive response from Petitioners within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department did not receive a substantive response from any of the respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of the Order.

Scope Of The Order

The product covered under the antidumping duty order is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100–mm (4 inch) sieve, of a kind used in foundries.

The foundry coke products subject to the antidumping duty order were classifiable under subheading 2704.00.00.10 (as of Jan 1, 2000) and are currently classifiable under subheading 2704.00.00.11 (as of July 1, 2000) of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.

Additionally, the Department has issued one conclusive scope ruling regarding the merchandise covered by the Order. On February 18, 2003, the Department found that the particular foundry coke as defined by Shanxi and imported by Shook Group LLC and Dajin U.S. Trading, Inc.[1], is within the scope of the Order. *See Notice of Scope Rulings and Anticircumvention Inquiries*, 68 FR 7772, 7773–74 (February 18, 2003); *see also Memorandum from Edward C. Yang to Joseph Spetrini, Deputy Assistant Secretary: Final Scope Ruling on the Antidumping Duty Order on Foundry Coke from the People's Republic of China; Shook Group LLC and Dajin U.S. Trading, Inc.*, dated May 31, 2002.

Analysis Of Comments Received

All issues raised in this review are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. The issues discussed in the accompanying Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the Order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov* and clicking on ''**Federal Register** Notices''. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Final Results Of Sunset Review

The Department determines that revocation of the Order on Foundry Coke from the PRC would likely lead to continuation or recurrence of dumping at the rates listed below:

Manufacturers/Exporters/Producers	Weighted–Average Margin (Percent)
Shanxi Dajin International (Group) Co., Ltd	101.62 %
Sinochem International Co., Ltd.	105.91 %
Minmetals Townlord Technology Co., Ltd.	75.58 %
CITIC Trading Company, Ltd.	48.55 %
PRC–Wide Rate	214.89 %

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or 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.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: November 29, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–20695 Filed 12–6–06; 8:45 am]

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[1] Shook and Dajin did not challenge that above 100 mm coke should be considered foundry coke. Rather, Shook and Dajin challenged the application of an industry standard test, and whether the 50 percent condition of the test applied to the entire shipment or a portion of the shipment which was sold as being over 100 mm. We found that this issue was clearly addressed in the investigation at the *Final Determination*, wherein it was determined that the 50 percent condition applies only to that portion of the shipment sold as larger than 100 mm coke, and if at least 50 percent of such coke is retained on a 100 mm sieve, such coke is within the scope of the order. We found that this conclusion was consistent with the scope of the investigation and the order, as defined in the petition, as well as the Department's and the ITC's determinations.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–875]

Non–Malleable Cast Iron Pipe Fittings from the Peoples' Republic of China; Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 7, 2006.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Mark Manning, AD/CVD Operations, Office 4, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4081 or (202) 482–5253, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 2006, the Department of Commerce (''Department'') published a notice of initiation of administrative review of the antidumping duty order on non–malleable cast iron pipe fittings from the Peoples' Republic of China (''PRC''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 30864 (May 31, 2006). The period of review is April 1, 2005, through March 31, 2006. The preliminary results of this administrative review are currently due no later than January 2, 2007.

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''Act''), the Department shall make a preliminary determination in an administrative review of an antidumping order within 245 days after the last day of the anniversary month of the date of publication of the order. Section 751(a)(3)(A) of the Act further provides, however, that the Department may extend the 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. The Department determines that it is not practicable to complete this administrative review within the time limits mandated by section 751(a)(3)(A) of the Act because this review involves examining a number of complex issues related to factors of production and surrogate values. The Department requires additional time to issue and analyze supplemental questionnaires regarding these issues. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completing the preliminary results of this administrative review until April 30, 2007, which is 365 days from the last day of the anniversary month of the date of publication of the order. The deadline for the final results of the review continues to be 120 days after the publication of the preliminary results.

This extension notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: November 30, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–20692 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip from South Korea: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding its administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip from South Korea for the period June 1, 2005 to May 31, 2006.

EFFECTIVE DATE: December 7, 2006.

FOR MORE INFORMATION CONTACT: Michael J. Heaney or Robert James AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4475 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2006, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from South Korea for the period June 1, 2005, through May 31, 2006. *See Antidumping of Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 32032 (June 2, 2006). In response, on June 30, 2006, DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and Toray Plastics (America), Inc. (collectively, the petitioners) timely requested an administrative review of Kohap, Ltd., a manufacturer/exporter of subject merchandise. No other party in this case requested an administrative review. On July 27, 2006, the Department initiated an administrative review of Kohap, Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 42626 (July 27, 2006). On October 25, 2006, petitioners submitted a letter withdrawing their request for an administrative review of Kohap, Ltd. See letter from petitioners dated October 25, 2006.

Rescission of Review

19 CFR 351.213(d)(1) provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request for review at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request. In response to petitioners' withdrawal of their request for an administrative review, and because the request was timely withdrawn, the Department hereby rescinds the administrative review of the antidumping duty order on PET film from South Korea for the period June 1, 2005, through May 31, 2006.

The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) within 15 days of the publication of this notice. The Department will direct CBP to assess antidumping duties for Kohap, Ltd. at the cash deposit rate in effect on the date of entry for entries during the period June 1, 2005, through May 31, 2006.

Notification to Importers

This notice 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 review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 351.305(a)(3). 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 the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: December 1, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–20773 Filed 12–6–06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–833]

Final Results of Antidumping Duty Changed–Circumstances Review and Revocation of Order in Part: Stainless Steel Bar from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 8, 2006, the Department of Commerce (the Department) published a notice of preliminary results of changed–circumstances review with the intent to revoke, in part, the antidumping duty order on stainless steel bar from Japan, as described below. See *Preliminary Results of Antidumping Duty Changed–Circumstances Review and Notice of Intent to Revoke Order in Part: Stainless Steel Bar from Japan*, 71 FR 65465 (November 8, 2006) *(Preliminary Results)*. In our *Preliminary Results*, we invited interested parties to comment on the preliminary determination to exclude 21–2N modified valve/stem stainless steel round bar from Japan (product in question), as described below, from the scope of the order. The Department received no comments and is, therefore, revoking the order in part.

EFFECTIVE DATE: December 7, 2006.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0665 or (202) 482–1690.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on stainless steel bar from Japan on February 21, 1995. See *Notices of Antidumping Duty Orders: Stainless Steel Bar from Brazil, India, and Japan*, 60 FR 9661 (February 21, 1995). On August 28, 2006, TRW Fuji Valve, Inc. (TRW), a U.S. importer of the subject merchandise, requested a changed–circumstances review to exclude from the antidumping duty order on stainless steel bar from Japan imports meeting the following description: certain valve/stem stainless steel round bar of 21–2N modified grade, having a diameter of 5.7 millimeters (with a tolerance of 0.025 millimeters), in length no greater than 15 meters, having a chemical composition consisting of a minimum of 0.50 percent and a maximum of 0.60 percent of carbon, a minimum of 7.50 percent and a maximum of 9.50 percent of manganese, a maximum of 0.25 percent of silicon, a maximum of 0.04 percent of phosphorus, a maximum of 0.03 percent of sulfur, a minimum of 20.0 percent and a maximum of 22.00 percent of chromium, a minimum of 2.00 percent and a maximum of 3.00 percent of nickel, a minimum of 0.20 percent and a maximum of 0.40 percent of nitrogen, a minimum of 0.85 percent of the combined content of carbon and nitrogen, and a balance minimum of iron, having a maximum core hardness of 385 HB and a maximum surface hardness of 425 HB, with a minimum hardness of 270 HB for annealed material. See TRW's letter to the Secretary, dated August 28, 2006. TRW requested that the Department revoke the order in part retroactively to February 1, 2006, the beginning of the anniversary month of the order. On September 18, 2006, the petitioners and domestic interested parties[1] provided a letter attesting to their expressed lack of interest in having this merchandise continue to be subject to the antidumping duty order on stainless steel bar from Japan.

In response to the request made by the interested party, TRW, within the meaning of section 771(9) of the Tariff Act of 1930, as amended (the Act), and the expressed lack of interest from the petitioners and domestic interested parties, on October 16, 2006, the Department published a notice of initiation of a changed–circumstances review of the antidumping duty order on stainless steel bar from Japan. See *Initiation of Antidumping Duty Changed–Circumstances Review: Stainless Steel Bar from Japan*, 71 FR 60691 (October 16, 2006) (*Initiation Notice*). In the Initiation Notice, the Department indicated that interested parties could submit comments for consideration in the Department's preliminary results no later than 15 days after publication of the initiation of this review. The Department did not receive comments from interested parties.

Absent any comments, the Department concluded preliminarily that producers accounting for substantially all of the production of the domestic like product to which this order pertains lacked interest in the relief provided by this order with respect to the product in question. See *Preliminary Results*. The Department invited interested parties to comment on its preliminary determination to revoke the order, in part. The Department did not receive comments from any interested parties.

Scope of the Order

The scope of the order covers stainless steel bar (SSB). The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold–finished SSBs that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi–finished products, cut–length flat–rolled products (i.e., cut–length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes and sections. The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Final Result of Review and Revocation of Antidumping Duty Order, In Part

Pursuant to sections 751(d)(1) and 782(h)(2) of the Act, the Department may revoke an antidumping duty order based on a review under section 751(b) of the Act (i.e., a changed–

[1] The petitioners and domestic interested parties include Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., North American Stainless, Universal Stainless and Alloy Products, Inc., and Valbruna Slater Stainless, Inc.

circumstances review). Section 751(b)(1) of the Act requires a changed–circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review.

In the instant review, based on the information provided by TRW and the lack of comments from the petitioners and domestic interested parties, the Department found preliminarily that the continued relief provided by the order with respect to the product in question from Japan is no longer of interest to the domestic industry. See *Preliminary Results*, 71 FR at 65466. We did not receive any comments on our *Preliminary Results*. Therefore, the Department is revoking the order on stainless steel bar from Japan with regard to the product that meets the following specifications: certain valve/stem stainless steel round bar of 21–2N modified grade, having a diameter of 5.7 millimeters (with a tolerance of 0.025 millimeters), in length no greater than 15 meters, having a chemical composition consisting of a minimum of 0.50 percent and a maximum of 0.60 percent of carbon, a minimum of 7.50 percent and a maximum of 9.50 percent of manganese, a maximum of 0.25 percent of silicon, a maximum of 0.04 percent of phosphorus, a maximum of 0.03 percent of sulfur, a minimum of 20.0 percent and a maximum of 22.00 percent of chromium, a minimum of 2.00 percent and a maximum of 3.00 percent of nickel, a minimum of 0.20 percent and a maximum of 0.40 percent of nitrogen, a minimum of 0.85 percent of the combined content of carbon and nitrogen, and a balance minimum of iron, having a maximum core hardness of 385 HB and a maximum surface hardness of 425 HB, with a minimum hardness of 270 HB for annealed material.

We will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to antidumping duties and to refund any estimated antidumping duties collected on entries of all shipments of the product in question that are not covered by the final results of an administrative review or automatic liquidation. The most recent period for which the Department has completed an administrative review or ordered automatic liquidation under 19 CFR 351.212(c) is February 1, 2005, through January 31, 2006. Any prior entries are subject to either the final results of review or automatic liquidation. Therefore, we will instruct CBP to liquidate, without regard to antidumping duties, shipments of stainless steel bar from Japan meeting the specifications of the product in question entered, or withdrawn from warehouse, for consumption on or after February 1, 2006. We will also instruct CBP to release any cash deposits or bonds and pay interest on such refunds in accordance with section 778 of the Act and 19 CFR 351.222(g)(4).

This changed–circumstances review, partial revocation of antidumping duty order, and notice are completed and published in accordance with sections 751(b) and (d), 782(h), and 777(i)(1) of the Act and sections 351.216(e) and 351.222(g)(3)(vii) of the Department's regulations.

Dated: November 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–20780 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–815, C–533–821, C–560–813, C–791–810, C–549–818]

Hot–Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, South Africa, and Thailand: Final Results of Expedited Five–Year (Sunset) Reviews of the Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 1, 2006, the Department of Commerce (the Department) published in the **Federal Register** the notice of initiation of the first five–year sunset reviews of the countervailing duty orders on certain hot–rolled carbon steel flat products (hot–rolled steel) from Argentina, India, Indonesia, South Africa, and Thailand, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five–Year (Sunset) Reviews*, 71 FR 43443 (August 1, 2006) (*Initiation of First Sunset Reviews*). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties, and inadequate responses from respondent interested parties (in these cases, no responses from the governments of Argentina, India, Indonesia, South Africa, and Thailand, or any of the respondent companies covered by the orders), the Department has conducted expedited sunset reviews of these orders pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of these sunset reviews, the Department finds that revocation of the countervailing duty orders is likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: December 7, 2006.

FOR FURTHER INFORMATION CONTACT: Darla Brown at (202) 482–2849 (Argentina, Indonesia), Preeti Tolani at (202) 482–0395 (India), Elfi Blum at (202) 482–0197 (South Africa), Myrna Lobo at (202)482–2371 (Thailand), or Dana Mermelstein at (202) 482–1391, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2006, the Department initiated the first sunset reviews of the countervailing duty orders on hot–rolled steel from Argentina, India, Indonesia, South Africa, and Thailand, pursuant to section 751(c) of the Act. *See First Sunset Reviews*. The Department received notices of intent to participate from United States Steel Corporation (U.S. Steel), Mittal Steel USA Inc. (Mittal USA), Nucor Corporation (Nucor), Gallatin Steel Co., IPSCO Steel Inc. (IPSCO), Steel Dynamics, Inc. (collectively, domestic interested parties), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO-CLC (USW), within the deadline specified in 19 CFR 351.218(d)(1)(i). Domestic interested parties and USW claimed interested party status under sections 771(9)(C) and (D) of the Act, as U.S. producers and a certified union engaged in the manufacture, production, or wholesale of hot–rolled steel in the United States.

On August 31, 2006, the Department received a substantive response for each order from domestic interested parties within the deadline specified in 19 CFR 351.218(d)(3)(i). The Department did not receive any responses from any respondent interested party to this proceeding. In accordance with 19 CFR 351.218(e)(1)(ii)(C)(1), the Department notified the International Trade Commission (ITC) that respondent interested parties to the CVD orders on hot–rolled steel from Argentina, India, Indonesia, South Africa, and Thailand, provided inadequate responses to the *Initiation of First Sunset Reviews*. The Department, therefore, has conducted expedited sunset reviews of the countervailing duty orders, pursuant to

19 CFR 351.218(e)(1)(ii)(B) and 351.218(e)(1)(ii)(C)(2).

Since the publication of the countervailing duty orders (*see Notice of Countervailing Duty Order: Certain Hot–Rolled Carbon Steel Flat Products from Argentina*, 66 FR 47173 (September 11, 2001), *Notice of Amended Final Determination and Notice of Countervailing Duty Orders: Certain Hot–Rolled Carbon Steel Flat Products From India and Indonesia*, 66 FR 60198 (December 3, 2001), *Notice of Countervailing Duty Order: Certain Hot–Rolled Carbon Steel Flat Products from South Africa*, 66 FR 60201 (December 3, 2001), and *Notice of Countervailing Duty Order: Certain Hot–Rolled Carbon Steel Flat Products from Thailand*, 66 FR 60197 (December 3, 2001), with the exception of the countervailing duty order on hot–rolled steel from India, there have been no administrative reviews of these orders.

Scope of the Orders

ARGENTINA, INDIA, INDONESIA, SOUTH AFRICA, THAILAND

The merchandise subject to these countervailing duty orders is certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of these orders are vacuum degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of these orders, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical descriptions provided above are within the scope of these orders unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of these orders:

- Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, e.g., American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion–resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

- Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to these orders is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled carbon steel flat products covered by these orders, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel, may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise subject to these countervailing duty orders is dispositive.

Analysis of Comments Received

All issues raised in the substantive responses by parties to these sunset reviews are addressed in the *Issues and Decision Memorandum for Final Results of Expedited Five–Year (Sunset) Reviews of the Countervailing Duty Orders on Certain Hot–Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, South Africa, and Thailand*, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated November 29, 2006 (*Decision Memo*), which is hereby adopted by this notice. The issues discussed in the *Decision Memo* include the likelihood of continuation or recurrence of a countervailable subsidy, the net countervailable subsidy rate likely to prevail if the orders were revoked and the nature of the subsidy. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendation in this public memorandum which is on file in B–099, the Central Records Unit, of the main Commerce building. In addition, a complete version of the *Decision Memo*

can be accessed directly on the Department's Web page at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the *Decision Memo* are identical in content.

Final Results of Review

The Department determines that revocation of the countervailing duty orders on hot–rolled steel from Argentina, India, Indonesia, South Africa, and Thailand would be likely to lead to continuation or recurrence of countervailable subsidies at the following subsidy rates:

ARGENTINA

Manufacturer/Exporter	Subsidy Rate
Siderar Sociedad Anomina. Industrial & Commercial (Siderar)	41.69 % ad valorem
All others	41.69 % ad valorem

INDIA

Manufacturer/Exporter	Subsidy Rate
Essar Steel Limited (Essar)	12.90 % ad valorem
Ispat Industries Limited (Ispat)	36.51 % ad valorem
Steel Authority of India Limited (SAIL)	22.89 % ad valorem
Tata Iron and Steel Company Limited (TISCO)	13.79 % ad valorem
All Others	20.72 % ad valorem

INDONESIA

Manufacturer/Exporter	Subsidy Rate
P.T. Krakatau Steel	10.21 % ad valorem
All others	10.21 % ad valorem

SOUTH AFRICA

Manufacturer/Exporter	Subsidy Rate
Saldanha Steel (Pty.) Ltd. (Saldanha)/. Iscor Ltd. (Iscor)	5.76 % ad valorem
All others	5.76 % ad valorem

THAILAND

Manufacturer/Exporter	Subsidy Rate
Sahaviriya Steel Industries Public. Company Limited (SSI)	2.38 % ad valorem
All others	2.38 % ad valorem

International Trade Commission (ITC) Notification

In accordance with section 752(b)(3) of the Act, we will notify the ITC of the final results of these full sunset reviews.

Administrative Protective Orders

This notice also serves as the only 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. Timely notification of the return or 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.

We are issuing and publishing these determinations and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: November 29, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–20699 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Allocation of Tariff Rate Quotas (TRQ) on the Import of Certain Worsted Wool Fabrics for Calendar Year 2007

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of allocation of 2007 worsted wool fabric tariff rate quota.

SUMMARY: The Department of Commerce (Department) has determined the allocation for Calendar Year 2007 of imports of certain worsted wool fabrics under tariff rate quotas established by Title V of the Trade and Development Act of 2000 (Public Law No. 106-200), as amended by the Trade Act of 2002 (Public Law 107-210), the Miscellaneous Trade Act of 2004 (Public law 108-249), and the Pension Protection Act of 2006 (Public Law 109-280). The companies that are being provided an allocation are listed below.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

Title V of the Trade and Development Act of 2000 as amended by the Trade Act of 2002, the Miscellaneous Trade Act of 2004 and the Pension Protection Act of 2006, creates two tariff rate quotas, providing for temporary reductions in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers. For worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTSUS) heading 9902.51.11), the reduction in duty is limited to 5,500,000 square meters in 2007. For worsted wool fabric with average fiber diameters of 18.5 microns or less (HTSUS heading 9902.51.15), the reduction is limited to 5,000,000 square meters in 2007. The Act requires the President to ensure that such fabrics are fairly allocated to persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year. Presidential Proclamation 7383, of December 1, 2000, authorized the Secretary of Commerce to allocate the quantity of worsted wool fabric imports under the tariff rate quotas.

The Miscellaneous Trade Act of 2004 also authorized Commerce to allocate a new HTS category, HTS 9902.51.16. This HTS refers to worsted wool fabric with average fiber diameter of 18.5 microns or less. The amendment further provides that HTS 9902.51.16 is for the benefit of persons (including firms, corporations, or other legal entities) who weave worsted wool fabric in the United States. For HTS 9902.51.16, the reduction in duty is limited to 2,000,000 square meters in 2007.

On January 22, 2001 the Department published interim regulations establishing procedures for applying for, and determining, such allocations (66 FR6459, 15 CFR 335). These interim regulations were adopted, without change, as a final rule published on October 24, 2005 (70 FR 61363). On August 29, 2006 the Department published a notice in the **Federal Register** (71 FR 51187) soliciting applications for an allocation of the

2007 tariff rate quotas with a closing date of September 28, 2006. The Department received timely applications for the HTS 9902.51.11 tariff rate quota from 11 firms. The Department received timely applications for the HTS 9902.51.15 tariff rate quota from 15 firms. The Department received a timely application for the HTS 9902.51.16 tariff rate quota from 1 firm. All applicants were determined eligible for an allocation. Most applicants submitted data on a business confidential basis. As allocations to firms were determined on the basis of this data, the Department considers individual firm allocations to be business confidential.

FIRMS THAT RECEIVED ALLOCATIONS

FIRMS THAT RECEIVED ALLOCATIONS: HTS 9902.51.11, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER GREATER THAN 18.5 MICRON, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING SUITS, SUIT-TYPE JACKETS, OR TROUSERS (PROVIDED FOR IN SUBHEADING 5112.11.60 AND 5112.19.95).

Amount allocated: 5,500,000 square meters.

Companies Receiving Allocation:

Adrian Jules LTD-Rochester, NY
Hartmarx Corporation--Chicago, Ill
Hartz & Company, Inc.--Frederick, MD
Hugo Boss Cleveland, Inc-Brooklyn, OH
JA Apparel Corp.--New York, NY
John H. Daniel Co.--Knoxville, TN
Majer Brands Company, Inc.--Hanover, PA
Saint Laurie Ltd--New York, NY
Sewell Clothing Company, Inc.--Bremen, GA
Toluca Garment Company-Toluca, IL
The Tom James Co.--Franklin, TN

HTS 9902.51.15, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER OF 18.5 MICRON OR LESS, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING SUITS, SUIT-TYPE JACKETS, OR TROUSERS (PROVIDED FOR IN SUBHEADING 5112.11.30 AND 5112.19.60).

Amount allocated: 5,000,000 square meters.

Companies Receiving Allocation:

Adrian Jules LTD-Rochester, NY
Elevee Custom Clothing--Van Nuys, CA
Retail Brand Alliance, Inc. d/b/a Brooks Brothers--New York, NY
Hartmarx Corporation--Chicago, IL
Hartz & Company, Inc.--Frederick, MD
Hugo Boss Cleveland, Inc.-Brooklyn, OH
JA Apparel Corp.--New York, NY
John H. Daniel Co.--Knoxville, TN
Majer Brands Company, Inc.--Hanover, PA
Martin Greenfield--Brooklyn, NY
Saint Laurie Ltd--New York, NY
Sewell Clothing Company, Inc.--Bremen, GA
Southwick Clothing L.L.C.--Lawrence, MA
Toluca Garment Compan-Toluca, IL
The Tom James Co.--Franklin, TN

HTS 9902.51.16, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER OF 18.5 MICRON OR LESS, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING MEN'S AND BOYS SUITS (PROVIDED FOR IN SUBHEADING 5112.11.30 AND 5112.19.60).

Amount allocated: 2,000,000 square meters.

Company Receiving Allocation:

Warren Corporation.-Stafford Springs, CT

Dated: December 4, 2006

Philip J. Martello,

Acting Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries, Department of Commerce.

[FR Doc.E6–20771 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112906B]

Endangered Species; File No. 1570

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the Southeast Fisheries Science Center (SEFSC), NMFS, 75 Virginia Beach Drive, Miami, Florida 33149, has been issued a permit to take green (*Chelonia mydas*), loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), olive ridley (*Lepidochelys olivacea*), and leatherback (*Dermochelys coriacea*) sea turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521;Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 18, 2006, notice was published in the **Federal Register** (71 FR 40700) that a request for a scientific research permit to take green, loggerhead, Kemp's ridley, olive ridley, hawksbill, and leatherback sea turtles had been submitted by the above-named organization. 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).

The research will evaluate modifications to commercial fishing gear to mitigate sea turtle interactions and capture. These evaluations and subsequent gear modifications will help to reduce incidental turtle bycatch in the gear types studied. By assessing those animals incidentally captured, the research will also provide new data to improve stock assessments, assess the impact of anthropogenic activities, better manage and, ultimately, recover these species. The research will take up to 253 loggerhead, 101 Kemp's ridley, 112 leatherback, 51 green, 37 hawksbill, 36 olive ridley sea turtles, and 88 unidentified hardshell species (e.g., a turtle that escaped from the gear before identification could be made) annually. A total of up to 3 loggerhead, 2 Kemp's ridley, 2 green, 1 leatherback, 1 hawksbill, and 1 olive ridley sea turtle may be taken lethally over the course of the permit. Animals would be handled, measured, weighed, photographed, flipper tagged, passive integrated transponder tagged, skin biopsied, and released. A subset of these animals would be captured by trawl research authorized by the permit. The research will take place in waters of the Atlantic Ocean, Gulf of Mexico, Caribbean Sea and their tributaries. The permit was issued for 5 years.

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 any endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: December 1, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20764 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101106E]

Endangered and Threatened Species; Recovery Plan for the Hawaiian Monk Seal; Correction

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Availability; request for comments; correction.

SUMMARY: This notice corrects a November 28, 2006, **Federal Register** notice that announced the National Marine Fisheries Service's (NMFS) availability for public review of the draft revised Recovery Plan (Plan) for the Hawaiian monk seal (*Monachus schauinslandi*). That notice provided incorrect cost estimates over the duration of the Plan, and an incorrect numbering sequence regarding the contents of the Plan. NMFS is soliciting review and comment on the Plan from the public and all interested parties, and will consider and address all substantive comments received during the comment period.

DATES: Comments on the draft Plan must be received by close of business on January 29, 2007.

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

- Mail: Send comments to Chris Yates, Assistant Regional Administrator, Protected Resources Division, Pacific Islands Regional Office, NMFS, Attn: Michelle Yuen, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.
- E-mail: *hmsplan@noaa.gov*. Include in the subject line the following document identifier: Hawaiian Monk Seal Recovery Plan. E-mail comments, with or without attachments, are limited to 5 megabytes.

Interested persons may obtain the Plan for review from the above address or on-line from the NMFS Pacific Islands Region Office website: *http://swr.nmfs.noaa.gov/pir/*.

FOR FURTHER INFORMATION CONTACT: Michelle Yuen (808–944–2243), e-mail: *michelle.yuen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Recovery plans describe actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans incorporate (1) objective, measurable criteria that, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for listed species unless such a plan would not promote the recovery of a particular species. NMFS's goal is to restore the endangered Hawaiian monk seal (Monachus schauinslandi) population to the point where they are again secure, self-sustaining members of their ecosystem and no longer need the protections of the ESA. NMFS will consider all substantive comments and information presented during the public comment period in the course of finalizing this Recovery Plan.

The Hawaiian monk seal has the distinction of being the only endangered marine mammal species whose entire range, historical and current, lies within the United States of America. The majority of the population of Hawaiian monk seals now occupies the northwestern Hawaiian Islands (NWHI) with six main breeding sub-populations. The species is also found in lower numbers in the main Hawaiian Islands (MHI), where the population size and range both appear to be expanding. The Hawaiian monk seal was listed as a threatened species under the ESA on November 23, 1976 (41 FR 51612). On April 30, 1986 (51 FR 16047), critical habitat was designated at all beach areas, lagoon waters, and ocean waters out to a depth of 10 fathoms around Kure Atoll, Midway, Pearl and Hermes Reef, Lisianski Island, Laysan Island, Gardner Pinnacles, French Frigate Shoals, Necker Island and Nihoa Island; critical habitat was extended to include Maro Reef and waters around all habitat out to the 20–fathom isobath on May 26, 1988. The best estimate of the total population size in 2005 is 1,252 seals.

This current revised plan was written by the Hawaiian Monk Seal Recovery Team at the request of the Assistant Administrator for Fisheries to promote the conservation of the Hawaiian monk seal. The recovery team includes experts on marine mammals from the private sector, academia, and government, as well as experts on endangered species conservation. The goals and objectives of the Plan can be achieved only if a long-term commitment is made to support the actions recommended in the Plan.

The correct numbering sequence to what the Recovery Plan contains is: (1) a comprehensive review of the Hawaiian monk seal population distribution, life history, and habitat use, (2) a threats assessment, (3) conservation efforts, (4) biological and recovery criteria for downlisting and delisting, (5) actions necessary for the recovery of the species, and (6) an implementation schedule with estimates of time and cost to recovery.

The threats assessment finds four levels of threats: (1) Crucial (ongoing and apparent threat at most sites in the NWHI), (2) Significant (ongoing impacts representing the potential for range-wide threats), (3) Serious (potential cause of localized threats), and (4) Moderate (localized impacts possible but not considered a serious or immediate threat). The Crucial threats to Hawaiian monk seals are: food limitation, entanglement, and shark predation. The Significant threats to Hawaiian monk seals are: infectious disease and habitat loss. The Serious threats are: fishery interaction, male aggression, human interaction, and biotoxin. Finally, the Moderate threats to Hawaiian monk seals are: vessel groundings and contaminants.

Criteria for the reclassification of the Hawaiian monk seal are included in the Plan. In summary, Hawaiian monk seals may be reclassified from endangered to threatened when all of the following have been met: (1) aggregate numbers exceed 2,900 total individuals in the NWHI; (2) at least 5 of the 6 main sub-population in the NWHI are above 100 individuals, and the MHI population is above 500; (3) the survivorship of females in each subpopulation in the NWHI and in the MHI is high enough that, in conjunction with the birth rates in each subpopulation, the calculated population growth rate for each subpopulation is not negative. The population will be considered for a delisting if it continues to qualify for ''threatened'' classification for 20 consecutive years without new serious risk factors being identified.

Time and cost for recovery actions are contained in the Plan. The correct estimated cost of the recovery program is $52,266,000 for the first 5 fiscal years, and the correct estimated cost for full recovery is $432,016,000, assuming the best case scenario that the population could grow to the stipulated total population size in the NWHI within 12 years, and that the stipulated numbers in the MHI could be reached within 34 years.

In accordance with the 2003 Peer Review Policy as stated in Appendix R of the Interim Endangered and Threatened Species Recovery Planning Guidance, NMFS solicited peer review on the draft Plan concurrent with this

public comment period. Reviews were requested from three scientists and managers with expertise in recovery planning, statistical analyses, fisheries, and marine mammals. NMFS anticipates that many of the recommendations that will be made by the reviewers will be addressed and provided in detail in the final Plan.

Dated: December 1, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20712 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110306B]

Small Coastal Shark 2007 Stock Assessment Data Workshop

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

ACTION: Notice.

SUMMARY: NMFS announces the date, time, and location for the small coastal shark (SCS) stock assessment Data Workshop, the first of three stock evaluation workshops for the SCS stock assessment to be conducted in 2007. Any potential changes to existing management measures for SCS will be based, in large part, on the results of this 2007 stock assessment. The workshop is open to the public.

DATES: The Data Workshop will start at 1 p.m. on Monday, February 5, 2007, and will conclude at 1 p.m. on Friday, February 9, 2007.

ADDRESSES: The Data Workshop will be held at the Bay Point Marriott Resort, 4200 Marriott Drive, Panama City Beach, FL 32408.

FOR FURTHER INFORMATION CONTACT: Julie Neer at (850) 234–6541; or Karyl Brewster-Geisz at (301) 713–2347, fax (301) 713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) (October 2, 2006; 71 FR 58058) is implemented by regulations at 50 CFR part 635.

Stock assessments are periodically conducted to determine stock status relative to current management criteria. Collection of the best available scientific data and conducting stock assessments are critical to determine appropriate management measures for rebuilding stocks. Based on the last SCS stock assessment in 2002, NMFS determined that the SCS complex and three of the species in that complex are not overfished with no overfishing occurring. The only exception was for finetooth sharks, where fishing mortality in some years was above the mortality level associated with producing maximum sustainable yield (MSY). Any potential changes to existing management measures for SCS will be based, in large part, on the results of this 2007 stock assessment.

This assessment will be conducted in a manner similar to the Southeast Data, Assessment, and Review (SEDAR) process. SEDAR is a cooperative process initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around three workshops. The first is a Data Workshop where datasets are documented, analyzed, and reviewed, and data for conducting assessment analyses are compiled. The second workshop is an Assessment Workshop where quantitative population analyses are developed and refined and population parameters are estimated. The third and final workshop is a Review Workshop where a panel of independent experts review the data and assessment and recommend the most appropriate values of critical population and management quantities. All workshops are open to the public. More information on the SEDAR process can be found at **HTTP://WWW.SEFSC.NOAA.GOV/SEDAR/**. The 2005/2006 large coastal shark stock assessment also followed this process.

NMFS announces the Data Workshop, the first of three workshops for the SCS 2007 stock assessment. The Data Workshop will be held from February 5 - 9, 2007, at the Bay Point Marriott Resort in Panama City Beach, FL (see **DATES** and **ADDRESSES**). Prospective participants and observers will be contacted with the data workshop details. This workshop is open to the public. Persons interested in participating or observing the Data Workshop should contact Julie Neer (see **FOR FURTHER INFORMATION CONTACT**). Tentative dates for the next two workshops are May 7 - 11, 2007, for the Assessment Workshop and August 6 - 10, 2007, for the Review Workshop. The times and locations of these workshops will be announced in a future **Federal Register** notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Neer at (850) 234–6541, at least 7 days prior to the Data workshop.

Authority: 16 U.S.C. 971 *et seq.*

Dated: November 29, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–20723 Filed 12–6–06; 8:45 am]

BILLING CODE 3510–22–S

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

Cancellation of previously announced meetings: Wednesday, December 5, 2006, meeting closed to the public and Thursday, December 7, 2006, meeting open to the public.

DATE AND TIME: Tuesday, December 12, 2006 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g. Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 06–9614 Filed 12–5–06; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 06–11]

R.O. White & Company and Ceres Marine Terminals Inc. V. Port of Miami Terminal Operating Company, Continental Stevedoring & Terminals, Inc. et al.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime

Commission (''Commission'') by R.O. White & Company, Inc. and Ceres Marine Terminals, Inc. (''Complainants''), against the Port of Miami Terminal Operating Company, L.L.C. (''POMTOC''); Continental Stevedoring & Terminals, Inc.; Florida Stevedoring, Inc.; P&O Ports North America, Inc.; P&O Ports Florida, Inc.; Eller-Ito Stevedoring Company, L.L.C.; and Dante B. Fascell Port of Miami–Dade, aka Miami–Dade County Seaport Department (''Respondents''). Complainants assert that Ceres Marine Terminals, Inc. performs stevedoring and/or marine terminal services at numerous ports in the United States and Canada, and R.O. White & Company is a wholly owned subsidiary of Ceres who holds a permit issued by Respondent Miami–Dade County Seaport Department (''The Port'') to perform stevedoring services at the Port. Complainants assert that all of the Respondents are marine terminal operators as defined in Section 3(14) of the Shipping Act of 1984 (''The Act''), 46 U.S.C. 40102(14).

Complainants contend that Respondents have violated the Shipping Act in several ways. First, they contend that Respondents, who are parties to FMC Agreement No. 224–200616, have violated sections 5(a), 10(a)(2), and 10(a)(3) of the Act (46 U.S.C. 40302(a), 41102(b)(1) and (b)(2)) by: ''failing to file their actual agreements; operating pursuant to agreements that were required to be filed, but not filed; operating outside and/or contrary to the terms of their filed agreement; and collectively agreeing to refuse R.O. White permission to perform stevedoring services at POMTOC facilities.'' (*Complaint* at 11–12). Second, Complainants assert that POMTOC and/or its members [1] have violated sections 10(b)(10), 10(d)(1), 10(d)(3), and 10(d)(4) of the Act (46 U.S.C. 41104(10), 41102(c), 41106(3) and 41106(2)) by: Using POMTOC as a device to exclude competition for stevedoring services; precluding ocean common carriers from using R.O. White as their stevedore; refusing to allow R.O. White to use its Port-granted license to perform stevedoring services at POMTOC; requiring common carriers to use only POMTOC members for stevedoring services; and ''denying R.O. White access to POMTOC while allowing access to other entities for the same or similar purposes.'' (*Complaint* at 12). Third, Complainants assert that the Port violated sections 10(b)(10), 10(d)(1), 10(d)(3), and 10(d)(4) of the Act (46 U.S.C. 41104(10), 41102(c), 41106(3) and 41106(2)) by: ''failing to prevent other Respondents from engaging in the unlawful conduct alleged in Counts I and II above; failing to ensure access by qualified stevedores to the only public, multi-user cargo terminal at the Port''; (*Complaint* at 13) and failing to re-evaluate the current process and competitive structure for providing stevedore services at the Port. Complainants pray that the Commission require Respondents to answer to the charges, order Respondents to cease and desist the aforesaid violations, establish and put in force such practices and policies as the Commission determines to be lawful and reasonable; require Respondents to pay reparations to Complainants for the unlawful conduct including interest and attorney's fees, and to make any further order or orders the Commission determines to be proper.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 30, 2007, and the final decision of the Commission shall be issued by March 10, 2008.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–20757 Filed 12–6–06; 8:45 am]

BILLING CODE 6730–01–P

[1] POMTOC is a marine terminal services provider that was formed by four of the Respondents.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Jennifer Blaisdell, University of Pennsylvania and Retinal Consultants of Arizona, Ltd.: Based on the report of an investigation conducted by the University of Pennsylvania (UP) and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Ms. Jennifer Blaisdell, former Clinical Coordinator for Retinal Consultants of Arizona, Ltd. (RCA), committed research misconduct in a study sponsored by two cooperative agreements funded by the National Eye Institute (NEI), National Institutes of Health (NIH): U10 EY012261, ''Age-related Macular Degeneration Prevention Trial,'' Dr. Stuart Fine, Principal Investigator (P.I.), and U10 EY012279, ''Coordinating Center for AMD, *C*omplications of *A*ge-Related Macular Degeneration *P*revention *T*rial'' (CAPT), Dr. Maureen McGuire, P.I.

Specifically, PHS found that Ms. Blaisdell knowingly and intentionally committed research misconduct by:

1. Fabricating a CAPT data form dated 5/29/02 reporting a 30-month telephone follow-up visit with patient 01–026; this patient died on 5/3/02;
2. Fabricating a CAPT data form dated 2/20/03 reporting a 43-month telephone follow-up visit with patient 01–019; this patient died on 2/10/03;
3. Falsifying a CAPT data form dated 2/13/01 reporting a visit to the clinic on that date for patient 01–049; this patient's visit was 2/20/01;
4. Falsifying the CAPT form for patient 01–055 dated 4/11/01, when no clinic visit took place, by substituting information purportedly obtained at a non-study visit on 2/28/01.

Ms. Blaisdell has entered into a Voluntary Exclusion Agreement in which she has voluntarily agreed, for a period of two (2) years, beginning on November 14, 2006:

(1) To exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which Ms. Blaisdell's participation is proposed or which uses her in any capacity on PHS supported research, or that submits a report of PHS-funded research in which she is involved, must concurrently submit a plan for supervision of Ms. Blaisdell's duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific

integrity of her research contribution. Ms. Blaisdell also agrees to ensure that the institution submits a copy of the supervisory plan to ORI. She further agrees that she will not participate in any PHS-supported research until such a supervisory plan is submitted to ORI.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. E6–20754 Filed 12–6–06; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Program Peer Review Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC, NCEH/ATSDR announces the following subcommittee meeting:

Time and Date: 8:30 a.m.–10:30 p.m. Eastern Standard Time, December 19, 2006.

Place: The teleconference will originate at NCEH/ATSDR in Atlanta, Georgia. To participate, dial 877/315–6535 and enter conference code 383520.

Purpose: Under the charge of the BSC, NCEH/ATSDR, the PPRS will provide the BSC, NCEH/ATSDR with advice and recommendations on NCEH/ATSDR program peer review. They will serve the function of organizing, facilitating, and providing a long-term perspective to the conduct of NCEH/ATSDR program peer review.

Matters to be Discussed: An overview of PPRS activities; a review of the November meeting; an update on the Site Specific Activities Peer Review; re-visit approval of the Peer Reviewer Conflict-of-interest Form; and a discussion on Preparedness and Emergency Response Peer Review scheduled for February 2007: Breadth and approach of the review, areas of expertise required for the review, nominations for a PPRS panel member, a chairperson, peer reviewers, partners, and customers. Agenda items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: Public comment period is scheduled for 9:35–9:45 a.m. Due to programmatic matters, this **Federal Register** Notice is being published on less than 15 calendar days notice to the public (41 CFR 102–3.150(b)).

FOR FURTHER INFORMATION CONTACT: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0622.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and NCEH/ATSDR.

Dated: December 1, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–20755 Filed 12–6–06; 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, CMS is proposing to modify or alter existing system of records titled ''Medicare Exclusion Database'' (MED), System No. 09–70–0534,'' established at 67 **Federal Register** 8810 (February 26, 2002). 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.

Published routine use number 2 and 3 will be combined as one because both are written to complete the same or similar purpose. Disclosures allowed by published routine uses numbers 2, and 3 will be covered by a new routine use numbered 2 to permit release of information to ''another Federal and/or State agency, agency of a State government, an agency established by State law, or its fiscal agent.'' The scope of this routine use has been broadened to include State Medicaid agencies when disclosure of the information proved compatible with the purpose for which CMS collects the information. We will delete routine use number 5 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.

Finally, we will delete the section titled ''Additional Circumstances Affecting Routine Use Disclosures,'' that addresses ''Protected Health Information (PHI)'' and ''small cell size.'' The requirement for compliance with HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' does not apply because this system does not collect or maintain PHI. In addition, our policy to prohibit release if there is a possibility that an individual can be identified through ''small cell size'' is not applicable to the data maintained in this system.

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) (Public Law 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 system of records is to collect and maintain information on individuals that have been excluded from receiving Medicare payments for any item or service furnished during the period when excluded from participation in the Medicare program. Information maintained in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant or 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) facilitate research on the quality and effectiveness of care

provided, as well as epidemiological projects; (4) support litigation involving the Agency; and (5) combat fraud, waste and abuse in certain health benefits programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 30, 2006. In any event, we will not disclose any information under a routine use until 30 days after publication in the **Federal Register** or 40 days after mailings to Congress, which ever is later. We may defer implementation of this system or on one or more of the routine uses 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: Lisa Eggleston, Health Insurance Specialist, Program Integrity Group, Office of Financial Management, CMS, Mail Stop C3–02–16, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–6130 or e-mail *lisa.eggleston@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 this system is given under §§ 1128 A and B, and 1156 of the Social Security Act.

B. Collection and Maintenance of Data in the System

For purposes of this SOR, the system contains information related to individual health care providers who have been excluded from participation in Medicare and other Federal and State health care programs. The system contains information such as other provider identifiers used by those individuals, names, demographic information, including, but not limited to gender and date of birth, provider taxonomy information, address data, contact information, and taxpayers identifying number.

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 MED information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both individually identifiable and non-individually-identifiable data may be disclosed under a routine use.

We will only disclose the minimum personal data necessary to achieve the purpose of MED. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the 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 the data are being collected; *e.g.*, is to collect and maintain information on individuals that have been excluded from receiving Medicare payments for any item or service furnished during the period when excluded from participation in the Medicare program.

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 or disclosure of the record;

b. remove or destroy at the earliest time all individually-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 support Agency contractors, consultants, or grantees that have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this 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 or consultant 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's proper payment of Medicare benefits,

b. enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health

benefits program funded in whole or in part with Federal funds, and/or

c. assist Federal/State Medicaid programs within the State.

Other Federal or State agencies in their administration of a Federal health program may require MED information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper payment for services provided.

MED data may be disclosed to a State agency, agency of a State government, an agency established by State law, or its fiscal agent for purposes of ensuring that no payments are made with respect to any item or service furnished by an individual during the period when excluded from participation in Medicare and other Federal and State health care programs.

MED data may potentially be released to the State only on those individuals who are either individuals excluded from participation in the Medicare and other Federal and State health care programs, or employers of excluded individuals, or are legal residents of the State, irrespective of the location of provider or supplier furnishing items or services.

3. To support an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability or the restoration or maintenance of health.

MED data may be able to provide for research, evaluation, and epidemiological projects a broader longitudinal national perspective of the status of health care patients. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to patients and the policy that governs the care.

4. To assist the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. any employee of the Agency in his or her official capacity, or

c. any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. the United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

5. To support a CMS contractor 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 programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

6. To support 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 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 MED information for the purpose of combating fraud, waste or abuse in such Federally-funded programs.

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 (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: November 28, 2006.

John R. Dyer,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

System Number: 09–70–0534

SYSTEM NAME:

''Medicare Exclusion Database (MED), HHS/CMS/OFM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850, and at various other remote locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

For purposes of this SOR, the system contains information related to individual health care providers who have been excluded from participation in Medicare and other Federal and State health care programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information such as other provider identifiers used by those individuals, names, demographic information, including, but not limited to gender and date of birth, provider taxonomy information, address data, contact information, and taxpayers identifying number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of this system is given under §§ 1128 A and B, and 1156 of the Social Security Act.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this system of records is to collect and maintain information on individuals that have been excluded from receiving Medicare payments for any item or service furnished during the period when excluded from participation in the Medicare program. Information maintained in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant or 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) facilitate research on the quality and effectiveness of care provided, as well as epidemiological projects; (4) support litigation involving the Agency; and (5) 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:

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:

To support Agency contractors, consultants, or CMS grantees that have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need access to the records in order to assist CMS.

To assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent to: Contribute to the accuracy of CMS's proper payment of Medicare benefits, 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 assist Federal/State Medicaid programs within the State.

To support an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability or the restoration or maintenance of health.

To assist the Department of Justice (DOJ), court or adjudicatory body when:

The Agency or any component thereof, or any employee of the Agency in his or her official capacity, or any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or 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.

To support a CMS contractor 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 programs.

To support 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 or abuse in a 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All records are accessible by UPIN/NPI or alpha (name) 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 for a period of 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 AND ADDRESS:

Director, 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 health care provider should write to the system manager who will require the system name, National Provider Identifier, address, date of birth, and gender, and for verification purposes, the subject individual health care provider's name (woman's maiden name, if applicable), and social security number (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 reasonably specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual health care provider should contact the systems manager named above, reasonably identify the record and specify the information to be contested, state the corrective action sought, and the reasons for the correction with supporting justification. (These procedures are in accordance with department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The Office of the Inspector General Exclusion file, Online Survey Certification and Reporting System file, National Supplier Clearing House file, Unique Physician Identification Number Registry, Medicare Contractor Provider Files, and Social Security Administration records to assist in a determination of the excluded individual's employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E6–20718 Filed 12–6–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Deletion of System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice to delete 10 systems of records.

SUMMARY: CMS proposes to delete 10 systems of records from its inventory subject to the Privacy Act of 1974 (Title 5 United States Code § 552a). CMS is reorganizing its databases because of the amount of information it collects to administer the Medicare program. Retention and destruction of the data contained in these systems will follow the schedules listed in the system notice.

EFFECTIVE DATES: CMS filed a report of proposed deletions 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 11/30/2006. To ensure that all parties have adequate time in which to comment, the deletions 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: Jacqueline Code, Management Analysis, 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. She can also be reached by telephone at 410–786–0393, or via e-mail at *Jacquie.code@cms.hhs.gov*.

CMS is deleting the following systems of records.

System No.	Title	System Manager
09–70–0036	Evaluation of the Competitive Bidding for Durable Medical Equipment Demo.	HHS/CMS/ORDI
09–70–0053	Medicare Beneficiary Health Status Registry	HHS/CMS/ORDI
09–70–0067	End Stage Renal Disease Managed Care Demonstration	HHS/CMS/ORDI
09–70–0067	Claims Payment System for Medicare's Healthy Aging Demo Project	HHS/CMS/ORDI
09–70–0540	Data Collection of Medicare Beneficiaries Receiving Implantable Cardioverter-Defibulators for Primary Prevention of Sudden.	HHS/CMS/OCSQ
09–70–0549	Data Collection for Medicare Beneficiaries Receiving FDG Positron Tomography for Brain, Ovarian, Pancreatic, Small Cell Lung and Testicular Cancer.	HHS/CMS/OCSQ
09–70–0554	Anti-Cancer Chemotherapy for Colorectal Cancer (CRC)	HHS/CMS/OCSQ
09–70–0556	Carotid Artery Stenting	HHS/CMS/OCSQ
09–70–0561	Data Collection for Medicare Beneficiaries Receiving FDG Positron Tomography for Dementia.	HHS/CMS/OCSQ
09–70–0570	Medicare Bariatric Surgery System	HHS/CMS/OCSQ

Dated: November 28, 2006.

John R. Dyer,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

[FR Doc. E6–20743 Filed 12–6–06; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Comment Request

Proposed Projects

Title: Compassion Capital Fund Evaluation—Indicators of Organizational Capacity Among Targeted Capacity Building Program Grantees.

OMB No.: New Collection.

Description: This proposed information collection activity is for a study that is one component of the evaluation of the Compassion Capital Fund (CCF) program. The information collection will be through mailed surveys to be completed by selected faith-based and community organizations that received Targeted Capacity Building grants under the CCF program.

The overall evaluation includes multiple components that will examine indicators, outcomes and effectiveness of the CCF in meeting its objective of improving the capacity of faith-based and community organizations. This component of the evaluation will involve approximately 250 faith-based and community organizations. Information will be sought from these organizations to assess change and improvement in various areas of organizational capacity resulting from receipt of a Targeted Capacity Building grant.

Respondents: The respondents will be selected faith-based and community organizations that received a Targeted Capacity Building grant in a prior year. The surveys will be self-administered.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Indicators of Organizational Capacity Survey	250	1	.33	82.5

Estimated Total Annual Burden Hours: 82.5

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 Administration, Office of Information Services, 370 L'Enfant Promenade SW., Washington, DC 20447. Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 1, 2006.

Robert Sargis,

Reports Clearance Office.

[FR Doc. 06–9581 Filed 12–6–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0274]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Establishing and Maintaining a List of United States Dairy Product Manufacturers/ Processors With Interest in Exporting to Chile

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 8, 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.

Establishing and Maintaining a List of United States Dairy Product Manufacturers/Processors With Interest in Exporting to Chile—(OMB Control Number 0910–0509)—Extension

As a direct result of discussions that have been adjunct to the U.S./Chile Free Trade Agreement, Chile has recognized FDA as the competent U.S. food safety authority and has accepted the U.S. regulatory system for dairy inspections. Chile has concluded that it will not require individual inspections of U.S. firms by Chile as a prerequisite for trade, but will accept firms identified by FDA as eligible to export to Chile. Therefore, in the **Federal Register** of June 22, 2005 (70 FR 36190), FDA announced the availability of a revised guidance document entitled ''Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/ Processors With Interest in Exporting to Chile.'' The guidance can be found at *http://www.cfsan.fda.gov/ guidance.html.* The guidance document explains that FDA has established a list

that is provided to the government of Chile and posted on FDA's Internet site, which identifies U.S. dairy product manufacturers/processors that have expressed interest to FDA in exporting dairy products to Chile, are subject to FDA jurisdiction, and are not the subject of a pending judicial enforcement action (i.e., an injunction or seizure) or a pending warning letter. The term ''dairy products,'' for purposes of this list, is not intended to cover the raw agricultural commodity raw milk. Application for inclusion on the list is voluntary. However, Chile has advised that dairy products from firms not on this list could be delayed or prevented by Chilean authorities from entering commerce in Chile. The revised guidance explains what information firms should submit to FDA in order to be considered for inclusion on the list and what criteria FDA intends to use to determine eligibility for placement on the list. The document also explains how FDA intends to update the list and how FDA intends to communicate any new information to Chile. Finally, the revised guidance notes that FDA considers the information on this list, which is provided voluntarily with the understanding that it will be posted on FDA's Internet site and communicated to, and possibly further disseminated by, Chile, to be information that is not protected from disclosure under 5 U.S.C. 552(b)(4). Under this guidance, FDA recommends that U.S. firms that want to be placed on the list send the following information to FDA: Name and address of the firm and the manufacturing plant; name, telephone number, and e-mail address (if available) of the contact person; a list of products presently shipped and expected to be shipped in the next 3 years; identities of agencies that inspect the plant and the date of last inspection; plant number and copy of last inspection notice; and, if other than an FDA inspection, copy of last inspection report. FDA requests that this information be updated every 2 years.

In the **Federal Register** of July 31, 2006 (71 FR 43202), 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]

Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
New Written Requests To Be Placed On The List	15	1	15	1.5	22.5
Biannual Update	55	1	55	1.0	55.0
Occasional Updates	25	1	25	0.5	12.5
Total					90

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the number of firms that will submit new written requests to be placed on the list, biannual updates and occasional updates is based on the FDA's experience maintaining the list over the past 3 years. The estimate of the number of hours that it will take a firm to gather the information needed to be placed on the list or update its information is based on FDA's experience with firms submitting similar requests. FDA believes that the information to be submitted will be readily available to the firms.

To date, over 110 producers have sought to be included on the list. FDA estimates that, each year, approximately 15 new firms will apply to be added to the list. FDA estimates that a firm will require 1.5 hours to read the guidance, gather the information needed, and to prepare a communication to FDA that contains the information and requests that the firm be placed on the list. Under the revised guidance, every 2 years each producer on the list must provide updated information in order to remain on the list. FDA estimates that each year approximately half of the firms on the list, 55 firms, will resubmit the information to remain on the list. FDA estimates that a firm already on the list will require 1.0 hours to biannually update and resubmit the information to FDA, including time reviewing the information and corresponding with FDA. In addition, FDA expects that, each year, approximately 25 firms will need to submit an occasional update and each firm will require 0.5 hours to prepare a communication to FDA reporting the change.

Dated: November 30, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20704 Filed 12–6–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0426]

Withdrawal of Federal Register Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of a 60-day notice that published in the **Federal Register** of October 31, 2006 (71 FR 63765). The document published in error.

DATES: December 7, 2006.

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: FDA is withdrawing a 60-day notice entitled ''Medical Device User Fee and Modernization Act Small Business Qualification Certification (Form FDA 3602),'' which published in the **Federal Register** of October 31, 2006 (71 FR 63765), because it is a duplicate of an earlier 60-day notice. The earlier 60-day notice published in the **Federal Register** of August 29, 2006 (71 FR 51196). The October 31 notice was published in error.

Dated: November 30, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20705 Filed 12–6–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) notice

is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate proposals for support through the RAID program by making available to the research community, on a competitive basis, NCI new agent development contract resources for the preclinical development of drugs and biologics. The outcome of the evaluation will be a decision whether NCI should support the request and make available contract resources for support through the RAID program to the research community, NCI new agent development for the preclinical development of drugs and biologics. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Rapid Access to Intervention Development.

Date: December 20, 2006.

Time: 8:30 a.m.–5 p.m.

Agenda: To evaluate Rapid Access to Intervention Development Portfolio.

Place: National Institutes of Health, 6130 Executive Boulevard, Rm. 319, Rockville, MD 20852.

Contact Person: Phyllis G. Bryant, Executive Secretary, Program Analyst, Developmental Therapeutics Program, National Cancer Institute, NIH, 6130 Executive Boulevard, Rm. 8022, Bethesda, MD 20892, 301 435–9137.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 30, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9577 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Demonstration and Education Research Grants.

Date: December 15, 2006.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Patricia A. Haggerty, PhD, Scientific Review Administrator, National Heart, Lung, and Blood Institute/NIH, Clinical Studies & Training Studies Rev. Grp., Division of Extramural Affairs/Section Chief, 6701 Rockledge Drive, Room 7194, Bethesda, MD 20892, 301/435–0288, *haggertp@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Coronary Intervention Trial.

Date: December 19, 2006.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William J. Johnson, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Research Activities, NIH/NHLBI, 6701 Rockledge Drive, Bethesda, MD 20892–7924, 301–435–0317, *johnsonw@nhlbi.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: December 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9573 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee Group A.

Date: January 5, 2007.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Jerry Roberts, PhD, Scientific Review Administrator, Scientific Review Branch, National Institutes of Health, Building 38A, Bethesda, MD 20892, 301 402–0838.

Name of Committee: Center for Inherited Disease Research Access Committee Group B.

Date: January 5, 2007.

Time: 3:15 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Rudy Pozzatti, PhD, Scientific Review Administrator, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Bethesda, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: November 30, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9576 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: January 11, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Intramural Research Program, National Institute on Drug Abuse, NIH, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor Auditorium, Baltimore, MD 21224.

Contact Person: Stephen J. Heishman, PhD, Research Psychologist, Clinical Pharmacology Branch, Intramural Research Program, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

(Catalogue of Federal Domestic Assistance Program No. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9572 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: January 11–12, 2007.

Closed: January 11, 2007, 10 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications and the activities of the NIMH Intramural Research Programs.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Open: January 12, 2007, 8:30 a.m. to 1 p.m.

Agenda: Presentation of NIMH Director's Report and discussion on NIMH program and policy issues.

Place: National Institutes of Health, Building 31C, 31 Center Drive, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Jane A. Steinberg, PhD, Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when ap the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nimh.nih.gov/council/advis.cfm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientists Development Award for Clinicians, and Research Scientists Award; 93.282. Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: December 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9574 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclose of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Deafness and Other Communication Disorders Special Emphasis Panel, P30 Grant Review.

Date: January 25, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Stanley C. Oaks, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, Executive Plaza South, Room 400C, 6120 Executive Blvd—MSC 7180, Bethesda, MD 20892–7180, 301–496–8683, *so14s@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: November 30, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9575 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meetings of the Board of Regents of the National Library of Medicine.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine Extramural Programs Subcommittee.
Date: February 6, 2007.
Closed: 7:15 a.m. to 8:45 a.m.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38A, B1N30Q, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov*.

Name of Committee: Board of Regents of the National Library of Medicine Subcommittee on Outreach and Public Information.
Date: February 6, 2007.
Open: 7:30 a.m. to 8:45 a.m.
Agenda: Outreach Activities.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov*.

Name of Committee: Board of Regents of the National Library of Medicine.
Date: February 6–7, 2007.
Open: February 6, 2007, 9 a.m. to 4:30 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.
Closed: February 6, 2007, 4:30 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.
Open: February 7, 2007, 9 a.m. to 12 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov*.

Name of Committee: Board of Regents of the National Library of Medicine Planning Subcommittee.
Date: February 7, 2007.
Open: 7:30 a.m. to 8:45 a.m.
Agenda: Long-Range Planning Discussion.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nlm.nih.gov/od/bor/bor.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 1, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–9571 Filed 12–6–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–88]

Notice of Submission of Proposed Information Collection to OMB; PATH Survey of Homebuilding Product Manufacturers

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This request if for the clearance of a survey instrument of assess the state of operational and organizational performance among homebuilding product manufacturers (both large and small) with regard to product development and innovations.

DATES: *Comments Due Date:* January 8, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528—New) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: PATH Survey of Homebuilding Product Manufacturers.

OMB Approval Number: 2528-(New).

Form Numbers: None.

Description of the Need For the Information and Its Proposed Use: This request if for the clearance of a survey instrument of assess the state of operational and organizational performance among homebuilding product manufacturers (both large and small) with regard to product development and innovations.

Frequency of Submission: On occasion, Other Once only.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	150		1		0.58		88

Total Estimated Burden Hours: 88.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 1, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–20703 Filed 12–6–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW147368]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Windsor Beaver Creek LLC for competitive oil and gas lease WYW147368 for land in Sheridan County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147368 effective February 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Julie L. Weaver,

Land Law Examiner.

[FR Doc. E6–20710 Filed 12–6–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW147371]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Windsor Beaver Creek LLC for competitive oil and gas lease WYW147371 for land in Sheridan County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147371 effective February 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Julie L. Weaver,

Land Law Examiner.

[FR Doc. E6–20711 Filed 12–6–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of states' decisions to participate or not participate in accounting and auditing relief for Federal oil and gas marginal properties located in their state for calendar year 2007.

SUMMARY: The Minerals Management Service (MMS) published final regulations on September 13, 2004 (69 FR 55076), codified at 30 CFR 204.200–215, to provide accounting and auditing relief for marginal Federal oil and gas properties. The rule requires MMS to publish in the **Federal Register** the decisions of the States concerned to allow or not to allow one or both forms of relief in their State. As required in the rule, MMS provided states receiving a portion of the Federal royalties with a list of qualifying marginal Federal oil and gas properties located in their State so that each affected State could decide whether to participate in one or both relief options. This notice provides the decisions by the States concerned to allow one or both types of relief.

DATES: Effective January 1, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Williams, Manager, Federal Onshore Oil and Gas Compliance and Asset Management, telephone (303) 231–3403, FAX (303) 231–3744, e-mail to *mary.williams@mms.gov*, or mail to P.O. Box 25165, MS 392B2, Denver Federal Center, Denver, Colorado 80225–0165.

SUPPLEMENTARY INFORMATION: The rule implemented certain provisions of Section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 and provides two options for relief: (1) Notification-based relief for annual reporting, and (2) other requested relief, as proposed by industry and approved by MMS and the State concerned. The rule requires that MMS publish by December 1 of each year, a list of the States and their decisions regarding marginal property relief.

To qualify for the first option of relief (notification-based relief) for calendar year 2007, properties must have produced less than 1,000 barrels-of-oil-equivalent (BOE) per year for the base period (July 1, 2005–June 30, 2006). Annual reporting relief will begin on January 1, 2007, with the annual report and payment due February 29, 2008 (unless an estimated payment is on file, which will move the due date to March 31, 2008). To qualify for the second option of relief (other requested relief), properties must have produced less than 15 BOE per well per day for the base period.

The following table shows the States that have marginal properties, where a portion of the royalties are shared between the state and MMS, and the States' decisions to allow one or both forms of relief.

State	Notification-based relief (less than 1,000 boe per year)	Request-based relief (less than 15 boe per well per day)
Alabama	No	No.
Arkansas	Yes	Yes.
California	No	No.
Colorado	No	No.
Kansas	No	No.
Louisiana	Yes	Yes.
Michigan	Yes	No.
Mississippi	No	Yes.
Montana	Yes	No.
Nebraska	Yes	Yes.
Nevada	No	No.
New Mexico	No	No.
North Dakota	No	No.
Oklahoma	No	No.
South Dakota	Yes	Yes.
Utah	No	No.
Wyoming	Yes	No.

Federal oil and gas properties located in all other States, where a portion of the royalties are not shared with the State, are eligible for relief if they qualify as marginal under this rule.

For information on how to obtain relief, please refer to the rule, which can be viewed on the MMS Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/AC30.htm*.

All correspondence, records, or information received in response to this notice are subject to disclosure under the Freedom of Information Act. All information provided will be made public unless the respondent identifies which portions are proprietary. Please highlight the proprietary portions, including any supporting documentation, or mark the page(s) that contain proprietary data. Proprietary information is protected by the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552 (b)(4), the Indian Mineral Development Act of 1982 (25 U.S.C. 2103), and Department regulations (43 CFR part 2).

Dated: November 8, 2006.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. E6–20708 Filed 12–6–06; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Receipt of Application for Telecommunication Site

AGENCY: National Park Service, Glen Canyon National Recreation Area, Interior.

ACTION: Notice.

SUMMARY: (Authority: 47 U.S.C. 332 (Telecommunications Act of 1996); 16 U.S.C. 5; other applicable authorities and Director's order 53) Glen Canyon National Recreation Area has received an application from Commnet Four Corners, LLC, to install and operate a wireless (cellular) telephone system. The location of the proposed telecommunication site is at the Lake Powell Resort near Page, Arizona. Commnet ''brokers'' cellular time with major cellular providers enabling most callers to connect and be billed based on their existing calling plans. Both voice and data services will eventually be available.

DATES: Comments on this proposal can be mailed to the address shown below and must be received within 30 days of the publication of this notice in the **Federal Register**. Our practice is to make comments, including names, home addresses, home phone numbers, and email addresses of respondents, available for public review. Individual respondents may request that we withhold their names and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: This document is available for review at Glen Canyon NRA Headquarters, 691 Scenic View Drive, Page, AZ 86040, between the hours of 7 a.m. and 4 p.m. MST.

FOR FURTHER INFORMATION CONTACT: Glen Canyon NRA, P.O. Box 1507, Page, AZ 86040, or by going to *http://parkplanning.nps.gov/glca*.

SUPPLEMENTARY INFORMATION: Currently, there is limited cellular service in the Wahweap Resort area, which receives over 1,000,000 visitors per year. The cellular antennas are to be installed on the roof of the Rainbow Room Restaurant. The Rainbow Room Restaurant is a non-historic structure in the Lake Powell Resort developed area. The proposed site includes six 51 inch by 13 inch by 3 inch rectangular panel antennas mounted on the roof of the Rainbow Room Restaurant and nearby ground mounted associated radio equipment shielded by a cedar privacy fence matching existing fencing. The antennas will protrude approximately 50 inches above the existing roof line. The antenna panels will be painted to match the Lake Powell Resort color scheme. Neither the antennas nor the associated equipment will have any adverse effects on the area's scenery or visual resources.

The staff at Glen Canyon National Recreation Area has completed a review and analysis pursuant to the National Environmental Policy Act (NEPA), the National Historic Preservation Act, the Telecommunications Act of 1996, and National Park Service requirements, policy and regulations. The NPS has categorically excluded this proposal from further analysis under NEPA, and has determined that there will not be any adverse effects or impairment to the park's natural and cultural resources. Copies of the NPS analysis and NEPA documents are available at Glen Canyon NRA, 691 Scenic View Drive, Page, AZ 86040, or can be requested by writing to Glen Canyon NRA, Attention Stan Burman, PO Box 1507, Page, AZ 86040, or by going to *http://parkplanning.nps.gov/glca*.

Nancie E. Ames,

Deputy Superintendent.

[FR Doc. 06–9566 Filed 12–6–06; 8:45 am]

BILLING CODE 4312–EF–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (5), of the completion of an inventory of human remains and associated funerary objects in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA. The human remains and associated funerary objects were removed from Barnstable and Plymouth Counties, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the associated funerary objects was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Wampanoag Repatriation Confederation, on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

This notice corrects the number of associated funerary objects reported in a Notice of Inventory Completion published in the **Federal Register** on August 14, 2003, (FR Doc 03–20754, pages 48626–48634). In 2006, the Peabody Museum of Archaeology and Ethnology identified one error in a collector's name, identified one error in a collection date, and identified additional associated funerary objects from four sites in southeastern MA. The Peabody Museum of Archaeology and Ethnology also changed the method used to quantify reported cultural items. In light of these findings, the original Notice of Inventory Completion is amended to decrease the calculated number from 127 to 113 associated funerary objects. Changes to the original inventories come as a result of the Peabody Museum of Archaeology and Ethnology's continuing inventory work. Although the method used to quantify objects has changed, the previously reported cultural items in this collection remain the same.

In the **Federal Register** of August 14, 2003, on page 48628, paragraph number 7 is corrected by substituting the following paragraph:

In 1887, human remains representing one individual were removed from Sandwich, Barnstable County, MA, by Lombard C. Jones. Dr. Jones donated the human remains to the Peabody Museum of Archaeology and Ethnology in 1908. No known individual was identified. The one associated funerary object is a nail with a wood fragment.

In the **Federal Register** of August 14, 2003, on page 48631, paragraph number 7 is corrected by substituting the following paragraph:

In 1867, human remains representing one individual from Nantasket Beach in Hull, Plymouth County, MA, were donated to the Peabody Museum of Archaeology and Ethnology by Jeffries Wyman. The human remains were collected by Mr. Wyman at an unknown date. No known individual was identified. The 17 associated funerary objects are 16 shell-tempered pottery sherds and 1 lot of ceramic body sherds.

In the **Federal Register** of August 14, 2003, at page 48631, paragraph number 9 is corrected by substituting the following paragraph:

In 1881, human remains representing six individuals were removed from the Patuxet Hotel site in Kingston, Plymouth County, MA, by L. H. Keith and were donated to the Peabody Museum of Archaeology and Ethnology by Mr. Keith in the same year. No known individuals were identified. The 18 associated funerary objects are 1 container of human hair and cloth, 1 container of cloth fragments, 1 container of iron nails, 1 container of wood fragments, 1 container of iron knife fragments, 1 metal spoon, 1 lot of textile and wood fragments with soil matrix, 2 kaolin clay pipes, 3 pieces of lead, 1 stone button mold, 3 lead buttons, and 2 flint flakes.

In the **Federal Register** of August 14, 2003, on page 48632, paragraph number 7 is corrected by substituting the following paragraph:

In 1933, human remains representing one individual were removed from the Herring Weir area of Mattapoisett, Plymouth County, MA, and were donated to the Peabody Museum of Archaeology and Ethnology by Raymond H. Baxter. The human remains were discovered by men working in the area in 1932. No known

individual was identified. The 11 associated funerary objects are 1 fragmented copper kettle, 2 copper sheet fragments, 5 fragments of iron implements, 1 container of red clay, 1 container of skin and bark, and 1 large fragment of a woven bag.

In the **Federal Register** of August 14, 2003, on page 48633, paragraph numbers 9 and 10 are corrected by substituting the following paragraphs:

Officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 238 individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 113 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, and there is a cultural relationship between the human remains and associated funerary objects and the Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group) and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, before January 8, 2007. Repatriation of the associated funerary objects to the Wampanoag Repatriation Confederation, on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group) may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology is responsible for notifying the Wampanoag Repatriation Confederation, Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group) that this notice has been published.

Dated: November 9, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–20750 Filed 12–6–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meet the definition of ''objects of cultural patrimony'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 15 cultural items are 2 woven rush mats used in bundle ceremonies and a war bundle or portable shrine, which consists of 1 eagle claw, 1 scalp, 1 thong wrapping, 1 buffalo hair bag, 2 buckskin bags, 1 matting bag, 1 inner buckskin wrapper for a sacred bird, 1 band of buckskin, 1 sacred bird, 1 pipe, 1 bladder pouch, and 1 lot of tobacco.

An assessment of the 15 cultural items was made by Peabody Museum of Archaeology and Ethnology staff in consultation with representatives of the Osage Tribe, Oklahoma.

In 1909, M.R. Harrington sold two woven rush mats used in bundle ceremonies to the Peabody Museum of Archaeology and Ethnology. According to museum documentation, Mr. Harrington acquired the cultural items in 1908 or 1909 from a Mrs. Red Corn in Oklahoma. The mats are described in museum documentation as Osage objects.

In 1916, Vern N. Thornburgh sold a war bundle, also known as a portable shrine, to the Peabody Museum of Archaeology and Ethnology. The bundle consists of 13 cultural items which are 1 eagle claw, 1 scalp, 1 thong wrapping, 1 buffalo hair bag, 2 buckskin bags, 1 matting bag, 1 inner buckskin wrapper for a sacred bird, 1 band of buckskin, 1 sacred bird, 1 pipe, 1 bladder pouch, and 1 lot of tobacco. According to museum documentation, Mr. Thornburgh purchased the cultural items in 1915 or earlier from an Osage man named Mi–da–in–ga, who most likely belonged to the Tsi–zhu Wa–shta–ge clan of the Tsi–zhu moiety of the Osage tribe. Museum information indicates that Mr. Thornburgh obtained the cultural items in Oklahoma. The bundle is described in museum documentation as an Osage object.

Historical, anthropological, and consultation evidence indicates that bundles and their accouterments, including mats, were specialized objects associated with bundle ceremonies. Objects used in bundle ceremonies, including primary ritual objects (bundles) and secondary ritual objects (which might include mats) were ceremonially made and consecrated and were symbolically kept by a clan on behalf of the tribe.

In correspondence to Charles C. Willoughby, Peabody Museum of Archaeology and Ethnology director, the collector, Mr. Thornburgh, repeatedly pointed out that bundles were not owned by any individual member of the tribe, but by the tribe itself. The correpondence states that ''these war bundles . . . are not controlled by an individual that you might deal with but by the leading men of the tribe'';''this bundle was not owned by an individual but by the tribe, or rather controlled by the tribe, but was kept by an individual as a keeper for the tribe, and goes to make up the organization of the tribe, consisting of various clans''; and ''this bundle . . . belongs to the Hiln ah sha tsa – Red Eagle clan – other names are Yellow hand – Wah–shin pe ashi people, or Clan of people.'' A preponderance of the evidence thus indicates that the named individual, Mi–da–in–ga, was not the owner of the war bundle, nor was he in a position to sell it to Mr. Thornburgh. Consultation with tribal representatives of the Osage Tribe, Oklahoma supports the notion that both bundles and bundle mats were the responsibility of, and in the physical control of, an individual caretaker but were communally owned and existed for the well being of the group.

It is currently unclear if the two woven rush mats were used only for the

unpacking of bundles or if they were also used as, or were intended also to be used as, woven rush mat bags enclosing bundles. A woven rush mat bag was one of several necessary, consecrated, and inalienable elements constituting a bundle. Consultation and historic, anthropological, and museum evidence suggest that, even if the mats were not themselves elements of a bundle, they may be considered ''secondary'' ritual objects. In addition to primary ritual objects, such as bundles, the Osage tribe used many types of secondary ritual objects that were sanctified through consecration and were associated with primary ritual objects. The mats reported here were specifically associated with and used in bundle ceremonies and, therefore, appear to fit the category of secondary ritual objects. Like primary ritual objects, secondary objects were symbolically kept by a clan on behalf of the tribe, were communally owned, and existed for the well being of the group.

Bundles and mats continue to play an important, ongoing role in the spiritual and religious identity of contemporary Osage people. Population decline and changing social and material conditions (including the spread of Christianity) in the late 19th and 20th centuries prompted Osage individuals to modify and reinterpret religious practices. Consultation with Osage tribal representatives clarifies that while traditional Osage spiritual and religious practices have meshed with Christian beliefs, elements from older practices, such as bundles and mats like the ones reported here, continue to be used and safeguarded by tribal members. For example, the bundle discussed here, which is documented as coming from the Tsi–zhu Wa–shta–ge clan, plays an ongoing role in the clan's identity as peacemakers, orators, and doctors.

Based on anthropological, geographical, and historical information; museum records; consultation evidence; and expert opinion, there is a cultural affiliation between the Osage Tribe, Oklahoma and the 15 cultural items. The specific cultural attribution of the cultural items in museum records indicates an affiliation to the Osage people. Futhermore, Oklahoma lies within the traditional territory of the Osage people. Consultation evidence and other research supports that stylistic characteristics of the cultural items reported here are consistent with traditional Osage forms. Present-day descendants of the Osage people are members of the Osage Tribe, Oklahoma.

Officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the cultural items have ongoing historical, traditional, and cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the 15 objects of cultural patrimony and the Osage Tribe, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the objects of cultural patrimony should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, before January 8, 2007. Repatriation of the objects of cultural patrimony to the Osage Tribe, Oklahoma may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology is responsible for notifying the Osage Tribe, Oklahoma that this notice has been published.

Dated: November 9, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–20701 Filed 12–6–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meets the definition of ''unassociated funerary object'' under 25 U.S.C. 3001. The cultural item was removed from Plymouth County, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the unassociated funerary object was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Wampanoag Repatriation Confederation, on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

In 1967, a metal pin (possibly a shroud pin) with fragments of textile and soil was discovered by the Fernandez Construction Company in the vicinity of Atkinson Drive in Bridgewater, Plymouth County, MA, and was donated later that same year to the Peabody Museum of Archaeology and Ethnology by Dr. Pierce H. Leavitt, Plymouth County Medical Examiner. Museum documentation indicates that the metal pin had been recovered with human remains from a grave. The human remains that were originally associated with this cultural item were described in a Notice of Inventory Completion in the **Federal Register** on August 14, 2003, (FR Doc 03–20754, pages 48626–48634), and have since been transferred to the culturally affiliated tribe. Therefore, this cultural item is an unassociated funerary object.

This interment most likely dates to the Historic/Contact period (post 500 B.P.). This straight pin is of European manufacture and probably dates from the 17th or 18th century. In a burial context, the recovery of copper alloy pins and pin fragments, or the presence of discrete copper staining, suggests the use of such pins to secure shrouds. Coffin nails were also found with the human remains. The use of coffins, coffin nails, shrouds, and shroud pins is consistent with colonial Christian interment customs and suggests this interment dates from the Historic period. Dr. Dena Dincauze, formerly of the Peabody Museum of Archaeology and Ethnology, commented that the graves are likely from the 18th century and that the graves appeared to be Christian Native American burials.

Oral tradition and historical documentation indicate that Bridgewater, MA, is within the aboriginal and historic homeland of the Wampanoag Nation. The present-day Indian tribe and groups that are most closely affiliated with the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts,

Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

Officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary object and the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, and that there is a cultural relationship between the unassociated funerary object and the Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group) and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, before January 8, 2007. Repatriation of the unassociated funerary object to the Wampanoag Repatriation Confederation, on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group) may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology is responsible for notifying the Wampanoag Repatriation Confederation, Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group) that this notice has been published.

Dated: November 9, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–20702 Filed 12–6–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (5), of the intent to repatriate cultural items in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001. The cultural items were removed from Bristol and Plymouth Counties, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of unassociated funerary objects reported in a Notice of Intent to Repatriate published in the **Federal Register** on December 1, 2003, (FR Doc 03–29769, pages 67212–67213). In 2006, the Peabody Museum of Archaeology and Ethnology identified one additional unassociated funerary object from a site in southeastern MA. This notice changes the number of unassociated funerary objects from three to four and supercedes the previously published Notice of Intent to Repatriate.

A detailed assessment of the cultural items was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Wampanoag Repatriation Confederation, on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

The four cultural items are two brass tubes, one perforated copper point, and one string of shell beads.

The two brass tubes were collected by J.V.C. Smith in 1831 from Fall River, Bristol County, MA, and were donated to the Peabody Museum of Archaeology and Ethnology, by F. Kneeland in 1886. Museum documentation indicates that the brass tubes were recovered from a grave. The Peabody Museum of Archaeology and Ethnology is not in possession of the human remains from this burial.

The interment most likely dates to the Historic/Contact period (post–A.D. 1500). According to the Peabody Museum Annual Report of 1887, the human remains from this grave site were wrapped in several layers of braided or woven bark-cloth with an outer layer of cedar bark. Woven mats and bark were commonly used in Wampanoag burials during the Late Woodland period and later (post–A.D. 1000). Sheet brass and brass objects were European trade items and therefore indicate a postcontact temporal context.

At an unknown date, a string of shell beads was recovered from a grave site in Bridgewater, Plymouth County, MA. The string of shell beads was donated to the Peabody Museum of Archaeology and Ethnology in 1899 by H.W. Hatch. The Peabody Museum of Archaeology and Ethnology is not in possession of the human remains from this burial.

The interment most likely dates to the Historic/Contact period (post–A.D. 1500). According to museum documentation, the shell beads were found with ''porcelain beads,'' which are not in the possession of the Peabody Museum of Archaeology and Ethnology. True porcelain beads do not appear in historic contexts until the 19th century, although beads made from money cowry shell (C. moneta) were called ''porcelain,'' and were imported and traded by Europeans as trade items by the 17th century, which would support a postcontact date. Even if these beads are of white glass rather than shell, glass beads were introduced by Europeans as trade items in the 17th century and would also support a postcontact date.

In 1845, one perforated copper point was collected by Mr. Howard in Fairhaven, Bristol County, MA. The same year, Mr. Howard gave the point to Mary L. Rotch. Miss. Rotch donated the copper point to the Peabody Museum of Archaeology and Ethnology in 1913. Museum documentation indicates that the copper point was recovered from a grave. The Peabody Museum of Archaeology and Ethnology is not in possession of the human remains from this burial.

This interment most likely dates to the Historic/Contact period (post 500 B.P.). Copper was a European import

item and its presence supports a Contact period date. This triangular point is of the Levanna type, as are most European sheet metal projectile points found in southern New England.

Oral tradition and historical documentation indicate that Fall River, Bridgewater, and Fairhaven, MA, are within the aboriginal and historic homeland of the Wampanoag Nation. The present-day groups that are most closely affiliated with the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

Officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the four cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, and that there is a cultural relationship between the unassociated funerary objects and the Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group) and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group).

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, before January 8, 2007. Repatriation of the unassociated funerary objects to the Wampanoag Repatriation Confederation, on behalf of the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group) may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology is responsible for notifying the Wampanoag Repatriation Confederation, Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts, Assonet Band of the Wampanoag Nation (a non-federally recognized Indian group), and Mashpee Wampanoag Indian Tribe (a non-federally recognized Indian group) that this notice has been published.

Dated: November 9, 2006

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–20749 Filed 12–6–06; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–589]

In the Matter of Certain Switches and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 6, 2006, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of ATEN International Co., Ltd. of Taiwan and ATEN Technology, Inc. of Irvine, California. A supplement to the complaint was filed on November 27, 2006. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain switches and products containing same by reason of infringement of U.S. Patent No. 7,035,112. The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Anne M. Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2574.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on December 1, 2006, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain switches or products containing same by reason of infringement of one or more of claims 1 and 12–21 of U.S. Patent No. 7,035,112, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

ATEN International Co., Ltd., 3F, No. 125, Sec. 2, Datung Road, Shijr City, Taipei, Taiwan 221.

ATEN Technology, Inc., 23 Hubble Drive, Irvine, CA 92618.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Belkin Corporation, 501 West Walnut Street, Compton, CA 90220.

Belkin Logistics, Inc., 501 West Walnut Street, Compton, CA 90220.

Emine Technology Co., Ltd., 8 Fl., No. 6, Sec. 2, Nan-Jing E. Rd., Taipei, Taiwan.

JustCom Tech, Inc., 2283 Paragon Drive, San Jose, CA 95131.

RATOC Systems, Inc., 6–14 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka-shi, Osaka 556–0012, Japan.

RATOC Systems International, Inc., 2000 Wyatt Drive, Suite 9, Santa Clara, CA 95054.

(c) The Commission investigative attorney, party to this investigation, is Anne M. Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: December 4, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–20763 Filed 12–6–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0068]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30–day notice of information collection under review: Police check inquiry.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 190, page 58006 on October 2, 2006, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 8, 2007. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)-395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Police Check Inquiry.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 8620.42. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* None. *Abstract:* ATF F 8620.42 has been designed as an internal use form to gather preliminary information from an individual requiring escorted access to ATF facilities. The information is necessary to permit ATF to complete and/or initiate a police check inquiry consisting of criminal record searches. In the event a contractor or other type of non-ATF personnel requires escorted access to facilities, ATF will perform a police check inquiry.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 1,000 respondents, who will complete the form within approximately 5 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 83 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: December 1, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–20738 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 15, 2006 and published in the **Federal Register** on August 22, 2006, (71 FR 48945), Applied Science Labs, Division of Alltech Associates Inc., 2701 Carolean Industrial Drive, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Meperidine (9230)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to import these controlled substances for the manufacture of reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Applied Science Labs to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Applied Science Labs to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20747 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 24, 2006, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to manufacture small quantities of marihuana derivatives for research purposes. In reference to drug code 7360 (Marihuana), the company plans to bulk manufacture cannabidiol. In reference to drug code 7370 (Tetrahydrocannabinols), the company will manufacture a synthetic THC. No other activity for this drug code is authorized for registration.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL; or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than February 5, 2007.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20694 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 9, 2006, and published in the **Federal Register** on June 19, 2006, (71 FR 35310—35311), Cedarburg Pharmaceuticals, Inc., 870 Badger Circle, Grafton, Wisconsin 53024, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Oxycodone (9143)	II
Hydrocodone (9193)	II
Hydromorphone (9150)	II

The firm plans to manufacture the listed controlled substances in bulk for distribution to its customers. By letter dated September 5, 2006, the company has withdrawn their request for the addition of Methylphenidate (1724), to their application for registration.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cedarburg Pharmaceuticals, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Cedarburg Pharmaceuticals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20690 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 19, 2006, and published in the **Federal Register** on July 26, 2006, (71 FR 42417), Lin Zhi International, Inc., 687 North Pastoria Avenue, Sunnyvale, California 94085, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
3,4–Methylenedioxy-methamphetamine (7405).	I
Cocaine (9041)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (9273)	II
Morphine (9300)	II

The company plans to manufacture the listed controlled substances as bulk reagents for use in drug abuse testing.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Lin Zhi International, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Lin Zhi International, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20693 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 10, 2006 and published in the **Federal Register** on July 24, 2006, (71 FR 41837–41838), Lipomed Inc., One Broadway, Cambridge, Massachusetts 02142, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Methaqualone (2565)	I
Gamma hydroxybutyric acid (2010).	I
Lysergic acid diethylamide (7315), 2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7438).	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II
Sufentanil (9740)	II

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Lipomed Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Lipomed Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20745 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 25, 2006, and published in the **Federal Register** on July 31, 2006, (71 FR 43211), MGI Pharma, 6611 Tributary Street, Baltimore, Maryland 21224, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Cocaine (9041),

a basic class of controlled substance listed in schedule II.

The company plans to manufacture a cocaine derivative to be used in domestic and foreign clinical research studies.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of MGI Pharma to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated MGI Pharma to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20689 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 26, 2006, and published in the **Federal Register** on August 2, 2006, (71 FR 43814), Orasure Technologies, Inc., Lehigh University, Seeley G. Mudd-Building 6, Bethlehem, Pennsylvania 18015, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Lysergic acid diethylamide (LSD) (7315).	I
4–Methoxyamphetamine (7411)	I
Normorphine (9313)	I
Tetrahydrocannabinols (THC) (7370).	I
Alphamethadol (9605)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Cocaine (9041)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oxycodone (9143)	II
Meperidine (9230)	II
Methadone (9250)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances in bulk to manufacture controlled substance derivatives. These derivatives will be used in diagnostic products created specifically for internal use only.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Orasure Technologies, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Orasure Technologies, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20744 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 20, 2006, Organix Inc., 240 Salem Street, Woburn, Massachusetts 01801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Cocaine (9041), a basic class of controlled substance listed in schedule II.

The company plans to manufacture a chemical that is a derivative of cocaine that will be sold to their customer for research purposes.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/ODL; or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA **Federal Register** Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than February 5, 2007.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20698 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 7, 2006 and published in the **Federal Register** on August 15, 2006, (71 FR 46922), Penick Corporation, 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Coca Leaves (9040)	II
Raw Opium (9600)	II
Poppy Straw (9650)	II
Concentrate of Poppy Straw (9670).	II

The company plans to import the listed controlled substances to manufacture bulk controlled substance intermediates for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Penick Corporation to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Penick Corporation to ensure that the company's registration is consistent

with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20739 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 10, 2006, and published in the **Federal Register** on July 26, 2006, (71 FR 42418), Polaroid Corporation, 1265 Main Street, Building W6, Waltham, Massachusetts 02454, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 2,5–Dimethoxyamphetamine (7396), a basic class of controlled substance listed in schedule I.

The company plans to manufacture the listed controlled substance in bulk for conversion into a non-controlled substance.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Polaroid Corporation to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Polaroid Corporation to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20688 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 15, 2006 and published in the **Federal Register** on August 22, 2006 (71 FR 48947), Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Cocaine (9041), a basic class of controlled substance listed in schedule II.

The company plans to import small quantities of the listed controlled substance for the National Institute on Drug Abuse and other clients.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Research Triangle Institute to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20746 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 21, 2006, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Oxymorphone (9652), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance in bulk for conversion and sale to dosage form manufacturers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL; or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA **Federal Register** Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than February 5, 2007.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20691 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 25, 2006, and published in the **Federal Register** on July 31, 2006, (71 FR 43211–43212), Roche Diagnostics Operations, Inc., Attn: Regulatory Compliance, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Lysergic Acid Diethylamide (7315)	I
Tetrahydrocannabinol (7370)	I
Alphamethadol (9605)	I
Phencyclidine (7471)	II
Ecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to manufacture small quantities of listed controlled substances for use in diagnostic products.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Roche Diagnostics Operations, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Roche Diagnostics Operations, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20697 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 14, 2006 and published in the **Federal Register** on August 21, 2006, (71 FR 48556–48557), Sigma Aldrich Manufacturing LLC., Subsidiary of Sigma Aldrich Manufacturing Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Gamma Hydroxybutyric Acid (2010).	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4–Methylenedioxy-N-ethylamphetamine (7404).	I
3,4–Methylenedioxymethamphetamine (MDMA) (7405).	I
4–Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
N-Benzylpiperazine (BZP) (7493)	I
Trifluoromethylphenyl) Piperazine (7494).	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Sigma Aldrich Manufacturing LLC to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma Aldrich Manufacturing LLC to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and § 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20742 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 10, 2006, and published in the **Federal Register** on July 24, 2006, (71 FR 41838–41839), Sigma Aldrich Research BioChemicals, Inc., 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-ethyltryptamine (7249).	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370).	I

Drug	Schedule
4–Bromo–2,5–dimethoxyampheta-mine (7391).	I
4–Bromo-2,5-dimethoxyphenethylamine (7392).	I
2,5–Dimethoxyampheta-mine (7396).	I
3,4–Methylenedioxyampheta-mine (7400).	I
N-Hydroxy-3,4-methylenedioxyampheta-mine (7402).	I
3,4–Methylenedioxy-N-ethylamphetamine (7404).	I
3,4–Methylenedioxymeth-amphetamine (MDMA) (7405).	I
1–[1–(2–Thieny-l)cyclohexyl]piperidine (TCP) (7470).	I
1–Benzylpiperazine (BZP) (7493).	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Nabilone (7379)	II
1–Phenylcyclohexylamine (7460).	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Ecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648).	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Sigma Aldrich Research BioChemicals, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Sigma Aldrich Research BioChemicals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20737 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 10, 2006, and published in the **Federal Register** on July 24, 2006, (71 FR 41839–41840), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for the manufacture of bulk controlled substances and distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Stepan Company to import this basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Stepan Company to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security system, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20748 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 15, 2006 and published in the **Federal Register** on August 22, 2006, (71 FR 48948), Wildlife Laboratories, Inc., 1401 Duff Drive, Suite 400, Fort Collins, Colorado 80524, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Etorphine Hydrochloride (9059), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Wildlife Laboratories, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Wildlife Laboratories, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: November 28, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–20741 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0309]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: International Terrorism Victim Expense Reimbursement Program Application.

The Department of Justice, Office of Justice Programs, Office for Victims of Crime has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until February 5, 2007. This process is conducted in accordance with 5 CFR 1320.10. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Chandria Slaughter, Office for Victims of Crime, 810 Seventh Street, NW., Washington, DC 20531; by facsimile at (202) 305–2440 or by e-mail, to *ITVERP@usdoj.gov*.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

Overview of this information:

(1) *Type of information collection:* Reinstatement with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* International Terrorism Victim Expense Reimbursement Program (ITVERP) Application.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: The Office of Management and Budget Number for the certification form is 121–0170. The Office for Victims of Crime, Office of Justice Programs, within the United States Department of Justice is sponsoring the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual victims, surviving family members or personal representatives. Other: Federal Government. This application will be used to apply for expense reimbursement by U.S. nationals and U.S. Government employees who are victims of acts of international terrorism that occur(red) outside of the United States. The application will be used to collect necessary information on the expenses incurred by the applicant, as associated with his or her victimization, as well as other pertinent information, and will be used by OVC to make an award determination.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,000 respondents will complete the certification in approximately 45 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this information collection is 1,500 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, 601 D Street, NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: December 4, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–20774 Filed 12–6–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Publication of Year 2006 Form M–1 With Electronic Filing Option, Notice

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice on the Availability of the Year 2006 Form M–1 with Electronic Filing Option.

SUMMARY: This document announces the availability of the Year 2006 Form M–1, Annual Report for Multiple Employer Welfare Arrangements and Certain Entities Claiming Exception. It is substantively identical to the 2005 Form M–1. The Form M–1 may again be filed electronically over the Internet.

FOR FURTHER INFORMATION CONTACT: For inquiries regarding the Form M–1 filing requirement, contact Amy J. Turner or Beth Gelman, Office of Health Plan Standards and Compliance Assistance, at (202) 693–8335. For inquiries regarding how to obtain or file a Form M–1, see the Supplementary Information section below.

SUPPLEMENTARY INFORMATION:

I. Background

The Form M–1 is required to be filed under section 101(g) and section 734 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and 29 CFR 2520.101–2.

II. The Year 2006 Form M–1

This document announces the availability of the Year 2006 Form M–1, Annual Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs). This year's Form M–1 is substantively identical to the Year 2005 Form M–1. The electronic filing option has been retained and filers are encouraged to use this method. The Year 2006 Form M–1 is due March 1, 2007, with an extension until May 1, 2007 available.

The Employee Benefits Security Administration (EBSA) is committed to working together with administrators to help them comply with this filing requirement. Copies of the Form M–1 are available on the Internet at *http://www.dol.gov/ebsa/forms_requests.html*. In addition, after printing, copies will be available by calling the EBSA toll-free publication hotline at 1–866–444–EBSA (3272). Questions on completing the form are being directed to the EBSA help desk at (202) 693–8360. For questions regarding the electronic filing capability, contact the EBSA computer help desk at (202) 693–8600.

Statutory Authority: 29 U.S.C. 1021–1024, 1027, 1029–31, 1059, 1132, 1134, 1135, 1181–1183, 1181 note, 1185, 1185a–b, 1191, 1191a–c; Secretary of Labor's Order No. 1–2003, 68 FR 5374 (February 2, 2003).

Signed at Washington, DC this 1st day of December, 2006.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E6–20686 Filed 12–6–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. L–11348]

Prohibited Transaction Exemption 2006–19; Grant of Individual Exemption Involving Kaiser Aluminum Corporation and Its Subsidiaries (Together, Kaiser) Located in Foothill Ranch, CA

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Grant of individual exemption.

This document contains a final exemption before the Department of Labor (the Department) that provides relief from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act).[1] The exemption permits, effective July 6, 2006, (1) the acquisition by the VEBA for Retirees of Kaiser Aluminum (the Hourly VEBA) and by the Kaiser Aluminum Salaried Retirees VEBA (the Salaried VEBA; together, the VEBAs) of certain publicly traded common stock issued by Kaiser (the Stock or the Shares), through an in-kind contribution to the VEBAs by Kaiser of such Stock, for the purpose of prefunding VEBA welfare benefits; (2) the holding by the VEBAs of such Stock acquired pursuant to the contribution; and (3) the management of the Shares, including their voting and disposition, by an independent fiduciary (the Independent Fiduciary) designated to represent the interests of each VEBA with respect to the transactions. The exemption affects the VEBAs and their participants and beneficiaries.

DATES: *Effective Date*: This exemption is effective as of July 6, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed Chuksorji, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8567. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 26, 2006, the Department published a notice of proposed exemption in the **Federal Register** at 71 FR 62615. The document contained a notice of proposed individual exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2) and 407(a) of the Act. The proposed exemption had been requested in an application filed by Kaiser pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption is being issued solely by the Department.

The proposed exemption gave interested persons an opportunity to comment and to request a hearing. In this regard, all interested persons were invited to submit written comments or requests for a hearing on the pending exemption on or before November 21, 2006. All comments were to be made part of the record.

During the comment period, the Department received 18 comments by telephone from participants in the Hourly and Salaried VEBAs regarding benefits questions or requests for a simplified explanation of the transactions. For those inquiries pertaining to benefits, the Department referred the participants to sources recommended by either Independent Fiduciary Services, Inc. (IFS), the Independent Fiduciary for the Hourly VEBA or Fiduciary Counselors, Inc. (FCI), the Independent Fiduciary for the Salaried VEBA. Of the participant comments, one participant in the Hourly VEBA submitted a written comment to the Department regarding a substantive matter. For a response, the comment was forwarded to IFS. The Department did not receive any requests from any VEBA participants for a public hearing.

In addition to the VEBA participant comments, the Department received written comments from IFS and FCI. Both comments are intended to clarify the Summary of Facts and Representations (the Summary) and the conditions and definitions of the proposal.

The written comments and the responses are discussed below.

Hourly VEBA Participant's Comment

A retired Kaiser employee and a participant in the Hourly VEBA questioned the decision to use the Kaiser Stock to fund the Hourly VEBA. The commenter suggested that each current retiree be given shares of Kaiser Stock to manage as such retiree wished.

In response to the comment, IFS explains that Kaiser and various unions (the Unions) engaged in negotiations, and that the Unions, representing the interests of all Kaiser retirees (both current and future), agreed to use the Stock to fund the plans that would provide retiree health benefits for both current and future retirees of the VEBAs. IFS further explains that this decision was memorialized in the collective bargaining agreements that were ratified by Kaiser employees working under the agreements. In addition, IFS notes that the agreements were subsequently approved by the Bankruptcy Court.

Summary Clarifications

In its comment letter, IFS has suggested the following clarifications to the Summary:

1. *Footnote 8.* IFS explains that Footnote 8 of the Summary ends with the phrase ''* * * the pre-emergence sales are treated as if they occurred on or after the Effective Date.'' IFS states that Section 2.3 of the Stock Transfer Restriction Agreement provides that these pre-emergence sales are treated as if they occurred on the day immediately succeeding the Effective Date. Therefore, IFS recommends that Footnote 8 of the Summary be revised to read ''* * * the pre-emergence sales are treated as if they occurred on the day immediately succeeding the Effective Date.''

2. *Representation 6(a)(1).* IFS indicates that Representation 6(a)(1) of the Summary states that ''On July 7, 2006, Kaiser issued 8,809,000 shares of its common stock to the Hourly Trust.'' Similarly, in Representation 10(c), under the caption ''Pricing of the Hourly VEBA Shares,'' it states that ''The Hourly VEBA received its 8,809,000 Shares as of July 7, 2006.'' IFS explains that Representation 10(c) further states that market-driven sales of pre-emergence Shares provided a benchmark value ''of the Shares to which the Hourly VEBA was eventually entitled on July 7, 2006.'' IFS wishes to clarify that the correct number of Shares issued to the Hourly VEBA was 8,809,900.

In addition, IFS wishes to clarify that Kaiser issued the Shares—and the Hourly VEBA became the legal owner of

[1] Because the VEBAs are not qualified under section 401 of the Internal Revenue Code of 1986, as amended (the Code) there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act.

the Shares—on July 6, 2006. However, IFS points out that the Hourly Trustee (National City Bank) did not obtain physical possession of the Share certificates on July 6, 2006 and that such physical possession did not affect legal ownership of the issued Shares. Therefore, IFS recommends that Representation 10(c) be changed to mirror Representation 6(a)(1). Thus, Representation 10(c) would read: ''Kaiser issued 8,809,900 Shares to the Hourly VEBA on July 6, 2006. Empire placed the fair market value of such Stock at $36.50 per Share as of that date.'' IFS also believes that Footnote 12 should immediately follow these sentences. Similarly, IFS states that the last sentence in the first paragraph of Representation 10(c) should reflect the July 6, 2006 date and the fact that the Shares were issued on that date. Accordingly, that sentence should read ''In the interim, the market-driven sales of pre-emergence Shares described above provided a benchmark for assessing the value of the Shares issued to the Hourly VEBA on July 6, 2006.''

3. *Representation 10(a).* IFS indicates that the first paragraph of Representation 10(a) refers to IFS as a ''wholly owned Delaware corporation.'' To remove any ambiguity, IFS suggests referring to it as ''Independent Fiduciary Services, Inc.'' In addition, IFS recommends that the first sentence of Representation 10(a) be revised to read, in part, as follows: ''* * * the Hourly Independent Fiduciary Agreement with Independent Fiduciary Services, Inc. (IFS) of Washington, D.C., to serve * * *.'' IFS also suggests that the second sentence of Representation 10(a) to read: ''IFS is a closely held Delaware corporation with no subsidiaries or affiliates.''

Further, IFS explains that in the second paragraph of Representation 10(a), a new subparagraph should be added to its ''Duties and Responsibilities'' which states: ''and (i), the authority to consider and engage in pre-emergence sales.'' IFS explains that this additional authority was given to it by the Board of Trustees of the Hourly VEBA in a letter dated April 5, 2006.

4. *Representation 10(c).* IFS explains that the fourth paragraph of the second section mislabeled Representation 10(c) (with the caption ''Views on the Stock Transfer Restriction Agreement and the Registration Rights Agreement'') states that ''all expenses associated with effecting a demand or shelf registration, including piggy-back rights, will be borne by Kaiser.'' The next paragraph describes the expenses related to a shelf registration and explains that ''the Hourly VEBA will be responsible for paying underwriting commissions and other selling fees.'' To remove any possible confusion, IFS notes that section 6.4(b) of the Registration Rights Agreement provides that, under any of the registration rights, any independent counsel or experts retained by the Hourly VEBA will be paid by the Hourly VEBA, and ''all underwriting fees, discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities will be borne by the applicable Holder.'' Thus, IFS believes that this sentence should read as follows: ''IFS further represents that all expenses associated with effecting a demand or shelf registration, including piggy-back rights, will be borne by Kaiser, except for underwriting commissions and other selling fees.''

5. *Representation 13(e).* According to IFS, Representation 13(e) indicates that the VEBAs have not incurred, or will not incur, any fees, costs, or other charges, other than those described in certain agreements, ''as a result of any of the transactions described herein.'' Under the Registration Rights Agreement, IFS explains that a selling party will be responsible for ''all underwriting fees, discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities.'' Thus, IFS believes that the Registration Rights Agreement should be added to the agreements listed. Therefore, that portion of the sentence should read: ''* * * (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlements, the Salaried Settlement Agreement, and the Registration Rights Agreement) * * *.''

In response to these comments, the Department has noted the foregoing clarifications to the Summary.

Clarifications to the Conditions and Definitions of the Proposal

In addition to the Summary clarifications, IFS and/or FCI have requested the following changes to the conditions and definitions of the proposed exemption:

1. *Section II(a).* Section II(a) of the proposed exemption states that each independent fiduciary ''will have sole responsibility relating to the acquisition, holding, disposition, ongoing management, and voting of the Stock.'' IFS believes the following sentence more accurately reflects the fiduciary duties delegated to it under the Hourly Independent Fiduciary Agreement: ''* * * will have sole discretionary responsibility relating to the acquisition, holding, disposition, ongoing management, and voting of the Stock.''

The Department acknowledges IFS's comment and has revised Section II(a) of the final exemption, accordingly.

2. *Section II(f).* Section II(f) of the proposed exemption states that the VEBAs have not incurred, or will not incur, any fees, costs, or other charges ''as a result of any of the transactions described herein,'' except for those charges identified in certain agreements. IFS explains that the Registration Rights Agreement is not listed as one of the agreements. However, under the Registration Rights Agreement, IFS indicates that a selling party will be responsible for ''all underwriting fees, discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities.'' Therefore, IFS suggests that Section II(f) be revised to read as follows:

> The VEBAs have incurred no fees, costs or other charges (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlement Agreement, the Salaried Settlement Agreement, and the Registration Rights Agreement) as a result of any of the transactions described herein.

In response to this comment, the Department has revised Section II(f) of the final exemption.

3. *Section III(h).* In the Definitions, Section III(h) of the proposed exemption states that the Independent Fiduciary ''will not be deemed to be independent of and unrelated to Kaiser if: (1) such fiduciary directly or indirectly controls, is controlled by or is under common control with Kaiser; (2) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this proposed exemption* * *'' Due to the ambiguity inherent in the word ''indirect'' in the context of the Hourly VEBA's ownership of 44 percent of Kaiser, IFS believes clarifying subparagraphs (1) and (2) with the qualifier ''other than described herein,'' is necessary to resolve any uncertainties. Therefore, IFS suggests that Section III(h) be revised to read as follows:

> ''Independent Fiduciary'' means the Independent Fiduciary for the Hourly VEBA (or the Hourly Independent Fiduciary) and the Independent Fiduciary for the Salaried VEBA (or the Salaried Independent Fiduciary). Such Independent Fiduciary is (1) independent of and unrelated to Kaiser or its affiliates; and (2) appointed to act on behalf of the VEBAs with respect to the acquisition, holding, management, and disposition of the Shares. In this regard, the fiduciary will not be deemed to be independent of and unrelated to Kaiser if: (1) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Kaiser, other than described herein; (2)

such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption, other than described herein; * * *

In addition, IFS and FCI note that Section III(h) provides, in subparagraph (3) that ''the annual gross revenue received by an Independent Fiduciary during any year of its engagement with Kaiser, may not exceed 1% of the Independent Fiduciary's annual gross revenue from all sources in order for the fiduciary to be deemed ''independent.'' As a matter of policy, IFS and FCI believe the 1% cap is a restriction that disadvantages relatively smaller independent fiduciaries, and which, in turn, deprives employee benefit plans of the opportunity to contract with otherwise qualified independent fiduciaries. Alternatively, both IFS and FCI recommend that the Department eliminate the 1% restriction and raise it to 5%, as has been done in past exemptions granted by the Department.

In response to these comments, the Department has adopted the recommendation suggested by IFS and FCI. In this regard, the Department has modified subparagraph III(h)(3) by raising the gross revenue cap to 5% in the final exemption.

4. *Sections III(k) and III(r).* Section III(k) of the Definitions lists certain parties who were signatories to the Registration Rights Agreement. IFS points out that although the Pension Benefit Guaranty Corporation (the PBGC) was not a signatory to this agreement, buyers of 200,000 or more pre-emergence Shares were signatories. Accordingly, IFS suggests that Section III(k) be revised to read as follows:

The term ''Registration Rights Agreement'' refers to the Registration Rights Agreement between Kaiser and National City Bank, acknowledged by the Hourly Independent Fiduciary with respect to management of the Stock held by the Hourly Trust.

Similarly, IFS explains that the PBGC was not a signatory to the Stock Transfer Restriction Agreement, and it requests that the Department revise Section III(r) to read as follows:

The term ''Stock Transfer Restriction Agreement'' means the agreement between Kaiser and National City Bank, acknowledged by the Hourly Independent Fiduciary with respect to management of the Kaiser's Stock held by the Hourly Trust.

In response to these comments, the Department concurs with IFS and has amended Sections III(k) and III(r) of the Definitions by deleting the reference to the PBGC. The Department, however, notes that the reference to the PBGC in these defined terms was included in the list of definitions that was provided by Kaiser in the documents supporting the exemption application.

For further information regarding the comments or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. L–11348) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comments received, the Department has decided to grant the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The exemption does not extend to transactions prohibited under section 406(b)(3) of the Act.

(3) In accordance with section 408(a) of the Act, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) The exemption is in the interest of the plans and of their participants and beneficiaries; and

(c) The exemption set forth herein is protective of the rights of participants and beneficiaries of the plans.

(4) The exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of the Act shall not apply, effective July 6, 2006, to: (1) The acquisition by the VEBA for Retirees of Kaiser Aluminum (the Hourly VEBA) and by the Kaiser Aluminum Salaried Retirees VEBA (the Salaried VEBA; together, the VEBAs) of certain publicly traded common stock issued by Kaiser (the Stock or the Shares), through an in-kind contribution to the VEBAs by Kaiser of such Stock, for the purpose of prefunding VEBA welfare benefits; (2) the holding by the VEBAs of such Stock acquired pursuant to the contributions; and (3) the management of the Shares, including their voting and disposition, by an independent fiduciary (the Independent Fiduciary) designated to represent the interests of each VEBA with respect to the transactions.

Section II. Conditions

This exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following conditions:

(a) An Independent Fiduciary has been appointed to separately represent each VEBA and its participants and beneficiaries for all purposes related to the contributions for the duration of each VEBA's holding of the Shares and will have sole discretionary responsibility relating to the acquisition, holding, disposition, ongoing management, and voting of the Stock. The Independent Fiduciary has determined or will determine, before taking any actions regarding the Shares, that each such action or transaction is in the interests of the VEBA it represents.

(b) The Independent Fiduciary for the Hourly VEBA has discharged or will discharge its duties consistent with the terms of the Hourly Trust Agreement, the Stock Transfer Restriction Agreement, the Certificate of Incorporation, the Registration Rights Agreement, the Hourly Independent Fiduciary Agreement, and successors to these documents.

(c) The Independent Fiduciary for the Salaried VEBA has discharged or will discharge its duties consistent with the terms of the Trust Agreement between the Salaried Board of Trustees (the Salaried Board) and the Salaried Trustee, the Certificate of Incorporation, the Salaried Independent Fiduciary Agreement, and successors to these documents.

(d) The Independent Fiduciaries have negotiated and approved or will negotiate and approve on behalf of their respective VEBAs any transactions between the VEBA and Kaiser involving the Shares that may be necessary in connection with the subject transactions (including, but not limited to, registration of the Shares contributed to the Hourly Trust), as well as the ongoing management and voting of such Shares.

(e) The Independent Fiduciary has authorized or will authorize the Trustee of the respective VEBA to accept or dispose of the Shares only after such Independent Fiduciary determines, at the time of each transaction, that such transaction is feasible, in the interest of the Hourly or Salaried VEBA, and protective of the participants and beneficiaries of such VEBAs.

(f) The VEBAs have incurred or will incur no fees, costs or other charges (other than those described in the Hourly and Salaried Trusts, the Independent Fiduciary Agreements, the Hourly Settlements, the Salaried Settlement Agreement, and the Registration Rights Agreement) as a result of any of the transactions described herein.

(g) The terms of any transactions between the VEBAs and Kaiser have been no less favorable or will be no less favorable to the VEBAs than terms negotiated at arm's length under similar circumstances between unrelated third parties.

(h) The Board of Trustees of the Hourly VEBA (the Hourly Board) and the Board of Trustees of the Salaried Board have maintained or will maintain for a period for six years from the date any Shares are contributed to the VEBAs, any and all records necessary to enable the persons described in paragraph (i) below to determine whether conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Hourly Board and the Salaried Board, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Hourly Board and the Salaried Board shall be subject to the civil penalty that may be assessed under section 502(i) of the Act if the records are not maintained, or are not available for examination as required by paragraph (i) below.

(i)(1) Except as provided in section (2) of this paragraph and not withstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (h) above have been or shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department;

(B) The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the USW) or any duly authorized representative of the USW, and other unions or their duly authorized representatives, as to the Hourly VEBA only;

(C) The Salaried Board or any duly authorized representative of the Salaried Board, as to the Salaried VEBA only;

(D) Kaiser or any duly authorized representative of Kaiser; and

(E) Any participant or beneficiary of the VEBAs, or any duly authorized representative of such participant or beneficiary, as to the VEBA in which such participant or beneficiary participates.

(2) None of the persons described above in subparagraph (1)(B), (C), or (E) of this paragraph (i) has been or shall be authorized to examine the trade secrets of Kaiser, or commercial or financial information that is privileged or confidential.

Section III. Definitions

For purposes of this exemption, the term —

(a) ''Certificate of Incorporation'' means the certificate of incorporation of Kaiser as amended and restated as of the Effective Date of Kaiser's Plan of Reorganization.

(b) ''Effective Date'' means July 6, 2006, which is also the effective date of Kaiser's Plan of Reorganization.

(c) ''Hourly Board'' means the Board of Trustees of the Hourly VEBA.

(d) ''Hourly Independent Fiduciary Agreement'' means the agreement between the Hourly Independent Fiduciary and the Hourly Board.

(e) ''Hourly Settlement Agreement'' means the modified collective bargaining agreements with various unions in the form of an agreement under Sections 1113 and 1114 of the United States Bankruptcy Code between the USW and Kaiser.

(f) ''Hourly Trust'' means the trust established under the Trust Agreement between the Hourly Board and the Hourly Trustee, effective June 1, 2004.

(g) ''Hourly VEBA'' means ''The VEBA For Retirees of Kaiser Aluminum'' and its associated voluntary employees' beneficiary association trust.

(h) ''Independent Fiduciary'' means the Independent Fiduciary for the Hourly VEBA (or the Hourly Independent Fiduciary) and the Independent Fiduciary for the Salaried VEBA (or the Salaried Independent Fiduciary). Such Independent Fiduciary is (1) independent of and unrelated to Kaiser or its affiliates; and (2) appointed to act on behalf of the VEBAs with respect to the acquisition, holding, management, and disposition of the Shares. In this regard, the fiduciary will not be deemed to be independent of and unrelated to Kaiser if: (1) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Kaiser, other than described herein; (2) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption, other than described herein, for acting as an Independent Fiduciary in connection with the transactions described herein, provided that the amount or payment of such compensation is not contingent upon, or in any way affected by, the Independent Fiduciary's ultimate decision, and (3) the annual gross revenue received by the Independent Fiduciary, during any year of its engagement, from Kaiser exceeds five percent (5%) of the Independent Fiduciary's annual gross revenue from all sources (for federal income tax purposes) for its prior tax year. Finally, the Hourly VEBA's Independent Fiduciary is Independent Fiduciary Services, Inc. (IFS), which has been appointed by the Hourly Board; and the Salaried VEBA's Independent Fiduciary is Fiduciary Counselors Inc. (FCI), which has been appointed by the Salaried Board.

(i) ''Independent Fiduciary Agreements'' means the Hourly Independent Fiduciary Agreement and the Salaried Independent Fiduciary Agreement.

(j) ''Kaiser'' means Kaiser Aluminum Corporation and its wholly owned subsidiaries.

(k) ''Registration Rights Agreement'' refers to the Registration Rights Agreement between Kaiser and National City Bank, acknowledged by the Hourly Independent Fiduciary with respect to management of the Stock held by the Hourly Trust.

(l) ''Salaried Board'' means the Board of Trustees of the Kaiser Aluminum Salaried Retirees VEBA.

(m) ''Salaried Independent Fiduciary Agreement'' means the agreement between the Salaried Independent Fiduciary and the Salaried Board.

(n) ''Salaried Settlement Agreement'' means the settlement, in the form of an agreement under Section 1114 of the Bankruptcy Code, between Kaiser and a committee of five former executives of Kaiser appointed pursuant to Section

1114 of the Bankruptcy Code as authorized representatives of current and future salaried retirees.

(o) ''Salaried Trust'' means the trust established under the Trust Agreement between the Salaried Board and the Salaried Trustee, effective May 31, 2004.

(p) ''Salaried VEBA'' means the Kaiser Aluminum Salaried Retirees VEBA and its associated voluntary employees' beneficiary association trust.

(q) ''Shares'' or ''Stock'' refers to shares of common stock of reorganized Kaiser, par value $.01 per share.

(r) ''Stock Transfer Restriction Agreement'' means the agreement between Kaiser and National City Bank, acknowledged by the Hourly Independent Fiduciary with respect to management of the Kaiser's Stock held by the Hourly Trust.

(s) ''Trusts'' means the Salaried Trust and the Hourly Trust.

(t) ''USW'' means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

(u) ''VEBA'' means a voluntary employees' beneficiary association.

(v) ''VEBAs'' refers to the Hourly VEBA and Salaried VEBA.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change.

In the event of any such change, an application for a new exemption must be made to the Department.

Signed at Washington, DC, this 4th day of January 2006.

Ivan L. Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E6–20729 Filed 12–6–06; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Nuclear Management Company, LLC; Monticello Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations, Part 50 (10 CFR 50), Appendix J, for Facility Operating Licenses No. DPR–22, issued to Nuclear Management Company (NMC) for operation of the Monticello Nuclear Generating Plant (MNGP), located in Wright County, Minnesota.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt NMC from requirements to include main steam isolation valve (MSIV) leakage in (1) the overall integrated leakage rate test measurement required by Section III.A of Appendix J, Option B; and (2) the sum of local leak rate test measurements required by Section III.B of Appendix J, Option B.

The proposed action is in accordance with the licensee's application dated September 15, 2005, for exemption and amendment to the operating license (the latter action is not the subject of this notice).

The Need for the Proposed Action

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water-cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J specifies the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Option B, Section III.A of Appendix J requires that the overall integrated leak rate must not exceed the allowable leakage (La) with margin, as specified in the Technical Specifications (TS). The overall integrated leak rate, as specified in the Appendix J definitions, includes the contribution from MSIV leakage. By letter dated September 15, 2005, the licensee requested an exemption from Option B, Section III.A, requirements to permit exclusion of MSIV leakage from the overall integrated leak rate test measurement.

Option B, Section III.B of Appendix J requires that the sum of the leakage rates of Type B and Type C local leak rate tests be less than the performance criterion (La) with margin, as specified in the TS. The licensee's September 15, 2005, letter, also requests an exemption from this requirement, to permit exclusion of the MSIV contribution to the sum of the Type B and Type C tests.

The above-cited requirements of Appendix J require that MSIV leakage measurements be grouped with the leakage measurements of other containment penetrations when containment leakage tests are performed. The licensee stated that these requirements are inconsistent with the design of the MNGP facilities and the analytical models used to calculate the radiological consequences of design-basis accidents. At other nuclear plants, the leakage from primary containment penetrations, under accident conditions, is collected and treated by the secondary containment system, or would bypass the secondary containment. However, at MNGP, the leakage from the MSIVs is collected and treated via an alternative leakage treatment (ALT) path having different mitigation characteristics. In performing accident analyses, it is appropriate to group various leakage effluents according to the treatment they receive before being released to the environment, i.e., bypass leakage is grouped, leakage into secondary containment is grouped, and ALT leakage is grouped, with specific limits for each group defined in the TS. The proposed exemption would permit ALT path leakage to be independently grouped with its unique leakage limits.

Environmental Impacts of the Proposed Action

The proposed action will not significantly increase the probability or consequences of accidents. The NRC staff has completed its evaluation of the proposed exemption and associated amendment and finds that the calculated total doses remain within the acceptance criteria of 10 CFR 50.67 and General Design Criterion 19, and there is no significant increase in occupational or public radiation exposure. The NRC staff thus concludes that granting the proposed exemption would result in no significant radiological environmental impact.

The proposed action does not affect non-radiological plant effluents or historical sites, and has no other environmental impact. Therefore there are no significant non-radiological impacts associated with the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental

impacts associated with the proposed action.

Alternative to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the ''no action'' alternative). Denial of the exemption would result in no change in current environmental impacts. Thus, the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the MNGP Final Environmental Statement dated November 1972, as supplemented on August 31, 2006 (Generic Environmental Impact Statement for Nuclear Plants for License Renewal, Regarding MNGP).

Agencies and Persons Consulted

In accordance with its stated policy, on October 5, 2006, the NRC staff consulted with the Minnesota State official, Mr. Steve Rakow, regarding the environmental impact of the proposed action. Mr. Rakow had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's letter dated September 15, 2006. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O–1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of November, 2006.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–20751 Filed 12–6–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Notice of Acceptance for Docketing of the Application, Notice of Opportunity for Hearing, and Notice of Intent To Prepare an Environmental Impact Statement and Conduct the Scoping Process for Facility Operating License No. NPF–42 for an Additional 20-Year Period; Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of operating license NPF–42, which authorizes the Wolf Creek Nuclear Operating Corporation (WCNOC), to operate the Wolf Creek Generating Station (WCGS), Unit 1, at 3565 megawatts thermal. The renewed license would authorize the applicant to operate the WCGS, Unit 1, for an additional 20 years beyond the period specified in the current license. WCGS, Unit 1, is located in Burlington, Kansas, and its current operating license expires on March 11, 2025.

On October 4, 2006, the Commission's staff received an application from WCNOC, to renew operating license NPF–42 for WCGS, Unit 1, pursuant to title 10, part 54, of the Code of Federal Regulations (10 CFR part 54). A notice of receipt and availability of the license renewal application (LRA) was published in the **Federal Register** on October 18, 2006 (71 FR 61512).

The Commission's staff has reviewed the LRA for its acceptability and has determined that WCNOC has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c), and that the application is acceptable for docketing. The Commission will retain the current Docket No. 50–482, for operating license NPF–42. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the license.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB will comply with the Act and the Commission's regulations. In addition, the Commission must find that applicable requirements of subpart A of 10 CFR part 51 have been satisfied, and that matters raised under 10 CFR 2.335 have been addressed.

Within 60 days after the date of publication of this Federal Register notice, any person whose interest may be affected by this proceeding and who desires to participate as a party in the proceeding must file a written request for a hearing or a petition for leave to intervene with respect to the renewal of the license. Interested parties must file requests for a hearing or a petition for leave to intervene in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders'' described in 10 CFR part 2. Those interested should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room through the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or via e-mail at *PDR@nrc.gov.* If a request for a hearing or a petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the Chief

Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. If no request for a hearing or petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to: (1) The nature of the requester/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requester/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requester/petitioner's interest. The petition must also set forth the specific contentions that the petitioner/requester seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requester/petitioner shall briefly explain the bases of each contention and concisely state the alleged facts or the expert opinion that supports the contention on which the requester/petitioner intends to rely in proving the contention at the hearing. The requester/petitioner must also provide references to those specific sources and documents of which the requester/petitioner is aware and on which the requester/petitioner intends to rely to establish those facts or expert opinion. The requester/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requester/petitioner to relief. A requester/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns), (2) environmental, or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requesters/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requesters/petitioners must jointly designate a representative who shall have the authority to act for the requesters/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. A request for a hearing or a petition for leave to intervene must be filed by either (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *hearingdocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemaking and Adjudications Staff at 301–415–1101 (verification number is 301–415–1966).[2] Requesters/petitioners must send a copy of the request for hearing and petition for leave to intervene to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; copies should be transmitted either by facsimile to 301–415–3725 or via email to *OGCMailCenter@nrc.gov*. Requesters/petitioners must also send a copy of the request for hearing and petition for leave to intervene to the attorney for the licensee, Mr. Warren B. Wood, Wolf Creek Nuclear Operating Corporation, P.O. Box 411, Burlington, Kansas 66839.

Untimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

In addition, this notice informs the public that the NRC will be preparing an environmental impact statement (EIS) related to the review of the LRA and provides the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29. In accordance with 10 CFR 51.95(c), the NRC will prepare an EIS that will be used as a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (GEIS), dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the NRC staff intends to hold a public scoping meeting. In addition, as outlined in 36 CFR 800.8, ''Coordination with the National Environmental Policy Act,'' the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA).

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, WCNOC prepared and submitted the environmental report (ER) as part of the LRA. The LRA and the ER are publicly available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from ADAMS. The ADAMS accession numbers for the LRA and the ER are ML062770308 and ML062770305, respectively. The public may also view the LRA and the ER on the Internet at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*. In addition, the LRA and the ER are available to the public near WCGS, Unit 1, at the Burlington Library, 410 Juniatta Street, Burlington, Kansas 66839.

Alternatives to the proposed action include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95(c) to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with 10 CFR 51.26.

The NRC staff will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, tribal, and Federal Government agencies is encouraged. As

[1] To the extent that the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

[2] If the request/petition is filed by e-mail or facsimile, an original and two copies of the document must be mailed within 2 (two) business days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Attention: Rulemaking and Adjudications Staff.

described in 10 CFR 51.29, the NRC staff will use the scoping process for the supplement to the GEIS to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or insignificant.

d. Identify any environmental assessments and other ElSs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to this GEIS.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the NRC will prepare the supplement to the GEIS and any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, WCNOC.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who has petitioned or intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC will hold public meetings for the WCGS, Unit 1, license renewal supplement to the GEIS, at the Burlington Library, 410 Juniatta Street, Burlington, Kansas 66839 on Tuesday, December 19, 2006. There will be two identical meetings to accommodate interested parties. The first meeting will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second meeting will convene at 7:00 p.m. and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include: (1) An overview by the NRC staff of the NRC's license renewal review process; (2) an overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (3) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions 1 hour before the start of each session at the same location. The staff will not accept formal comments on the proposed scope of the supplement to the GEIS during these informal discussions. For comments to be considered, persons must provide them either at the transcribed public meetings or in writing, as discussed below.

For more information about the proposed action, the scoping process, and the EIS, interested persons should contact the NRC Environmental Project Manager, Mr. Christian Jacobs, at Mail Stop O–11F1, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852; by telephone at 1–800–368–5642, extension 3874; or via e-mail at *CJJ@nrc.gov*. Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting Mr. Jacobs. Members of the public may also register to speak at the meeting within 15 minutes of the start of each meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. The NRC will consider public comments in the scoping process for the supplement to the GEIS. If members of the public need special equipment or accommodations to attend or present information at the public meeting, they should contact Mr. Jacobs no later than December 5, 2006, so that the NRC staff can determine if it can accommodate the request.

Members of the public may send written comments on the environmental scope of the WCGS, Unit 1, license renewal review to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. The public may also deliver comments to the U.S. Nuclear Regulatory Commission, Mail Stop T–6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852, from 7:30 a.m. to 4:15 p.m. during Federal workdays. To be considered in the scoping process, written comments should be postmarked by January 29, 2007. Electronic comments may be sent by e-mail to the NRC at *WolfCreekEIS@nrc.gov*, and should be sent no later than January 29, 2007, to be considered in the scoping process. Comments will be available electronically and accessible through ADAMS.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The public may also view the summary in ADAMS. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and separate public meetings. Copies will be available for public viewing at the above-mentioned addresses, and one copy per request will be provided free of charge, to the extent of supply. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public viewing.

Information about the supplement to the GEIS, and the scoping process may be obtained from Mr. Jacobs at the telephone number or e-mail address given previously.

Dated at Rockville, Maryland, this 30th day of November 2006.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Acting Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E6–20753 Filed 12–6–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54844; File No. SR–Amex–2006–88]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change To Extend the Term of Index-Linked Securities

November 30, 2006.

On September 20, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 107D(b) of the Amex Company Guide [3] to extend the maximum duration of index-linked securities (''Index-Linked Securities'') from ten (10) years to thirty (30) years. The proposed rule change was published for comment in the **Federal Register** on October 27, 2006.[4] The Commission received no comment letters on the proposal.

Section 107D of the Amex Company Guide currently sets forth eleven criteria that the issue and the issuer must meet in order to list and trade Index-Linked Securities pursuant to the generic listing standards.[5] One of the criteria the Exchange considers for the listing and trading of Index-Linked Securities pursuant to 107D is that the term of the issue must be a minimum term of one year but not greater than ten years. Proposed Section 107D(b) would extend the duration of the term of the issue from ten years to thirty years.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which requires, among other things, that Exchange rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Amending Section 107D should provide the Exchange with more flexibility in responding to the increased demand from issuers to list and trade Index-Linked Securities that are greater than ten years in duration. The Commission notes that corporate bonds and other fixed-income products historically have been issued with terms of up to, or greater than, thirty years.[8] In addition, the Commission has approved amendments to the generic listing standards for equity-linked notes that removed the maximum term limits for those securities.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–Amex–2006–88) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20762 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Section 107D provides for the listing and trading of Index-Linked Securities pursuant to Rule 19b–4(e) under the Act (the ''generic listing standards'').

[4] *See* Securities Exchange Act Release No. 54629 (October 19, 2006), 71 FR 63056.

[5] The Exchange may submit a rule filing pursuant to Section 19(b)(2) of the Act to permit the listing and trading of index linked securities that do not otherwise meet the generic listing criteria set forth in Section 107D.

[6] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] *See also* Section 104 of the Amex Company Guide setting forth the standards for listing debt securities.

[9] *See* Securities Exchange Act Release No. 42110 (November 5, 1999), 64 FR 61677 (November 12, 1999) (SR–Amex–9–33); 41992 (October 7, 1999), 64 FR 56007 (October 15, 1999) (SR–NYSE–99–22); 42313 (January 4, 2000), 65 FR 2205 (January 13, 2000) (SR–CHX–99–19).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54832; File No. SR–BSE–2006–46]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Amending Rules To Require Securities Become Eligible for a Direct Registration System

November 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 26, 2006, the Boston Stock Exchange, Inc. (''BSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by BSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BSE proposes to amend its rules to require securities of all listed companies become eligible to participate in a Direct Registration System (''DRS'') administered by a clearing agency registered under Section 17A of the Act.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. BSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

DRS, as administered by The Depository Trust Company (''DTC''), is an electronic system that allows an investor to establish either through the issuer's transfer agent or through the investor's broker-dealer a book-entry position on the books of the issuer and to electronically transfer her position between the transfer agent and the broker-dealer.[3] DRS, therefore, allows an investor to have securities registered in her name without having a certificate issued to her and to electronically transfer, thereby eliminating the risk and delays associated with the use of certificates, her securities to her broker-dealer in order to effect a transaction. Ownership is recorded in book-entry form, and instead of receiving a physical

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified portions of the text of the summaries prepared by BSE.

[3] Currently, the only registered clearing agency operating a DRS is DTC. For a description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15] (order granting approval to establish DRS) and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999), [File No. SR–DTC–99–16] (order approving implementation of the Profile Modification System).

certificate from the issuer or its transfer agent, the investor receives a statement of holdings as evidence of ownership.

BSE believes that DRS will be an important step in reducing the use of securities certificates, which should facilitate transfers in securities and could eventually lead to lower risks and costs for issuers and investors.[4] To encourage the use of DRS, the BSE proposes to require that all listed securities be eligible to participate in DRS. Under the proposed rule change, BSE would add Section 3 to Chapter XXVII that would require any security initially listing on BSE on or after January 1, 2007, to be eligible for a DRS that is operated by a clearing agency registered under Section 17A of the Act. This requirement, however, would not extend to (i) securities of companies which already have securities listed on BSE, (ii) securities of companies which immediately prior to such listing had securities listed on another securities exchange in the U.S., or (iii) non-equity securities which are book-entry only. Under the proposed rule, on and after January 1, 2008, all securities listed on BSE, other than non-equity securities which are book-entry only, must be eligible for a DRS that is operated by a clearing agency registered under Section 17A of the Act.[5] While this proposal would require that securities be DRS eligible, it would not mandate the elimination of securities certificates and, subject to applicable state law and the company's governing documents, an investor could still elect to receive a securities certificate if an issuer elects to issue securities certificates.

In order for a security to be eligible for the only DRS in operation today, the issuer is required to use a transfer agent that meets certain insurance and connectivity requirements.[6] As a result, some transfer agents may have to make changes to comply with their requirements. In addition, certain issuers may have to make amendments to their governing documents, such as their by-laws or corporate charters, to be eligible to issue book-entry positions. To allow sufficient time for these changes, BSE proposes implementing the proposed requirement on January 1, 2008, for issuers with securities already listed on BSE or another listed marketplace when the rule is approved. Companies listing for the first time would have greater flexibility to adopt any required changes and therefore the proposed requirement would be applicable to new listings beginning January 1, 2007.

(2) Statutory Basis

The statutory basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[7] BSE believes that the proposed rule is consistent with its obligations under Section 6(b)(5) because requiring securities to be eligible to use DRS should increase the trading of securities in held book-entry forms, which should in turn facilitate the processing of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

BSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

BSE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–2006–46 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2006–46. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and

[4] In that regard, in March 2004 the Commission published a concept release that discussed, among other things, whether more should be done to reduce the use of physical securities certificates by individual investors. The Commission noted that the use of physical certificates increases the costs and risks of clearing and settling securities transactions, costs that most often are ultimately borne by investors. Securities Exchange Act Release No. 8398 (March 11, 2004), 69 FR 12922 (March 18, 2004). Issuers may save money by not having to print or process physical certificates but may incur other ongoing expenses to maintain book-entry records, such as mailing statements to shareholders.

[5] The exact text of the BSE's proposed rule change is set forth in its filing, which can be found at *http://www.bostonstock.com/legal/pending_rule_filings.html.*

[6] DTC's rules require that a transfer agent (including an issuer acting as its own transfer agent) acting for a company issuing securities in DRS must be a DRS Limited Participant. Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15].

[7] 15 U.S.C. 78f(b)(5).

copying at the principal office of BSE and on BSE's Web site, *www.bse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2006–46 and should be submitted on or before December 28, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20730 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54842; File No. SR–CHX–2006–35]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Participant Fees and Credits

November 30, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 13, 2006, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The CHX has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the CHX pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its Schedule of Participant Fees and Credits (the ''Fee Schedule'') to include a reduction in the fees charged for orders routed through the NMS Linkage Plan to The NASDAQ Stock Market, Inc. (''Nasdaq''). The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's Fee Schedule, among other things, identifies the fees that are charged to participants on account of outbound NMS Linkage Plan orders.[5] Section E.6 of the Fee Schedule applies to orders that are Matching System-eligible and therefore are routed from the Matching System to other market centers. Section E.8 of the Fee Schedule applies to orders that have not yet migrated to the Matching System and therefore are routed from the Exchange's pre-new trading model facilities.[6]

When an outbound NMS Linkage Plan order is executed on another NMS Linkage participant market, that market will directly invoice the CHX for a transaction fee, in an amount that may not exceed the transaction fee that it would charge its own member for such an execution. The CHX is then responsible for payment of such invoice. Sections E.6 and E.8 of the Fee Schedule permit the CHX to collect a corresponding fee from the CHX participant that generated the outbound NMS Linkage Plan order. The CHX believes that it is appropriate to establish outbound NMS Linkage fee rates that reasonably correspond to the respective transaction fee rates being charged by the executing markets. Accordingly, it is submitting changes to Sections E.6 and E.8 of the Fee Schedule, to reflect recent developments regarding applicable transaction fees assessed by Nasdaq on account of NMS Linkage Plan executions.[7] Specifically, the proposal would change the outbound fee for NMS Linkage orders routed to Nasdaq (in issues other than exchange-traded funds) from $.0030/share to $.0015/share. This change is not applicable to orders for exchange-traded funds.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and is consistent with the allocation of dues, fees and other charges utilized by other self-regulatory organizations that have implemented trading platforms similar to the CHX new trading model.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 54548 (September 29, 2006), 71 FR 59159 (October 6, 2006) (SR–CHX–2006–28) (approving NMS Linkage Plan exchange-to-exchange billing procedures); Securities Exchange Act Release No. 54551 (September 29, 2006), 71 FR 59148 (October 6, 2006) (approving NMS Linkage Plan).

[6] *See* Securities Exchange Act Release No. 54550 (September 29, 2006); 71 FR 59563 (October 10, 2006) (SR–CHX–2006–05) (approving rules to implement a new trading model).

[7] *See* Nasdaq Head Trader Alert #2006–176 (November 1, 2006, updated November 3, 2006).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–CHX–2006–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2006–35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2006–35 and should be submitted on or before December 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–20715 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54846; File No. SR–CHX–2006–34]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Implementation of a Communications or Routing Service

November 30, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 16, 2006, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The CHX has filed this proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to operate a service that allows its participants to route orders to any other destination connected to the CHX's network.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of the Exchange's new trading model, the Exchange proposes to operate a neutral communications service that allows its participants to route orders to any destination connected to the CHX's network. Specifically, this service would allow participants to route orders to: (1) The CHX Matching System; (2) CHX institutional brokers; (3) market makers or other broker-dealers connected to the CHX's network, which provide order handling and execution services in the over-the-counter market; and (4) other destinations (including order-routing vendors) that are connected to the CHX's network.[5] This communications or routing service would not effect trade executions and would not report trades to ''the tape.'' An order would not pass through the CHX market before going to an entity or market outside of the CHX (*i.e.*, a participant could choose to route an order directly to any of the above destinations). A participant would be responsible for identifying the appropriate destination for any orders sent through the service and for ensuring that it had authority to access the selected destination; the CHX would merely provide the mechanism by which orders (and associated messages) could be routed by a participant to a destination and from the destination back to the participant.[6]

This service would be a facility of the Exchange. As a result, the Exchange would submit fee changes, and any applicable changes to its rules, to the Commission as required by Rule 19b–4 under the Act in connection with its routing.[7] Accordingly, the Exchange is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] Details associated with the operation of these routing services would be set out on the Exchange's Web site or could be the subject of an agreement between the CHX and any participants that seek to use the services.

[6] This service is an extension of a service that the Exchange already provides to its participants—current order-sending participants route orders through access provided by the Exchange to the MAX® trading system and to the CHX's institutional brokers. Institutional brokers and specialists use CHX-provided connectivity to route orders to the MAX trading system (and, for securities that have been transitioned to the new trading model, to the CHX's new Matching System).

[7] 17 CFR 240.19b–4. The Exchange's rules and fees, however, would not address the fees or

Continued

filing, concurrently with this proposal, a separate proposal to charge a fee to recipients of orders that are sent through this service.[8]

The Exchange would provide these routing services in compliance with its rules and with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements of Sections 6(b)(4) and (5) of the Act[9] that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[10] The Exchange believes that the proposed changes are consistent with Section 6(b)(5) of the Act,[11] because they would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by confirming that the CHX would operate its routing services as a facility of the Exchange, in a manner consistent with the requirements of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

Pursuant to Rule 19b–4(f)(6)(iii) under the Act, a proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The CHX has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow participants to begin to utilize the proposed routing function in connection with the implementation of the Exchange's new trading model. For these reasons, the Commission designates that the proposed rule change become operative immediately.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2006–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CHX–2006–34. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CHX–2006–34 and should be submitted on or before December 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–20719 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54833; File No. SR–CHX–2006–33]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Amending Rules To Require Listed Companies To Make Securities Eligible for the Direct Registration System

November 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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manner of operation of any destination to which the participant asked that an order be routed.

[8] *See* File No. SR–CHX–2006–36.

[9] 15 U.S.C. 78f(b)(4)–(5).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement. The Commission has determined to waive this requirement for this filing.

[14] 17 CFR 200.30–3(a)(12).

(''Act''),[1] notice is hereby given that on October 30, 2006, the Chicago Stock Exchange, Inc. (''CHX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend its listing standards to require certain issuers to make their securities eligible for a Direct Registration System (''DRS'') operated by a securities depository registered as a clearing agency under Section 17A of the Act.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CHX has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Direct Registration System (''DRS'') allows an investor to establish, either through an issuer's transfer agent or through the investor's broker-dealer, a book-entry position in a security and to electronically transfer that position between the transfer agent and the investor's broker-dealer through a facility currently administered by The Depository Trust Company (''DTC'').[3] DRS, therefore, enables an investor to have securities registered in her name without having a securities certificate issued to her and to electronically transfer her securities to her broker-dealer in order to effect a securities transaction without the risk and delays associated with the use of securities certificates.

Investor holding securities in DRS retain the rights associated with securities certificates (such as voting) without the responsibility of holding and safeguarding those certificates. In addition, corporate actions (such as reverse stock splits and mergers) can be handled electronically with no securities certificates to be returned to or received from the transfer agent.

To reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates to and reduce the risks, costs, and delays associated with the physical processing of securities certificates, the CHX seeks to amend its listing standards by adding paragraph (h) to Rule 1[4] that would require certain issuers to make their securities eligible for DRS.[5] As proposed, the new rule would require that any security initially listing on CHX on or after January 1, 2007, must be eligible for a DRS that is operated by a securities depository.[6] This requirement, however, would not extend to (i) securities of companies which already have securities listed on CHX, (ii) securities of companies which immediately prior to such listing had securities listed on another national securities exchange, (iii) derivative products, or (iv) securities (other than stocks) which are book-entry only. Under the proposed rule, on and after January 1, 2008, all securities listed on CHX must be eligible for a DRS that is operated by a securities depository.[7]

CHX understands that issuers and transfer agents may incur initial costs when making an issue DRS-eligible. As an initial matter, the issuer must have a transfer agent that is a DRS Limited Participant.[8] Transfer agents will need to meet certain DTC criteria, such as insurance and connectivity requirements in order to become DRS Limited Participants and an issuer's corporate documents, such as its bylaws or corporate charters, may need to be amended to permit the issuance of book-entry shares. CHX believes that the proposed deadlines as set forth above would allow issuers and transfer agents an appropriate amount of time to meet applicable requirements.

(2) Statutory Basis

CHX believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. In particular, the proposed rule change is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by confirming that certain CHX's issuers would be required to make their securities eligible for a DRS operated by a securities depository.[9]

(B) Self-Regulatory Organization's Statement on Burden on Competition

CHX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CHX has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period:

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified portions of the text of the summaries prepared by the CHX.

[3] Currently, the only registered clearing agency operating a DRS is DTC. For a description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15] (order granting approval to establish DRS) and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999), [File No. SR–DTC–99–16] (order approving implementation of the Profile Modification System).

[4] The exact text of the CHX proposed rule change is set forth in its filing, which can be found at *http://www.chx.com/rules/proposed_rules.htm*.

[5] The Commission has approved rule changes filed by the New York Stock Exchange LLC, NASDAQ Stock Market LLC, the American Stock Exchange LLC, and the NYSE Arca, Inc. that would require certain listed companies securities become DRS eligible. Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR–NYSE–2006–29]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR–NASDAQ–2006–008]; 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR–Amex–2006–40]; 54410 (September 7, 2006), 71 FR 54316 (September 14, 2006) [File No. SR–NYSE Arca–2006–31].

[6] Under the proposed rule, a ''securities depository'' would mean a securities depository registered as a clearing agency under Section 17A(b)(2) of the Act.

[7] Securities (other than stock) that are book-entry-only and derivative products would continue to be excluded from the DRS requirement.

[8] DTC's rules require that a transfer agent (including an issuer acting as its own transfer agent) acting for a company issuing securities in DRS must be a DRS Limited Participant. Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15].

[9] 15 U.S.C. 78f(b)(5).

(i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2006–33 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2006–33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of CHX and on CHX's Web site, *www.chx.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2006–33 and should be submitted on or before December 28, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20731 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54841; File No. SR–ISE–2006–69]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fee Changes

November 30, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 27, 2006, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The ISE has designated this proposal as one changing a fee imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to extend until June 30, 2007, a pilot program that (i) caps and waives execution and comparison fees for transactions in options on the NASDAQ–100 Index Tracking Stock® (''QQQQ®'') when a member transacts a certain number of QQQQ option contracts, and (ii) reduces and waives the facilitation execution and comparison fees when a member transacts a certain number of contracts through the Exchange's Facilitation Mechanism. The text of the proposed rule change is available on the Exchange's Web site at (*http://www.iseoptions.com/legal/proposed-rule-changes.asp*), at the ISE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The ISE proposes to amend its Schedule of Fees to extend until June 30, 2007, a pilot program that (i) caps and waives execution and comparison fees for transactions in options on the QQQQ when a member transacts a certain number of QQQQ option contracts, and (ii) reduces and waives the facilitation execution and comparison fees when a member transacts a certain number of contracts through the Exchange's Facilitation Mechanism.[5]

Under the QQQQ pilot program, when a member's monthly average daily volume (''A.D.V.'') in QQQQ options reaches 10,000 contracts, the member's execution fee for the next 2,000 QQQQ option contracts is reduced by $.10 per contract.[6] Further, when a member's monthly A.D.V. in QQQQ options reaches 12,000 contracts, the Exchange waives the entire execution fee and the comparison fee for each QQQQ option contract traded thereafter. The Exchange instituted this pilot program in November 2003 for a six month period,

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] Earlier this year, the Exchange amended the pilot program by increasing the threshold levels at which the fee waiver and reduction applied. *See* Securities Exchange Act Release No. 54016 (June 19, 2006), 71 FR 36575 (June 27, 2006).

[6] Telephone conversation between Samir Patel, Assistant General Counsel, ISE, and Hong-anh Tran, Special Counsel, Division of Market Regulation, Commission, on November 28, 2006 (clarifying that the A.D.V. threshold is calculated on a monthly basis).

expiring in May 2004.[7] The Exchange extended the pilot program in May 2004 for an additional six month period, expiring in November 2004.[8] The Exchange extended the pilot program for a one year period in November 2004[9] and again in November 2005.[10] The current pilot program is set to expire on November 30, 2006. The Exchange now proposes to further extend the pilot program until June 30, 2007.[11] The Exchange seeks to extend this pilot program for competitive reasons. This pilot program was initiated and extended in an attempt to increase the Exchange's market share in the QQQQ option product.

The structure of the reduction and waiver of the facilitation execution fee and the comparison fee is based on the structure of the reduction and waiver of the QQQQ execution fee and comparison fee noted above. That is, when a member's monthly A.D.V. in the Facilitation Mechanism reaches 15,000 contracts, the member's facilitation execution fee for the next 5,000 contracts transacted in the Facilitation Mechanism would be reduced by $.10 per contract. Further, when a member's monthly A.D.V. in the Facilitation Mechanism reaches 20,000 contracts, the Exchange would waive the entire facilitation execution fee and the comparison fee for each contract transacted in the Facilitation Mechanism thereafter. As with the QQQQ incentives, the Exchange is proposing to extend this pilot program to encourage members to use the Facilitation Mechanism.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Sections 6(b)(4) of the Act[13] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. In particular, the fee changes proposed hereby will enable the Exchange to continue offering competitively priced products and services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[14] and Rule 19b–4(f)(2)[15] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2006–69 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2006–69. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–69 and should be submitted on or before December 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–20714 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54843; File No. SR–NYSE–2006–73]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment Nos. 1, 2, and 3 Relating to Block Positioning

November 30, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 13, 2006, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule

[7] *See* Securities Exchange Act Release No. 49147 (January 29, 2004), 69 FR 5629 (February 5, 2004).

[8] *See* Securities Exchange Act Release No. 49853 (June 14, 2004), 69 FR 35087 (June 23, 2004).

[9] *See* Securities Exchange Act Release No. 50900 (December 21, 2004), 69 FR 78075 (December 29, 2004).

[10] *See* Securities Exchange Act Release No. 52934 (December 9, 2005), 70 FR 74859 (December 16, 2005).

[11] The Exchange intends to establish, through subsequent filings, June 30 as the date on which all of its fee programs expire. By aligning the expiration date as such, the Exchange seeks to manage its various fee programs more effectively.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I and II below, which Items have been prepared by the NYSE. The NYSE filed Amendment Nos. 1, 2, and 3 to the proposal on October 12, 2006, October 13, 2006, and November 28, 2006, respectively.[3] The Commission is publishing this notice and order to solicit comments on the proposed rule change, as amended, from interested persons, and to approve the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 127, ''Block Positioning,'' to revise the procedures governing executions of block cross transactions at a price outside the prevailing NYSE quotation. The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the NYSE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing amendments to NYSE Rule 127, which governs block cross transactions at a price outside the prevailing NYSE quotation. Currently, NYSE Rule 127 provides alternative procedures that may be followed by a member organization intending to cross a block of stock at a specific clean-up price outside the prevailing NYSE quotation. Under the rule, a member organization must inform the specialist of its intent to cross block orders at a specific clean-up price. The member organization then announces the clean-up price to the trading Crowd. If the cross involves only agency orders on each side, the member organization fills all orders limited to or better than such price, and crosses the remaining shares at the clean-up price. However, if the member organization determines that the amount of stock needed to trade with such limit orders excessively interferes with the proposed block cross, the member organization may inform the trading Crowd that it will not be given stock at the clean-up price. After such announcement, the member organization bids and offers the full amount of the block cross pursuant to NYSE Rule 76.[4] This provides the Crowd with an opportunity to trade with or ''break up'' the crossed orders. In this situation, the block is entitled to priority at the clean-up price. Additionally, if all or part of one side of the block cross transaction will establish or increase the member organization's position, the member organization representing the block orders must fill at the clean-up price public orders limited to the clean-up price or better before any amount may be retained for the member organization's account. This is not required when the member organization is liquidating a position. NYSE Rule 127 also provides for the member organization executing the cross to take into account the needs of the specialist in maintaining a market in the stock after the block cross transaction.

The Exchange proposes to simplify the procedures in NYSE Rule 127 by adopting a single process for all block cross transactions outside the Exchange quotation and to make them more similar to the way automatic executions and ''sweeps'' occur on the Exchange. In addition, the NYSE proposes some minor wording changes to conform references throughout the rule to ''member organization'' instead of variously ''member'' or ''member organization.''

The proposed new procedure for the execution of block crosses at a price outside the prevailing NYSE quotation is as follows, except where the member organization is establishing or increasing a position for its own account: The member organization representing the block orders will first trade with the displayed bid or offer (whichever is relevant to the proposed cross), then with all limit orders in the Display Book® (''Display Book'') system priced better than the block clean-up price, and then execute the cross at the clean-up price. This will result in executions at a maximum of three prices: The displayed bid (offer) price; a price one cent better than the clean-up price, and the block clean-up price. Percentage orders elected at each price will be entitled to trade at those prices. The block cross will have execution priority at the clean-up price. Pursuant to NYSE Rule 127(e), none of these executions will be subject to the requirements of NYSE Rule 76.

Example

The NYSE quote in XYZ is $20.05 bid for 10,000 shares, with 5,000 shares offered at $20.10. There is no reserve interest at the best bid and offer. There are bids for $20.04, $20.03, and $20.01, each for 5,000 shares, in the Display Book system. A member organization intends to cross orders totaling 50,000 shares to buy and sell at $20.02. The following executions occur: 10,000 shares trade at $20.05, 10,000 shares trade at $20.03, and 30,000 shares are crossed at the clean-up price of $20.02.

In addition, pursuant to the proposed new rule, when a member organization is establishing or increasing a position for its own account and the member organization is all or a part of one side of the block, then the member organization representing the block orders will first trade with the displayed bid or offer (whichever is relevant to the proposed cross). The member organization will not trade with all limit orders in the Display Book system priced better than the block clean-up price; rather, the member organization will cross the block orders at the specified clean-up price and fill at the clean-up price orders limited to the clean-up price or better before any amount may be retained for the member organization's account.

Example

The NYSE quote in XYZ is $20.05 bid for 10,000 shares, with 5,000 shares offered at $20.10. There is no reserve interest at the best bid and offer. There are bids for $20.04, $20.03, and $20.01, each for 5,000 shares, in the Display Book system. A member organization intends to cross orders totaling 50,000 shares to buy and sell at $20.02. The member organization is buying 40,000 shares for its own account. The following executions occur: 10,000 shares trade at $20.05, 30,000 shares are crossed at the clean-up price of $20.02, and 10,000 shares trade at $20.02.

[3] Amendment No. 3 replaced the original filing and Amendment Nos. 1 and 2 in their entirety. Amendment No. 3 revises the original proposal to: (1) Clarify the execution of block cross transactions in which all or part of one side of the block is for a member organization's own account; (2) clarify that the requirements of NYSE Rule 76, ''Crossing' Orders,'' will not apply to executions made in accordance with NYSE Rule 127; and (3) correct errors in the text of NYSE Rule 127.

[4] Under NYSE Rule 76, the member makes an offer higher than the clean-up price by the minimum variation permitted in such security.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(5) of the Act [6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2006–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–73. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2006–73 and should be submitted on or before December 28, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change, as Amended

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal revises the procedures under NYSE Rule 127 for crossing block-sized orders outside the prevailing NYSE quotation.[9] Under the proposal, NYSE Rule 127(b) will govern block cross transactions where the member organization represents as agent orders on both sides of the block. NYSE Rule 127(c)(2) will govern block transactions where all or part of one side of the block is for a member organization's own account and the member organization is covering a short position or liquidating a long position. Before crossing block orders at a specified clean-up price outside the current quotation, NYSE Rules 127(b) and 127(c)(2) will require a member organization to trade with: (1) the NYSE best bid (offer), including all reserve interest at that price and any percentage orders elected by the execution at that price; and (2) all orders in the Display Book system limited to prices better than the block clean-up price, including Floor Brokers' e-Quotes and any percentage orders elected by the execution, at a price that is the minimum variation better than the block clean-up price. Under NYSE Rule 127(b)(ii), the block will be entitled to priority at the clean-up price, and under NYSE Rule 127(c)(2), the member organization will not be required to fill at the clean-up price orders limited to the clean-up price.

In a block transaction where all or any portion of a block is for a member organization's own account and all or any portion of the block will establish or increase the member organization's position, NYSE Rule 127(c)(1) will require the member organization to trade with the NYSE best bid (offer), including all reserve interest at that price and any percentage orders elected by that execution at the bid (offer) price, before crossing the block orders at the specified clean-up price. The member organization must fill at the clean-up price orders limited to the clean-up price or better before the member organization may retain any amount for its own account. The requirements of NYSE Rule 76 will not apply to executions made in accordance with NYSE Rule 127.[10]

The Commission finds that the proposal is consistent with Section 6(b)(5) because it is designed to permit the execution of block crosses outside the prevailing NYSE quotation while protecting certain existing interest on the NYSE. In this regard, NYSE Rule 127(b) will require a member organization, before effecting an agency-only block cross outside the current NYSE quotation, to trade with the NYSE best bid (offer), including reserve size and percentage orders elected by the execution, at the bid (offer) price, and to trade with all orders in the Display Book system limited to prices better than the block clean-up price, including Floor Brokers' e-Quotes and percentage orders

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] For purposes of NYSE Rule 127, a block is at least 10,000 shares or a quantity of stock having a market value of $200,000 or more, whichever is less, that a member organization acquires on its own behalf and/or for others from one or more buyers or sellers in a single transaction. *See* NYSE Rule 127, Supplementary Material .01.

[10] *See* NYSE Rule 127(e).

elected by the execution, at a price that is the minimum variation better than the block clean-up price. NYSE Rule 127(c)(2) provides the same requirements for a block transaction where all or part of one side of a block transaction is for a member organization's own account and the member organization is covering a short position or liquidating a long position. Similarly, NYSE Rule 127(c)(1) requires a member organization that engages in a block transaction that will establish or increase the member organization's position to trade with the NYSE best bid (offer), including all reserve interest and percentage orders elected by the execution, at that price before crossing the orders, and to fill at the clean-up price orders limited to the clean-up price or better before retaining any amount for its own account.

The Commission finds that the proposal to replace references to ''member'' with references to ''member organization'' throughout NYSE Rule 127 is consistent with Section 6(b)(5) of the Act because it will provide consistency in the text of the rule.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As described more fully above, the proposal revises the NYSE's procedures for executing block crosses outside the prevailing NYSE quotation while protecting certain existing interest on the NYSE. In addition, the changes to NYSE Rule 127 proposed in the NYSE's initial filing have been in effect on a pilot basis since October 6, 2006.[11] The Commission did not receive any comments regarding the proposed changes to NYSE Rule 127 during the operation of the pilot. The NYSE received no comments regarding the substantive operation of the proposed block crossing procedures during the pilot period, although some members urged the NYSE to explore ways to enhance the efficiency of the process.[12] Accordingly, the Commission finds good cause, consistent with Section 6(b)(5) and 19(b)(2) of the Act, to approve the proposal, as amended, on an accelerated basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2006–73), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–20716 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

[11] *See* Securities Exchange Act Release Nos. 54578 (October 5, 2006), 71 FR 60216 (October 12, 2006), (File No. SR–NYSE–2006–82) (order granting accelerated approval to put certain changes into operation on a pilot basis until October 31, 2006); and 54675 (October 31, 2006), 71 FR 65019 (November 6, 2006) (File No. SR–NYSE–2006–96) (extending the pilot program through November 30, 2006). Amendment No. 3 revised the initial proposal to: (1) clarify the execution of block cross transactions in which all or part of one side of the block is for a member organization's own account; (2) clarify that the requirements of NYSE Rule 76 will not apply to executions made in accordance with NYSE Rule 127; and (3) correct errors in the text of NYSE Rule 127.

[12] Telephone conversation between Deanna Logan, Director, Office of the General Counsel, NYSE, and Yvonne Fraticelli, Special Counsel, Division of Market Regulation, Commission, on November 28, 2006.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54818; File No. SR–NYSE–2006–57]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rule 180 To Require Member Organizations To Use the Automated Liability Notification System of a Registered Clearing Agency

November 27, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 3, 2006, the New York Stock Exchange LLC (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') and on November 15, 2006, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by the NYSE.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Rule 180 to mandate that NYSE member organizations utilize the automated liability notification system of a clearing agency registered pursuant to Section 17A of the Exchange Act when issuing liability notifications in connection with certain securities transactions.

[1] 15 U.S.C. 78s(b)(1).

[2] The exact text of the NYSE's proposed rule change is set forth in its filing, which can be found at *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, NYSE's Rule 180 provides that if securities are not delivered within the required time frame, the party who fails to deliver is liable for any resulting damages. Rule 180 also requires that claims for damages must be made promptly. It is industry practice when one party is owed and has not received securities that are the subject of a voluntary corporate action for the owed party to send to the failing counterparty a notice of the liability that will be attendant with the failure to delver the securities in time for the owed party to participate in the voluntary corporate action.

It is also customary in the industry for the failing counterparty that receives a liability notification either to reject the notice, to deliver the securities that are the subject of the liability notification, or to convert or exchange the securities to the corresponding corporate actions proceeds and deliver the proceeds. Liability notifications are usually sent by fax directly to the responsible failing counterparty or to its designees.

Failing counterparties are subjected to potential liability by their failure to respond to liability notifications. Failure to respond typically occurs because of processing errors, such as overlooking the faxed liability notification or not receiving it all, and because of the overall lack of centralized control over the process. There is currently no uniform method of notifying and confirming the transmission and receipt of liability notifications.

In response to a need for a reliable and uniform method of transmitting liability notifications, The Depository Trust Company (''DTC'') developed the SMART/Track for Corporate Action

[3] The Commission has modified portions of the text of the summaries prepared by the NYSE.

Liability Notification Service (SMART/Track''), a web-based system for the communication of liability notifications that is currently available to all DTC participants. SMART/Track allows DTC participants to easily create, send, process, and track corporate action liability notifications. Email notifications are automatically generated when liability notifications or replies to liability notifications are sent. SMART/Track helps reduce the risks, costs, and delays resulting from the processing errors and missing or inaccurate information frequently occurring with corporate action liability notifications. It also provides participants with (1) more timely receipt and distribution of corporate action liability notifications; (2) a centralized system to manage and control all liability notifications on all issues; (3) immediate identification of the security affected by a corporate action liability notification; and (4) detailed disclosure and clearer understanding of terms and conditions.

In response to a petition from the Corporate Actions Division of the Securities Industry Association urging NYSE to adopt a rule that would mandate the use of a system that would make uniform the method by which liability notifications are sent and received, NYSE is proposing to amend Rule 180. As amended, Rule 180 clarifies that if securities that were to be delivered pursuant to the rules of a registered clearing agency are not so delivered, the contract may be closed as provided by the rules of that clearing agency. If the contracts are not so closed or if there is a failure to deliver securities which are to be delivered pursuant to NYSE Rule 176 or 177 and in the absence of any notice or agreement, the contract shall continue without interest until the following business day. However, in every such case of non-delivery, the party not delivering the securities shall be liable for any damages which accrue thereby.

Proposed Rule 180 is also being amended to require that when the parties to a failed contract are both participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver and the contract was to be settled through the facilities of that registered clearing agency, the transmission of the liability notification must be accomplished through the use of the registered clearing agency's automated liability notification system.[4]

2. Statutory Basis

The statutory basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NYSE has neither solicited nor received written comments on the proposed rule change. The NYSE is making the proposed rule change in part as a response to a petition from the Corporate Actions Dvision of the Securities Industry Association that the NYSE amend its rules to mandate that member organizatins use the SMART/Track system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2006–57 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–57. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of the NYSE and on the NYSE's Web site, *http://www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–57 and should be submitted on or before December 28, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20727 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

[4] Currently DTC is the only registered clearing agency operating an automated liability notification service. At present, approximately 155 DTC participants are voluntarily using SMART/Track.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54847; File No. SR–NYSE–2006–97]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to NYSE Rule 342.30

November 30, 2006.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder, notice is hereby given that on October 26, 2006, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed amendments to its Rule 342.30, as described in Items I, II and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is filing with the Commission a proposed rule change that would amend Rule 342.30 (''Annual Report and Certification'') to require submission of the process report prepared in connection with the Chief Executive Officer (''CEO'') certification, as required under Rule 342.30(e)(iii), to the Board of Directors and Audit Committee (if such committee exists) of the member organization on or before April 1st of each year.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of the proposed rule change is available on the NYSE's Web site (*www.NYSE.com*), at the NYSE's principal office, and at the Commission's Public Reference Room. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing with the Commission a proposed rule change that would amend Rule 342.30 to require that the report required pursuant to Rule 342.30(e)(iii) (herein referred to as the ''process report'') in connection with a member organization's CEO certification be submitted to the member organization's board of directors and audit committee (if such committee exists) on or before April 1st of each year. The purpose of the rule change is to better harmonize the requirements of Rule 342.30 with those of NYSE Rule 354 (''Reports to Control Persons'').

Background

Rule 342.30

Rule 342.30 requires each member organization to file with the Exchange, by April 1st of each year, a report (the ''Annual Report'') outlining its supervision and compliance efforts in prescribed regulatory areas during the preceding year and assessing the adequacy of its ongoing compliance processes and procedures. The Annual Report submitted to the Exchange is also required to include, pursuant to Rule 342.30(e), a certification by the CEO of each member organization confirming that the member organization has in place processes to:

(A) Establish and maintain policies and procedures reasonably designed to achieve compliance with applicable Exchange rules and federal securities laws and regulations;

(B) Modify such policies and procedures as business, regulatory and legislative changes and events dictate; and

(C) Test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with Exchange and federal securities laws and regulations.

Subsection (e)(iii) of Rule 342.30 requires that the above-stated processes be evidenced in a process report that is to be reviewed by the CEO, the Chief Compliance Officer, and such other officers as the organization may deem necessary to make the certification. Subsection (e)(iii) also requires that the process report be submitted to the member organization's board of directors and audit committee (if such committee exists), although the timing of such submission is not explicitly stated. The Exchange has, heretofore by interpretation, required such submission prior to CEO certification.

Rule 354

Subsection (a) of Rule 354 requires, in relevant part, that each member organization submit, by April 1st of each year, a copy of the Rule 342.30 Annual Report (also due to the Exchange by April 1st) to one or more of its control persons or, if the member organization has no control person, to the audit committee of its board of directors or its equivalent committee or group.

In order to better harmonize the process report submission requirements of Rule 342.30(e)(iii) with the Annual Report submission requirements of Rule 354(a), it is proposed that Rule 342.30(e)(iii) be amended to require each member organization to submit the process report to its board of directors and audit committee (if such committee exists) on or before April 1st of each year, consistent with the timing requirements of Rule 354(a) with respect to submission of the Annual Report. This would promote timely submission of the process report to the board of directors and audit committee, while serving the practical purpose of allowing member organizations to submit it together with the Annual Report so that it may be reviewed as a single comprehensive package.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5)[3] of the Act which requires NYSE to have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. In this regard, the proposed rule change promotes timely submission of substantive regulatory material to member organizations' governing bodies by better coordinating the requirements of Rule 342.30(e)(iii) (Process Report) and Rule 354(a) (Submission of Annual Report to Control Persons).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

a. By order approve the proposed rule change, or

b. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2006–97 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–97. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–97 and should be submitted on or before December 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E6–20733 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54834; File No. SR–Phlx–2006–69]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to a Direct Registration System

November 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'') filed with the Securities and Exchange Commission (''Commission'') and on November 14, 2006, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to adopt new Rule 868 to require certain listed securities to be eligible for a Direct Registration System (''DRS'') operated by a securities depository registered as a clearing agency under Section 17A of the Act starting on January 1, 2007.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Phlx has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of proposed new Phlx Rule 868[4] is to reduce the cots, risks, and delays associated with the physical delivery of securities certificates by requiring that certain securities be eligible for DRS.[5] Proposed Rule 868 would require that on or after January 1, 2007, all securities initially listing on Phlx must be eligible for DRS operated by a securities depository that is a clearing agency registered under Section 17A of the Act (''securities depository''). This provision would not extend to (i) securities of companies which already have securities listed on Phlx; (ii) securities of companies which immediately prior to such listing had securities listed on another national securities exchange; (iii) derivative products,[6] or (iv) securities (other than stocks) which are book-entry-only.

[3] The Commission has modified portions of the text of the summaries prepared by the Phlx.

[4] The exact text of the Phlx proposed rule change is set forth in its filing, which can be found at *http://www.phlx.com/exchange/rulefilngs/2006/S-2006-69.pdf*.

[5] The Commission has approved similar rule changes filed by the New York Stock Exchange LLC, NASDAQ Stock Market LLC, the American Stock Exchange LLC, and the NYSE Arca, Inc. that require certain listed companies securities become DRS eligible. Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR–NYSE–2006–29]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR–NASDAQ–2006–008]; 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR–Amex–2006–40]; 54410 (September 7, 2006), 71 FR 54316 (September 14, 2006) [File No. SR–NYSE Arca–2006–31].

[6] For purposes of proposed Rule 868, the term ''derivative products'' means standardized options issued by The Options Clearing Corporation (''OCC'') or other securities that are issued by OCC or another limited purpose entity or trust and that are based solely on the performance of an index or

Continued

Proposed Rule 868 would also require that on or after January 1, 2008, all securities listed on the Phlx must be eligible for DRS operated by a securities depository. This provision would not extend to derivative products or securities (other than stocks) that are book-entry-only.

Securities certificates are used by issuers as a means to evidence and transfer ownership. Because securities certificates require manual processing, significant delays, expenses, and risks associated with lost, stolen, and forged certificates are attendant in processing securities transactions involving securities certificates. In Section 17A of the Act, Congress recognized these concerns by calling for the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities.[7]

DRS allows an investor to establish, either through an issuer's transfer agent or through the investor's broker-dealer, a book-entry position in a security and to electronically transfer that position between the transfer agent and the investor's broker-dealer of the investor's choice through a facility currently administered by The Depository Trust Company (''DTC'').[8] By using DRS, investors receive a DRS statement as evidence of share ownership instead of a securities certificate. Investors retain all the rights associated with securities certificates, including such rights as control of ownership and voting rights, without having the responsibility of holding and safeguarding securities certificates. In addition, in corporate actions such as reverse stock splits and mergers, cancellation of old securities positions and issuance of new securities positions is handled electronically with no securities certificates to be returned to or received from transfer agents.

Issuers and their transfer agents may incur initial costs when making an issue DRS-eligible as required by this proposed rule change. In order to make a security DRS-eligible, the issuer must have a transfer agent which is a DRS Limited Participant at DTC.[9] Transfer agents will need to meet certain DTC criteria, such as insurance and connectivity requirements, in order to become a DRS Limited Participant. Further, issuers may need to amend their corporate documents, such as their by-laws or charter, in order to permit the issuance of book-entry shares. Phlx believes that the proposed deadlines for DRS eligibility coupled with instructive communication by Phlx to issuers, will allow issuers sufficient time to make the necessary changes to comply with the proposed rule change.

While the proposed rule change should significantly reduce the number of transactions in securities for which settlement is effected by the physical delivery of securities certificates, the propose rule change will not eliminate the ability of investors to obtain securities certificates provided the issuer chooses to issue or continue to issue certificates.

(2) Statutory Basis

Phlx believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. In particular, the proposed rule change is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by confirming that certain Phlx's issuers would be required to make their securities eligible for a DRS operated by a securities depository.[10]

(B) Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Phlx has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2006–69 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2006–69. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

portfolio of other publicly traded securities. The term ''derivative product'' does not include warrants of any type or closed-end management investment companies.

[7] 15 U.S.C. 78q–1

[8] Currently, the only registered clearing agency operating a DRS is DTC. For a description of DRS and the DRS facilities administered by DTC, see Securities Exchange Act Release Nos. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15] (order granting approval to establish DRS) and 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999), [File No. SR–DTC–99–16] (order approving implementation of the Profile Modification System).

[9] DTC's rules require that a transfer agent (including an issuer acting as its own transfer agent) acting for a company issuing securities in DRS must be a DRS Limited Participant. Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996), [File No. SR–DTC–96–15].

[10] 15 U.S.C. 78f(b)(5).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of Phlx and on Phlx's Web site, *http://www.phlx.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2006–69 and should be submitted on or before December 28, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20726 Filed 12–6–06; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10741 and # 10742]

Alabama Disaster # AL–00006

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Alabama dated 11/29/2006.

Incident: Severe Storms and Tornadoes.

Incident Period: 11/16/2006.

Effective Date: 11/29/2006.

Physical Loan Application Deadline Date: 01/29/2007.

Economic Injury (Eidl) Loan Application Deadline Date: 08/29/2007.

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:

Montgomery.

Contiguous Counties: Alabama

Autauga, Bullock, Crenshaw, Elmore, Lowndes, Macon, Pike.

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 10741 C and for economic injury is 10742 0.

The State which received an EIDL Declaration # is Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 29, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–20758 Filed 12–6–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10743 and #10744]

Massachusetts Disaster #MA–00008

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Massachusetts dated 11/29/2006.

Incident: Explosion and Fires.

Incident Period: 11/22/2006.

Effective Date: 11/29/2006.

Physical Loan Application Deadline Date: 01/29/2007.

Economic Injury (Eidl) Loan Application Deadline Date: 08/29/2007.

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 County: Essex.

Contiguous Counties:

Massachusetts: Middlesex, Suffolk.

New Hampshire: Hillsborough, Rockingham.

The Interest Rates are:

Homeowners With Credit Available Elsewhere: 6.000.

Homeowners Without Credit Available Elsewhere: 3.000.

Businesses With Credit Available Elsewhere: 8.000.

Businesses and 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 10743 4 and for economic injury is 10744 0.

The Commonwealth and State which received an EIDL Declaration # are Massachusetts, New Hampshire.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 29, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–20759 Filed 12–6–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5625]

Notice of Proposal to Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Materials

The Government of the Republic of Cyprus has informed the Government of the United States of its interest in an

extension of the Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects which entered into force on July 19, 2002, and was amended on September 4, 2006, to include the aforementioned Byzantine Period materials that had been restricted from importation pursuant to prior emergency action.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Memorandum of Understanding is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of this Memorandum of Understanding, the designated list of restricted categories of material, and related information can be found at the following Web site: *http://exchanges.state.gov/culprop*.

Dated: November 28, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–20791 Filed 12–6–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5624]

Notice of Proposal To Extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Archaeological Material From the Pre-Hispanic Cultures and Certain Ethnological Material From the Colonial Period of Peru

The Government of the Republic of Peru has informed the Government of the United States of its interest in an extension of the Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru, which entered into force on June 9, 1997 and extended on June 9, 2002.

Pursuant to the authority vested in the Assistant Secretary for Educational and Cultural Affairs, and pursuant to the requirement under 19 U.S.C. 2602(f)(1), an extension of this Memorandum of Understanding is hereby proposed.

Pursuant to 19 U.S.C. 2602(f)(2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

A copy of this Memorandum of Understanding, the designated list of restricted categories of material, and related information can be found at the following Web site: *http://exchanges.state.gov/culprop*.

Dated: November 28, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–20792 Filed 12–6–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5634]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals:

Fusion Arts Exchange programs on: Music Composition and Performance; Digital Media and Computer-Assisted Design; Screenwriting and Film Production; Sports Management

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/USS–07–FAX.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: February 9, 2007.

Executive Summary: The Branch for the Study of the United States, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, invites proposal submissions for the design and implementation of four Fusion Arts Exchange programs. The programs will take place over the course of 37 days beginning the second week of July 2007, focused on the themes of Music Composition and Performance, Digital Media and Computer-Assisted Design, Screenwriting and Film Production, and Sports Management, respectively. These programs should provide a multinational group of outstanding undergraduate students a deeper understanding of U.S. society, culture, values and institutions, and should develop their knowledge of and abilities in the above-mentioned professional fields. Each program will host a total of 15 international participants from five Bureau-designated countries, as well as three to five American undergraduate students who will participate alongside their international peers. Prospective applicants may only apply to host one of the four programs listed under this competition; host institutions may not implement more than one Fusion Arts Exchange program concurrently.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Fusion Arts Exchange consists of four multinational exchange programs, whose purpose is to provide outstanding undergraduate students an intensive, collaborative course on the latest developments in their respective fields (music composition and performance; digital media and computer-assisted design; screenwriting and film production; and sports management), and in the history and culture of the U.S. as illuminated through the lens of their fields. Participants will also learn about careers and economic development opportunities for their communities related to their field, and have the chance to develop on-going collaborations with their fellow participants.

The Bureau is seeking detailed proposals for four different Fusion Arts Exchange programs from U.S. colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in a field or discipline related to the specific program themes.

Overview: Each program should be 37 days in length, and should include an academic residency component and an educational study tour component.

The academic residency component should run for no less than 25 days and occur in and around the host institution's facilities. It should include

professional seminars, workshops, roundtable discussions, lectures and local site visits. It should also devote time to allow Fusion Arts Exchange participants to shadow local professionals in their field.

The educational study tour should run for no less than nine days and should directly complement the academic residency component. It should consist of travel to sites of significance to the professional fields of Fusion Arts Exchange participants, and offer participants an immersive, firsthand experience of professional issues central to their specialization. It should include visits to another geographic region of the country, and access to leading organizations and individuals in the program's field that are not locally available. It should also provide for two to three days in Washington, DC, at the conclusion of the program. If appropriate, the educational study tour component may be interspersed with the residency portion of the program.

Upon completion of the program, the host institution will also be expected to provide participants with guidance and resources for further investigation and research on the topics and issues examined during the program after they return home.

The Fusion Arts Exchange Program on Music Composition and Performance should provide a multinational group of 18–20 experienced and highly-motivated undergraduates with an intensive, collaborative course on music composition and performance. The core of the program should consist of opportunities for individual and collaborative music composition, individual musical coaching, instrument-specific instruction, group lessons, and individual and group performance opportunities. Participants should have access to the highest quality music study and performance facilities at the host institution, and the latest developments in music recording and production should be addressed. A key component of the program should be an introductory course exploring American history, values and culture through the lens of American music, which should be integrated into the curriculum for its entirety and provide a framework for the exchange experience. Participants should learn from leading music academics and professionals about careers and current and potential economic development opportunities related to music in the participants' home countries. They should be given ample opportunity to develop on-going collaborations with their fellow participants. Bureau-designated participating countries for this program may include: Brazil, India, Ireland, Mali, South Africa, and the United States. One award of up to $280,000 (not to exceed $14,000 per participant, including American participants) will support this program. This award will not include funds for participant international travel to and from the United States, which will be the separate responsibility of the Department.

The Fusion Arts Exchange Program on Digital Media and Computer-Assisted Design should provide a multinational group of 18–20 experienced and highly-motivated undergraduates with an intensive, collaborative course on digital media and computer-assisted design. The program should cover the major topics and latest developments in interactive digital media, including animation; Web design; print layout and production; multimedia-print interfacing; digital photography production; game development; digital media research; and new forms of computer-related expression. The program should be designed to provide immersive, hands-on training. Participants should have access to the highest quality digital media facilities at the host institution, and the latest developments in digital media should be thoroughly addressed. The program should also offer opportunities to learn from leading digital media academics and professionals about careers and current and potential economic development opportunities related to digital media in the participants' home countries. A key component of the program should be an introductory course exploring American history, values and culture through American historical and contemporary visual art and communications, including fine art, visual advertising, Web-based media, and political cartoons or other art advocating a social movement or cause, which should be integrated into the curriculum for its entirety and provide a framework for the exchange experience. Participants should be given ample opportunity to develop on-going collaborations with their fellow participants. Bureau-designated participating countries for this program may include: Argentina, Japan, Jordan, South Korea, and the United States. One award of up to $280,000 (not to exceed $14,000 per participant, including American participants) will support this program. This award will not include funds for participant international travel to and from the United States, which will be the separate responsibility of the Department.

The Fusion Arts Exchange Program on Screenwriting and Film Production should provide a multinational group of 18–20 experienced and highly-motivated undergraduates with an intensive, collaborative course on screenwriting within the context of current film production techniques and standards. The core of the program should consist of an immersive, hands-on, production-oriented screenwriting workshop. Participants should have access to the highest quality film production facilities at the host institution, and the latest developments in film production as they relate to screenwriting should be thoroughly addressed. The program should also cover the major topics in film and television, including production, direction, cinematography, sound design, and editing, as they relate to screenwriting. Participants should have ample opportunity to learn from academics and working professionals about careers and current and potential economic development opportunities related to the film and television industries in the participants' home countries. A key component of the program should be an introductory course exploring American history, values and culture as seen through American film, which should be integrated into the curriculum for its entirety and provide a framework for the exchange experience. Participants should be given ample opportunity to develop on-going collaborations with their fellow participants. Bureau-designated participating countries for this program may include countries in Europe, Asia, Africa and the United States. One award of up to $280,000 (not to exceed $14,000 per participant, including American participants) will support this program. This award will not include funds for participant international travel to and from the United States, which will be the separate responsibility of the Department.

The Fusion Arts Exchange Program on Sports Management should provide a multinational group of 18–20 experienced and highly-motivated undergraduates with an intensive, collaborative course on the business of sports management. The program should cover the major topics in sports management, including marketing sports properties; sponsorship alliances; athlete, owner and fan relations; contractual negotiations; media licensing and other forms of licensing; women's sports development; and the economic and legal aspects of sports

management. Participants should have ample opportunity to learn from academics and working professionals about careers and current and potential economic development opportunities related to the sports management profession in the participants' home countries. A key component of the program should be an introductory course exploring American history, values and culture through the lens of American sports history and culture, including films and literature about sports, which should be integrated into the curriculum for its entirety and provide a framework for the exchange experience. Participants should be given ample opportunity to develop on-going collaborations with their fellow participants. Bureau-designated participating countries for this program may include: Indonesia, Nigeria, Russia, Turkey, Venezuela, and the United States. One award of up to $280,000 (not to exceed $14,000 per participant, including American participants) will support this program. This award will not include funds for participant international travel to and from the United States, which will be the separate responsibility of the Department.

Program Design: Each Fusion Arts Exchange program should be designed as an intensive, interactive, academically rigorous seminar for an experienced group of undergraduate students from abroad and from the U.S. Each program should be organized through an integrated series of individual and group training workshops, lectures, readings, seminar discussions, public presentation opportunities, and regional travel and site visits. Applicants are encouraged to design creative, thematically coherent programs that draw upon the particular strengths, faculty and resources of their institutions as well as upon the nationally recognized expertise of scholars, professionals, artists and other experts throughout the United States. Academic facilities devoted to the program must be of the highest quality and should feature state-of-the-art technology. Applicants should clearly outline the facilities they propose to devote to the program and justify that they meet the above criteria.

Program Administration: Each Fusion Arts Exchange program should designate an academic director who will be present throughout the program to ensure the continuity, coherence and integration of all aspects of the academic program, including the educational study tour. In addition to the academic director, an administrative director or coordinator should be assigned to oversee all participant support services, including close oversight of the program participants, and budgetary, logistical, and other administrative arrangements. The administrative director or coordinator should be the Bureau's primary point of contact.

International Participants: Fifteen international participants per program will be nominated by U.S. Embassies and Fulbright Commissions from the five above-mentioned Bureau-designated countries for each program. Final selection will be made by the Bureau's Branch for the Study of the United States. Every effort will be made to select a balanced mix of male and female participants. International participants will be diverse in terms of academic and professional background. All international participants will have a good knowledge of English. Participants may or may not come from educational institutions where the study of their specialization is relatively well-developed. Preference will be given in the selection process to participants with no or limited experience with the United States, although some may have visited the United States previously. In all cases, participants will be accomplished undergraduate students, who will be prepared to participate in an intellectually, professionally and/or artistically rigorous academic seminar that offers a collegial atmosphere conducive to collaborative work and exchange of ideas.

American Participants: Three to five American undergraduate students, outstanding in their respective fields, should be competitively selected by each host institution as participants in its program. No more than one American participant per program may be a current or past student of that program's host institution. These American participants will participate in all aspects of the Fusion Arts Exchange program, living and working collaboratively with their international peers. Prospective host institutions will be evaluated on their ability to recruit appropriate American participants. American participants should be both exemplary cultural representatives of the United States and experienced in the discipline of the Fusion Arts Exchange for which they have been selected. In all cases, participants should be accomplished undergraduate students, who will be prepared to participate in an intellectually, professionally and/or artistically rigorous academic seminar that offers a collegial atmosphere conducive to collaborative work and exchange of ideas. Every effort should be made to select a balanced mix of male and female participants.

Program Dates: Proposed programs should be a maximum of 37 days in length (including participant arrival and departure days) and should begin during the second week of July 2007.

Program Guidelines: It is essential that proposals provide a detailed and comprehensive narrative describing the objectives of the program; the title, scope and content of each session; planned site visits; and how each session relates to the overall program professional focus and themes. A syllabus must be included that indicates the subject matter for each lecture, panel discussion, group presentation or other activity. The syllabus should also confirm or provisionally identify proposed speakers, trainers, and session leaders, and clearly show how assigned readings will advance the goals of each session. A calendar of all program activities must be included in the proposal, as well as a description of plans for public and media outreach in connection with the program. Overall, proposals will be reviewed on the basis of their responsiveness to RFGP criteria, coherence, clarity, and attention to detail.

Please note: In a cooperative agreement, the Branch for the Study of the United States is substantially involved in program activities above and beyond routine grant monitoring. The Branch will assume the following responsibilities for each Fusion Arts Exchange program: participate in the selection of international participants; oversee the program through regular contact with the administrator(s) and one or more site visits; debrief participants in Washington, DC at the conclusion of the program; and engage in follow-on communication with the participants after they return to their home countries. The Branch may request that the host institution make modifications to the academic residency and/or educational travel components of the program. The recipient will be required to obtain approval of significant program changes in advance of their implementation.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY–2007.

Approximate Total Funding: $1,120,000.

Approximate Number of Awards: 4.

Approximate Average Award: $280,000.

Ceiling of Award Range: $280,000.

Anticipated Award Date: Pending availability of funds, March 1, 2007.

Anticipated Project Completion Date: August 18, 2007.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. *Eligible applicants:* Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. *Cost Sharing or Matching Funds:* There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. *Other Eligibility Requirements:*

a. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. ECA anticipates awarding four grants, in amount over $60,0000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

b. Technical Eligibility: It is the Bureau's intent to award four separate cooperative agreements to four different institutions under this competition. Therefore prospective applicants may only submit one proposal under this competition. All applicants must comply with this requirement. Should an applicant submit multiple proposals under this competition, all proposals will be declared technically ineligible and given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 *Contact Information to Request an Application Package:* Please contact the Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533 to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E/USS–07–FAX located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f. for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

For specific questions on the Fusion Arts Exchange programs, please specify Adam Van Loon, *VanLoonAE@state.gov* and refer to the Funding Opportunity Number ECA/A/E/USS–07–FAX located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov website at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. *Content and Form of Submission:* Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 *Adherence to All Regulations Governing the J Visa.* The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44,

Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2 *Diversity, Freedom and Democracy Guidelines.* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation.* Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.
2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for overall program management, staffing, and coordination with Branch for the Study of the United States. The Branch considers these to be essential elements of your program; please be sure to give sufficient attention to them in your proposal. Please refer to the Technical Eligibility Requirements and the POGI in the Solicitation Package for specific guidelines.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed $280,000 in total and $14,000 per participant. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Program staff salary and benefits;
(2) Participant housing and meals;
(3) Participant travel and per diem;
(4) Textbooks, educational materials and admissions fees;
(5) Honoraria for guest speakers.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission:*

Application Deadline Date: February 9, 2007.

Reference Number: ECA/A/E/USS–07–FAX.

Methods of Submission:

Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. *Submitting Printed Applications.* Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and 10 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/xx–00–xx (each Program Office assigns a unique number), Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

(Include following language re: disk submission only if proposals will be forwarded to embassies. If post input is not necessary, delete language.)

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its (their) review.

IV.3f.2. *Submitting Electronic Applications.* Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*). Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support. Contact Center Phone: 800–518–4726. Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: *support@grants.gov*.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Optional—IV.3f.3 You may also state here any limitations on the number of applications that an applicant may submit and make it clear whether the limitation is on the submitting organization, individual program director or both.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of Program Idea/Plan:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity.

2. *Ability to Achieve Overall Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. *Support for Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue, study tour venue, and program evaluation) and program content (orientation and wrap-up sessions, site visits, program meetings and resource materials).

4. *Evaluation and Follow-Up:* Proposals should include a plan to evaluate the Program's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original program objectives is strongly recommended. Proposals should also discuss provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

5. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items

should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

6. *Institutional Track Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be fully qualified to achieve the Program's goals.

VI. Award Administration Information

VI.1a. *Award Notices:* Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following websites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one (1) copy of the final program and financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. Please refer to Application and Submission Instructions (IV.3d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. *Agency Contacts*

For questions about this announcement, contact: Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533. For specific questions on the Fusion Arts Exchange program, contact Adam Van Loon at VanLoonAE@state.gov.

All correspondence with the Bureau concerning this RFGP should reference the title ''Fusions Arts Exchange'' and number ECA/A/E/USS–07–FAX.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: November 28, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs Department of State.

[FR Doc. E6–20785 Filed 12–6–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5623]

Notice of Meeting of the Cultural Property Advisory Committee

There will be a meeting of the Cultural Property Advisory Committee on Thursday, January 25, 2007, from approximately 9 a.m. to 5 p.m., and on Friday, January 26, from approximately 9 a.m. to 5 p.m., at the Department of State, Annex 44, Room 840, 301 4th St., SW., Washington, DC. During its meeting the Committee will review a proposal to extend the Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru; and a proposal to extend the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Cyprus Concerning the Imposition of Import Restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Material. The concerned Governments have each notified the Government of the United States of America of their interest in extending the respective MOUs.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*). The text of the Act and subject Memoranda of Understanding, as well as related information may be found at *http://exchanges.state.gov/culprop*. Portions of the meeting on January 25 and 26 will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h). However, on January 25, the Committee will hold an open session from approximately 9:30 a.m. to 11 a.m., to receive oral public comment on the proposals to extend. Persons wishing to attend this open session should notify the Cultural Heritage Center of the Department of State at (202) 453–8800 no later than Thursday, January 11, 2007, 3 p.m. (EST) to arrange for admission. Seating is limited.

Anyone wishing to make an oral presentation at the public session must request to be scheduled, must state which MOU—Peru or Cyprus—the presentation will address, and must submit a written text of the oral comments by January 11, 2007, to allow time for distribution to Committee members prior to the meeting. Oral comments will be limited to allow time for questions from members of the Committee and must specifically relate to the determinations under Section 303(a)(1) of the Convention on Cultural Property Implementation Act, 19 U.S.C. 2602, pursuant to which the Committee must make findings. This citation for the determinations can be found at the web site noted above.

The Committee also invites written comments and asks that they be submitted no later than January 11, 2007, to allow time for distribution to Committee members prior to the meeting. All written materials, including the written texts of oral statements, may be faxed to (202) 435–8803. If more than three (3) pages, 20 duplicates of written materials must be sent by express mail to: Cultural Heritage Center, Department of State, Annex 44, 301 4th Street, SW., Washington, DC 20547; tel: (202) 453–8800.

Dated: November 28, 2006.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–20775 Filed 12–6–06; 8:45 am]

BILLING CODE 4710–05–P

TENNESSEE VALLEY AUTHORITY

Supplemental Environmental Impact Statement: Completion of Watts Bar Nuclear Plant Unit 2

AGENCY: Tennessee Valley Authority.

ACTION: Notice of Intent.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's (CEQ) regulations (40 CFR parts 1500–1508) and TVA's procedures for implementing the National Environmental Policy Act. The Tennessee Valley Authority (TVA) will prepare a Supplemental Environmental Impact Statement (EIS) to update information and address the potential environmental impacts associated with its proposal to complete the Watts Bar Nuclear Plant (WBN) Unit 2 located in Rhea County, Tennessee. Completion of WBN Unit 2 would help address the need for additional baseload generation in the power service area of the Tennessee Valley Authority and make use of that unfinished asset.

DATES: Comments on the draft Supplemental EIS will be invited from the public. It is anticipated that the draft Supplemental EIS will be available in the spring of 2007.

ADDRESSES: Information about the Supplemental EIS process can be obtained by contacting Bruce L. Yeager, NEPA Program Manager, NEPA Policy, Environmental Stewardship and Policy, Tennessee Valley Authority, 400 West Summit Hill Drive, Mail Stop WT 11B–K, Knoxville, Tennessee 37902 (e-mail: *blyeager@tva.gov*).

FOR FURTHER INFORMATION CONTACT: James Chardos, Project Manager, Nuclear Generation Development at Tennessee Valley Authority, Mail Stop ADM 1V-WBN, Chattanooga, Tennessee 37402 (e-mail: *jschardos@tva.gov).*

SUPPLEMENTARY INFORMATION: TVA operates the largest public power system in the country. It provides electricity to more than 8.5 million people in parts of seven southeastern states. It also serves 650,000 businesses and industries in this region, including 61 large industrial and federal facilities. TVA currently has 33,000 megawatts of dependable generating capacity on its system. This capacity consists of three nuclear plants, 11 coal-fired plants, six combustion-turbine plants, 29 hydroelectric dams, one pump-storage facility, the southeast's largest wind turbine installation, and one methane-gas capture facility. Slightly more than 60 percent of TVA's installed generating capacity is coal, almost 30 percent is nuclear, and the remaining 10 percent is hydro and other renewable energy resources and combustion turbines.

Demand for electricity in the TVA Power Service Area is growing at the rate of approximately 2 percent per year. In 2005, demand for electricity from the TVA system exceeded the previous all-time high demand (peak demand) on the system twice. To meet this growing demand TVA anticipates having to add additional baseload capacity to its system by no later than the 2012-2014 timeframe. Completing TVA's partially-constructed WBN Unit 2 would not only help meet this growing need for generation but also make use of that unfinished asset. TVA is further supplementing the original 1972 Environmental Statement for the plant and updating pertinent information discussed and evaluated in the related documents identified below to inform decision makers about the potential for environmental impacts that would be associated with a decision to complete and operate WBN Unit 2. On July 28, 2006, the TVA Board of Directors also authorized staff to conduct a comprehensive Detailed, Scoping, Estimating and Planning (DSEP) study to evaluate the cost and schedule for completing WBN Unit 2.

WBN is located on 1,700 acres at the northern end of Chickamauga Reservoir about 8 miles from Spring City, Tennessee. The Atomic Energy Commission (AEC) issued construction permits (now the responsibility of the Nuclear Regulatory Commission (NRC)) for the two-unit, 2,540 MW plant in January of 1973. In 1985, TVA halted construction activities for WBN in order to address safety concerns. Due to these construction delays, WBN Unit 1 did not begin commercial operation until May 1996. The plant currently has one Westinghouse pressurized-water reactor with a capacity of 1,167 megawatts—enough electricity to supply about 650,000 homes a day. WBN Unit 2 was approximately 60 percent complete when construction was halted in 1985.

Summary of Relevant Environmental Reviews

In 1972, TVA released a Final EIS that reviewed the potential environmental and socioeconomic impacts of constructing and operating the two-unit plant (WBN Units 1 and 2). TVA updated the WBN EIS in November 1976 and submitted additional environmental information and analyses to NRC in an Environmental Information Supplement in 1977. In December of 1978, NRC issued its Final EIS, NUREG-0498 related to the licensing of the two-unit plant.

In 1993, TVA conducted a thorough review of the TVA and NRC documents to determine if additional environmental review was needed to inform decisions about whether or not to complete WBN Units 1 and 2. The 1993 TVA review, focusing on ten sections of the earlier documents, concluded that neither the plant design nor environmental conditions had changed in a manner that materially altered the environmental impact analysis set forth in the earlier EIS. In 1994, TVA provided additional analyses and information in support of NRC's issuance of a Supplemental EIS. That Supplemental EIS, issued by NRC in 1995, similarly concluded that there were no significant changes in the potential environmental impacts of WBN 1 and 2 since the 1978 Final Environmental Statement issued by the NRC. Following independent review of the adequacy of the analyses and document, in July of 1995 TVA adopted the 1995 NRC final Supplemental EIS for the completion of WBN Unit 1. In

August 1995, TVA issued a ROD stating the agency decision to complete WBN Unit 1. In 1998, TVA prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for a project to provide supplemental condenser cooling water to WBN for the purpose of increasing power generation from Unit 1 that was constrained by cooling tower performance.

TVA participated as a cooperating agency with the Department of Energy (DOE) on an environmental review evaluating the production of tritium at one or more commercial light water reactors (CLWRs) to ensure safe and reliable tritium supply for U.S. defense needs. In March 1999, the Secretary of the DOE designated the TVA Watts Bar and Sequoyah Nuclear Plants as the Preferred Alternative for CLWR tritium production in the CLWR EIS. DOE issued its Record of Decision (ROD) in May of 1999. TVA subsequently issued its own Notice of Adoption and ROD for the Final EIS in May of 2000. Tritium production subsequently began at WBN Unit 1 in 2003. TVA's proposed completion and operation of WBN Unit 2 does not include provision for tritium production, however pertinent information on spent nuclear fuel management is included in the CLWR EIS. As appropriate, TVA intends to incorporate, utilize, and update information from these earlier plant-specific analyses for the present Supplemental EIS.

In December 1995, TVA also completed a comprehensive environmental review of alternative means of meeting demand for power on the TVA system through the year 2020. This review was in the form of a Final EIS titled the Integrated Resource Plan —Energy Vision 2020. Completion of WBN Unit 2 was evaluated in this Final EIS. To address future demand for electricity, TVA decided to rely on a portfolio of energy resource options, including new generation and conservation. Because of uncertainties about performance and cost, completion of WBN Unit 2 was not included in the portfolio of resource options. In the Integrated Resource Plan, TVA made conservative assumptions about the capacity factor (roughly how much a unit would be able to run) nuclear units generally would achieve and this capacity factor was used in conducting the economic analyses of nuclear resource options. TVA nuclear units, consistent with U.S. nuclear industry performance, now routinely exceed this earlier assumed capacity factor, which changes the earlier analyses and will be taken into account in the current consideration of completing WBN Unit 2.

In February of 2004, TVA issued a Final EIS for its Reservoir Operations Study (ROS) evaluating the potential environmental impacts of alternative ways for operating the agency's reservoir system to produce overall greater public value for the people of the Tennessee Valley. That Final EIS review included provision of adequate water supply for reliable, efficient operation of TVA generating facilities, such as WBN, within their operating limits of National Pollutant Discharge Elimination System (NPDES) and other permits. A ROD for the ROS Final EIS was subsequently issued in May of 2004.

TVA will incorporate assumptions for reservoir operations resulting from the ROS Final EIS review in the present evaluation.

Proposed Action and Need for Power

The proposal under consideration by TVA is to meet the demand for additional baseload capacity on the TVA system and maximize the use of existing assets by completing and operating WBN Unit 2 alongside its sister unit, WBN Unit 1 that has been operating since 1996. The environmental impacts of other energy resource options were evaluated as part of TVA's Energy Vision 2020 Final EIS. As part of the present supplemental environmental review, TVA will update the Need for Power analysis, as well as consider any new environmental information.

Preliminary Identification of Environmental Issues

This Supplemental EIS will discuss the need to complete WBN Unit 2 and will update information on existing environmental, cultural, recreational, and socioeconomic resources, as appropriate. The Supplemental EIS will also update the analysis of potential environmental impacts resulting from construction, operation, and maintenance of WBN Unit 2, and the total impacts occurring with concurrent operation of WBN Unit 1. The update of potential environmental impacts will include, but not necessarily be limited to, the potential impacts on water quality, vegetation, wildlife, aquatic ecology, endangered and threatened species, floodplains, wetlands, land use, cultural and historic resources, socioeconomics, spent fuel management, and radiological impacts, as well as an analysis of severe accident mitigation alternatives. Information from TVA's and NRC's previous environmental reviews (described above) that is relevant to the current assessment would be incorporated by reference and appropriately summarized in the Supplemental EIS.

Public and Agency Participation

This Supplemental EIS is being prepared to update information and to inform decision-makers and the public about the potential environmental impacts of completing and operating WBN Unit 2. The Supplemental EIS process also will provide the public an opportunity to comment on TVA's analyses. Other federal, state, and local agencies and governmental entities will be asked to comment, including the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the Tennessee Department of Environmental and Conservation.

TVA will invite the public and agencies to submit written, verbal or e-mail comments on the draft Supplemental EIS. It is anticipated the draft Supplemental EIS will be released in the spring of 2007. Notice of availability of the Supplemental EIS will be published in the **Federal Register**, as well as announced in local news media. TVA expects to release a final Supplemental EIS in the summer of 2007.

Dated: November 28, 2006.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. E6–20761 Filed 12–6–06; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2006–26251]

Reports, Forms and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: 60-day Notice—Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995 (PRA), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information. In this case, the information collection consists of a load carrying capacity label applied to all motor homes and recreation vehicle

(RV) trailers and a load carrying capacity modification label which corrects original load carrying capacity information on all RVs and light vehicles when significant additional weight is added between final vehicle certification and first retail sale. The load carrying capacity modification label is an alternative to current methods of information correction which requires the original label to be replaced. A PRA 60-day notice was included with the published notice of proposed rulemaking (NPRM) on October 31, 2005 (70 FR 51707), however, since the original notice was a year old and the PRA burden information has been updated, NHTSA decided to publish a second 60-day notice. This notice is related only to obtaining OMB information collection approval under the PRA and is not part of or a substitute for the final rule amending FMVSS Nos. 110 and 120 by adding load carrying capacity requirements which should be published in the near future.

DATES: Comments must be received on or before February 5, 2007.

ADDRESSES: Comments may be submitted in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. Alternatively, comments may be submitted electronically by logging onto the Docket Management System. The Web site can be accessed at *http://dms.dot.gov*. Click on ''Help'' to view instructions on how to make an electronic submission. Regardless of how comments are submitted, the docket number of this document must be mentioned. The Docket Management Office hours are from 10 a.m. to 5 p.m., Monday through Friday except Federal holidays and may be contacted by calling 202–366–9324.

FOR FURTHER INFORMATION CONTACT: William D. Evans, NHTSA, NVS–123, Room 5320i, 400 Seventh Street, SW., Washington, DC, 20590. Mr. Evans may also be reached by calling 202–366–2272.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking OMB approval.

Title: Load Carrying Capacity Label for Motor Homes and RV Trailers.

OMB Control Number: New.

Affected Public: Manufacturers and Dealers of Motor Homes and RV Trailers.

Form Number: No standard form will be used in this collection.

Abstract: Information collection under this proposal consists of a load carrying capacity label applied to all motor homes and recreation vehicle (RV) trailers. The information collection also involves a load carrying capacity modification label which corrects original load carrying capacity information on all RVs and light vehicles when significant additional weight is added between final vehicle certification and first retail sale. The load carrying capacity modification label is a voluntary alternative to current requirements which states that the original label or placard must be replaced when additional weight is added. A PRA 60-day notice was included with the published NPRM on August 31, 2005 (70 FR 51707), however, since the original notice was a year old and the PRA burden information has been updated, NHTSA decided to publish a second 60-day notice. This notice is related only to obtaining OMB information collection approval under the PRA and is not part of or a substitute for the final rule amending FMVSS Nos. 110 and 120 by adding load carrying capacity requirements which should be published in the near future.

Our estimates of the burden that this rulemaking imparts on all motor home and RV trailer manufacturers and manufacturers of light vehicles other than motor homes are given below. There is no burden to the general public. RV estimates are based on the fact that approximately 95% of all RV manufacturers currently belong to RVIA and already voluntarily apply load carrying capacity labels to the vehicles they produce. When this proposal becomes a final rule and the final rule becomes effective, it is predicted that these 95% of RVs will replace the current voluntary label with the NHTSA label at no additional cost. Therefore, any additional cost for information collection imparted by this final rule is a result of the remaining 5% of RV manufacturers to apply load carrying capacity labels and the cost to RV dealers/service facilities that choose to apply the load carrying capacity modification label. The cost to manufacturers of light vehicles other than RVs is minimal as most vehicles will not exceed a predetermined threshold for compliance that dealers/service facilities will not be required to update load carrying capacity information. The additional cost for information collection to light vehicle manufacturers other than RV manufacturers result from those who choose to correct load carrying capacity information by applying the load carrying capacity modification label. The label is not mandatory; it is simply an alternative to correcting load carrying capacity information by replacing or updating the original tire placard/label when the added weight threshold is exceeded.

The following are the cost and hour burden estimates resulting from the proposed load carrying capacity information requirements. Numbers are based on 2005 estimates.

RV manufacturers and manufacturers of light vehicles other than RVs already have the following knowledge, information and resources and therefore these items will not impose any additional cost and/or hour burden.

Vehicle gross vehicle weight rating (GVWR).

Means to print or procure labels.

Scale system for weighing vehicles.

Estimated annual hour burden to the 5% of RV manufacturers that are not RVIA members to weigh an RV in order to determine unloaded vehicle weight (UVW):

Estimated labor hours to weigh an RV = .16 hours/RV.

Approximately 419,500 RVs shipped in 2005.

It is estimated that 5%, or 20,975 RVs/year, currently do not voluntarily display CCC information, as their manufacturers are not members of RVIA.

20,975 RVs/year × .16 hours/RV = 3,356 hours/year.

Estimated annual cost to the 5% of RV manufacturers that are not RVIA members to procure or produce motor home load carrying capacity labels and RV trailer cargo carrying capacity labels:

Estimated cost to produce labels = $0.15/RV.

Approximately 419,500 RVs shipped in 2005.

It is estimated that 5%, or 20,975 RVs/year, currently do not voluntarily display CCC information, as their manufacturers are not members of RVIA.

20,975 RVs/year × $0.15/RV = $3,146/year.

Estimated annual hour burden to the 5% of RV manufacturers that are not RVIA members to install motor home load carrying capacity labels and RV trailer cargo carrying capacity labels:

Estimated labor hours to install labels = .02 hours/RV.

Approximately 419,500 RVs shipped in 2005.

It is estimated that 5%, or 20,975 RVs/year, currently do not voluntarily display CCC information, as their manufacturers are not members of RVIA.

20,975 RVs/year × .02 hours/RV = 420 hours/year.

Estimated annual cost to RV manufacturers to procure or produce the load carrying capacity modification labels when necessary:

Estimated cost to procure or produce labels = $0.05/RV.

Approximately 419,500 RVs shipped in 2005.

An estimated 25%, or 104,875 RVs/year, will receive the CCC modification label.

104,875 RVs/year × $0.05/RV = $5,245/year.

Estimated annual hour burden to RV manufacturers to install the load carrying capacity modification labels when necessary:

Estimated labor hours to install labels = .02 hours/RV.

Approximately 419,500 RVs shipped in 2005.

An estimated 25%, or 104,875 RVs/year, will receive the CCC modification label.

104,875 RVs/year × .02 hours/RV = 2,098 hours/year.

Estimated annual cost to light vehicle manufacturers to procure or produce the load carrying capacity modification labels when necessary:

Estimated cost to procure or produce labels = $0.05/light vehicle.

Approximately 17,000,000 light vehicles shipped in 2005.

An estimated 1%, or 170,000 light vehicles/year, will receive the CCC modification label.

170,000 light vehicles/year × $0.05/light vehicle = $8,500/year.

Estimated annual hour burden to light vehicle manufacturers to insert values and install the load carrying capacity modification labels when necessary/desired:

Estimated labor hours to install labels = .02 hours/light vehicle.

Approximately 17,000,000 light vehicles shipped in 2005.

An estimated 1%, or 170,000 light vehicles/year, will receive the CCC modification label.

170,000 light vehicles/year × .02 hours/light vehicle = 3,400 hours/year.

Total estimated Annual Burden: 9,274 hours.

Number of Respondents: 99.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: December 1, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 06–9560 Filed 12–6–06; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34953]

Midtown TDR Ventures LLC—Acquisition Exemption—American Premier Underwriters, Inc., The Owasco River Railway, Inc., and American Financial Group, Inc.

Midtown TDR Ventures LLC, a noncarrier, filed a notice of exemption under 49 CFR 1150.31 to acquire 156 miles of rail line and certain assets related to Grand Central Terminal in New York City (collectively, Properties) from American Premier Underwriters, Inc. (APU), a noncarrier, APU's wholly owned subsidiary, The Owasco River Railway, Inc., a noncarrier, and APU's parent, American Financial Group, Inc., a noncarrier, (collectively, Sellers). The acquired rail line, referred to as the ''Harlem-Hudson Line,'' extends from milepost 0.0 at Grand Central Terminal in New York City to milepost 5.2 at Mott Junction, thereafter, diverging in two directions, with one line running north to milepost 75.7 at Poughkeepsie, NY, and a second line proceeding east to milepost 11.8 at Woodlawn Junction, then north to milepost 82.0 at Wassaic, NY.

Midtown will acquire a fee simple interest in the Properties, subject to an existing long-term lease to Metropolitan Transportation Authority (MTA), which grants MTA exclusive control over the Harlem-Hudson Line (MTA lease).[1] Midtown indicates that it will not provide any transportation services or acquire a common carrier obligation to provide freight rail service on the Properties.[2]

Freight rail service over the Harlem-Hudson Line is provided pursuant to trackage rights agreements MTA has entered into with CSX Transportation, Inc. (CSXT), and the Delaware and Hudson Railway Company, Inc. (D&H). Midtown indicates that, like the MTA lease, the CSXT and D&H trackage rights agreements will remain in place following the consummation of the proposed transaction, and will be unaffected by this transaction.

Midtown certifies that its projected annual freight revenues as a result of this transaction will not exceed $5 million, and will not result in the creation of a Class II or Class I rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34953, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on George W. Mayo, Jr., Hogan & Hartson LLP, 555 Thirteenth Street, NW., Washington, DC 20004–1109.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 30, 2006.

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[1] The MTA lease term expires on February 28, 2274. MTA uses the Harlem-Hudson Line to provide commuter service through its subsidiary, Metro-North Commuter Railroad Company.

[2] Simultaneously with the filing of this notice, Midtown has filed a motion to dismiss the notice of exemption in this proceeding, arguing that the Board lacks jurisdiction over the proposal. The motion will be addressed in a subsequent Board decision.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–20655 Filed 12–6–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 1, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before January 8, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1550.

Type of Review: Extension.

Title: Notice 97–45, Highly Compensated Employee Definition.

Description: This notice provides guidance on the definition of a highly compensated employee within the meaning of section 414(q) of the Internal Revenue Code as simplified by section 1431 of the Small Business Job Protection Act of 1996, including an employer's option to make a top-paid group election under section 414(q)(1)(B)(ii).

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 65,605 hours.

OMB Number: 1545–1849.

Type of Review: Extension.

Title: Employer/Payer Information.

Form: 13460.

Description: Form 13460 is used to assist filer's who have under-reporter or correction issues. Also, this form expedites research of filer's problems.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 50 hours.

OMB Number: 1545–0002.

Title: Employee Representative's Quarterly Railroad Tax Return.

Type of Review: Extension.

Form: CT–2.

Description: Employee representatives file Form CT–2 quarterly to report compensation on which railroad retirement taxes are due. IRS uses this information to ensure that employee representatives have paid the correct tax. Form CT–2 also transmits the tax payment.

Respondents: Individuals or households.

Estimated Total Burden Hours: 127 hours

OMB Number: 1545–1858.

Title: Notice 2003–67, Notice on Information Reporting for Payments in Lieu of Dividends.

Type of Review: Extension.

Description: This notice provides guidance to brokers and individuals regarding provisions in the Jobs and Growth Tax Relief Reconciliation Act of 2003. The notice provides rules for brokers to use in determining loanable shares and rules for allocating transferred shares for purposes of determining payments in lieu of dividend reportable to individuals. These rules require brokers to comply with certain recordkeeping requirements to use the favorable rules for determining loanable shares and for allocating transferred shares that may give rise to payments in lieu of dividends.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 60,000 hours.

OMB Number: 1545–0135.

Title: Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback.

Form: 1138.

Type of Review: Extension.

Description: Form 1138 is filed by corporations to request an extension of time to pay their income taxes, including estimated taxes. Corporations may only file for an extension when they expect a net operating loss carryback in the tax year and want to delay the payment of taxes from a prior tax year.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 9,800 hours.

OMB Number: 1545–1573.

Title: REG–130477–00; REG–130481–00 (Final), Required Distributions from Retirement Plans.

Type of Review: Extension.

Description: The regulation permits a taxpayer to name a trust as the beneficiary of the employee's benefit under a retirement plan and use the life expectancies of the beneficiaries of the trust to determine the required minimum distribution, if certain conditions are satisfied.

Respondents: Individuals or households.

Estimated Total Burden Hours: 333 hours.

OMB Number: 1545–1694.

Title: Revenue Ruling 2000–35 Automatic Enrollment in Section 403(b) Plans.

Type of Review: Extension.

Description: Revenue Ruling 2000–35 describes certain criteria that must be met before an employee's compensation can be reduced and contributed to an employer's section 403(b) plan in the absence of an affirmative election by the employee.

Respondents: State, local or tribal governments.

Estimated Total Burden Hours: 175 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E6–20769 Filed 12–6–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Bank Secrecy Act Advisory Group; Solicitation of Application for Membership

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice.

SUMMARY: FinCEN is inviting the public to nominate financial organizations and trade groups for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms.

DATES: Nominations must be received by January 8, 2007.

ADDRESSES: Applications may be mailed (not sent by facsimile) to Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, P.O. BOX 39, Vienna, VA 22183 or e-mailed to: *BSAAG@fincen.gov.*

FOR FUTHER INFORMATION CONTACT: Yesenia Armijo, Regulatory Policy Specialist at 202–354–6400.

SUPPLEMENTARY INFORMATION: The Annunzio-Wylie Anti-Money Laundering Act of 1992 required the Secretary of the Treasury to establish a Bank Secrecy Act Advisory Group (BSAAG) consisting of representatives from Federal regulatory and law enforcement agencies, financial institutions, and trade groups subject to the reporting requirements of the Bank Secrecy Act, 31 CFR 103 *et seq.* or Section 6050I of the Internal Revenue Code of 1986. The BSAAG is the means by which the Secretary receives advice on the operations of the Bank Secrecy Act. As chair of the BSAAG, the Director of FinCEN is responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. Ultimately, the BSAAG will make policy recommendations to the Secretary on issues considered.

New members will be selected to serve a three-year term. Applications should consist of:

- Point of contact, title, address, e-mail address, phone number
- Description of the financial institution or trade group and its involvement with the Bank Secrecy Act, 31 C.F.R. 103 *et seq.*
- Reasons why its participation on the BSAAG will bring value to the group Entities may nominate themselves.

FinCEN is interested in bringing representatives from state regulatory agencies, state regulator trade groups, self-regulatory organizations, industry trade groups, and industry members together with federal law enforcement and federal regulatory agencies to help advise the Secretary of the Treasury on matters relating to the administration of the Bank Secrecy Act. Members must be able and willing to make the necessary time commitment to participate on sub-committees throughout the year by phone and attend biannual plenary meetings held in Washington DC in the spring and fall. Members will not be remunerated for their time, services, or travel.

In making the selections, FinCEN will seek to complement current BSAAG members in terms of affiliation, industry, and geographic representation. The Director of FinCEN retains full discretion on all membership decisions. The Director may consider prior years' applications when making selections and does not limit consideration to institutions nominated by the public when making its selection.

Based on current BSAAG position openings we encourage applications from the following sectors or types of organizations with experience working on the Bank Secrecy Act:

- State Regulatory Agency (1 vacancy)
- State Regulator Trade Group (1 vacancy)
- Industry Trade Group—Banking Sector (1 vacancy)
- Industry Trade Group—Casino (1 vacancy)
- Industry Trade Group—Precious Metals, Stones, and Jewels (1 vacancy) [1]
- Industry Trade Group—Money Services Business Sector (1 vacancy)
- Industry Representatives Banking (2 vacancies)
- Industry Representatives Securities/Futures (2 vacancies) [2]
- Industry Representatives Money Services Business (1 vacancy)

BSAAG members whose terms end as of February 28, 2007 [3], are:

State Regulatory Agency

- New York State Banking Department

State Regulator Trade Group

- California Bankers Association.

Industry Trade Group—Banking Sector

- Independent Community Bankers Association

Industry Trade Group—Casino

- American Gaming Association.

Industry Trade Group—Money Services Business Sector

- Financial Service Center of America

Industry Representatives Banking

- Branch Bank & Trust
- Pentagon Federal Credit Union

Industry Representatives Securities/Futures

- Morgan Stanley

Industry Representatives Money Services Business

- American Express

Dated: November 30, 2006.

Robert W. Werner,

Director, Financial Crimes Enforcement Network.

[FR Doc. E6–20709 Filed 12–6–06; 8:45 am]

BILLING CODE 4810–02–P

[1] This is a newly created position in light of the decision adopted at the May 2006 BSAAG Plenary.

[2] An additional position was created in light of the decision adopted at the May 2006 BSAAG Plenary.

[3] State regulatory agencies, state regulator trade groups, self-regulatory organizations, and industry trade groups can serve renewable three-year terms at the discretion of the Director of FinCEN. Industry members may not serve consecutive terms but may serve multiple terms.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Narcotics Traffickers Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of three individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers.

DATES: The unblocking and removal from the list of Specially Designated Narcotics Traffickers of the individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, occurred on November 28, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Houghton, Assistant Director, Designation Investigations, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2420.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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

Background

On October 21, 1995, the President issued Executive Order 12978 (the ''Order'') pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code.

In the Order, the President declared a national emergency to address actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The Order imposes economic sanctions on foreign persons who are determined to play a significant role in international narcotics trafficking centered in Colombia; or materially to assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons

designated in or pursuant to the order; or to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order.

The Order included 4 individuals in the Annex, which resulted in the blocking of all property or interests in property of these persons that was or thereafter came within the United States or the possession or control of U.S. persons. The Order authorizes the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to designate additional persons or entities determined to meet certain criteria set forth in EO 12978.

On November 28, 2006, the Director of OFAC removed from the list of Specially Designated Narcotics Traffickers the individuals listed below, whose property and interests in property were blocked pursuant to EO 12978.

The list of the unblocked individuals follows:

1. Avila Barbosa, Edilberto, c/o GAD S.A., La Union, Valle, Colombia; c/o Casa Grajales S.A., La Union, Valle, Colombia; c/o FREXCO S.A., La Union, Valle, Colombia; c/o International Freeze Dried S.A., Bogota, Colombia; DOB 28 Apr 1963; POB Bogota, Colombia; Cedula No. 79041212 (Colombia) (individual) [SDNT]

2. Forero Fernandez, Alberto Mario, c/o Happy Days S. de H., Barranquilla, Colombia; Cedula No. 8715143 (Colombia) (individual) [SDNT]

3. Zuniga Osorio, Marco Fidel, c/o Laboratorios Blanco Pharma, Bogota, Colombia; c/o Farmatodo S.A., Bogota, Colombia; DOB 15 Apr 1967; Cedula No. 72144581 (Colombia) (individual) [SDNT]

Dated: November 28, 2006.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E6–20772 Filed 12–6–06; 8:45 am]

BILLING CODE 4811–42–P

Federal Register

Thursday,
December 7, 2006

Part II

The President

Executive Order 13416—Strengthening Surface Transportation Security

Federal Register
Vol. 71, No. 235
Thursday, December 7, 2006

Presidential Documents

Title 3—

The President

Executive Order 13416 of December 5, 2006

Strengthening Surface Transportation Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen the security of the Nation's surface transportation systems and thereby enhance the protection of the people, property, and territory of the United States of America against terrorist attacks, it is hereby ordered as follows:

Section 1. *Policy.* The security of our Nation's surface transportation systems is a national priority, vital to our economy, and essential to the security of our Nation. Federal, State, local, and tribal governments, the private sector, and the public share responsibility for the security of surface transportation. It is the policy of the United States to protect the people, property, and territory of the United States by facilitating the implementation of a comprehensive, coordinated, and efficient security program to protect surface transportation systems within and adjacent to the United States against terrorist attacks.

Sec. 2. *Definitions.* For purposes of this order:

(a) ''agencies'' means those executive departments enumerated in 5 U.S.C. 101, independent establishments as defined by 5 U.S.C. 104(1), government corporations as defined by 5 U.S.C. 103(1), and the United States Postal Service;

(b) ''Secretary'' means the Secretary of Homeland Security;

(c) ''security guideline'' means any security-related guidance that the Secretary recommends, for implementation on a voluntary basis, to enhance the security of surface transportation;

(d) ''security requirement'' means any ''regulatory action'' as defined in section 3 of Executive Order 12866 of September 30, 1993, as amended (Regulatory Planning and Review), including security directives when appropriate, to implement measures to enhance the security of surface transportation;

(e) ''surface transportation modes'' means mass transit, commuter and long-distance passenger rail, freight rail, commercial vehicles (including intercity buses), and pipelines, and related infrastructure (including roads and highways), that are within the territory of the United States, but does not include electric grids; and

(f) ''surface transportation'' means any conveyance of people, goods, or commodities using one or more surface transportation modes.

Sec. 3. *Functions of the Secretary of Homeland Security.* The Secretary is the principal Federal official responsible for infrastructure protection activities for surface transportation. To implement the policy set forth in section 1 of this order, the Secretary shall, consistent with the National Infrastructure Protection Plan (NIPP), in coordination with the Secretary of Transportation, and in consultation with the heads of other relevant agencies:

(a) assess the security of each surface transportation mode and evaluate the effectiveness and efficiency of current Federal Government surface transportation security initiatives;

(b) building upon current security initiatives, not later than December 31, 2006, develop a comprehensive transportation systems sector specific plan, as defined in the NIPP;

(c) not later than 90 days after the comprehensive transportation systems sector specific plan is completed, develop an annex to such plan that addresses each surface transportation mode, which shall also include, at a minimum—

(i) an identification of existing security guidelines and security requirements and any security gaps, a description of how the transportation systems sector specific plan will be implemented for such mode, and the respective roles, responsibilities, and authorities of Federal, State, local, and tribal governments and the private sector;

(ii) schedules and protocols for annual reviews of the effectiveness of surface transportation security-related information sharing mechanisms in bringing about the timely exchange of surface transportation security information among Federal, State, local, and tribal governments and the private sector, as appropriate; and

(iii) a process for assessing (A) compliance with any security guidelines and security requirements issued by the Secretary for surface transportation, and (B) the need for revision of such guidelines and requirements to ensure their continuing effectiveness;

(d) in consultation with State, local, and tribal government officials and the private sector, not later than 180 days after the date of this order, identify surface transportation modes, or components thereof, that are subject to high risk of terrorist attack, draft appropriate security guidelines or security requirements to mitigate such risks, and ensure that, prior to their issuance, draft security requirements are transmitted to the Office of Management and Budget for review in accordance with Executive Order 12866 and draft security guidelines receive appropriate interagency review;

(e) develop, implement, and lead a process, in collaboration with other agencies, State, local, and tribal governments, and the private sector, as appropriate, to coordinate research, development, testing, and evaluation of technologies (including alternative uses for commercial off-the-shelf technologies and products) relating to the protection of surface transportation, including—

(i) determining product and technology needs to inform the requirements for and prioritization of research, development, testing, and evaluation, based on the security guidelines and security requirements developed pursuant to subsection (c) of this section and evolving terrorist threats to the security of surface transportation;

(ii) collecting information on existing and planned research, development, testing, and evaluation efforts; and

(iii) not later than 180 days after the date of this order, consistent with section 313 of the Homeland Security Act of 2002, as amended (6 U.S.C. 193), establishing and making available to Federal, State, local, and tribal government entities, and private sector owners and operators of surface transportation systems, lists of available technologies and products relating to the protection of surface transportation; and

(f) use security grants authorized by law to assist in implementing security requirements and security guidelines issued pursuant to law and consistent with subsection (c) of this section.

Sec. 4. *Duties of Heads of Other Agencies.* Heads of agencies, as appropriate, shall provide such assistance and information as the Secretary may request to implement this order.

Sec. 5. *General Provisions.* This order:

(a) shall be implemented consistent with applicable law and the authorities of agencies, or heads of agencies, vested by law, and subject to the availability of appropriations;

(b) shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals; and

(c) is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
December 5, 2006.

[FR Doc. 06–9619
Filed 12–6–06; 11:43 am]
Billing code 3195–01–P

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 409/P.L. 109–375

Sierra National Forest Land Exchange Act of 2006 (Dec. 1, 2006; 120 Stat. 2656)

H.R. 860/P.L. 109–376

To provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District, El Paso County, Texas. (Dec. 1, 2006; 120 Stat. 2659)

H.R. 1129/P.L. 109–377

Pitkin County Land Exchange Act of 2006 (Dec. 1, 2006; 120 Stat. 2660)

H.R. 3085/P.L. 109–378

To amend the National Trails System Act to update the feasibility and suitability study originally prepared for the Trail of Tears National Historic Trail and provide for the inclusion of new trail segments, land components, and campgrounds associated with that trail, and for other purposes. (Dec. 1, 2006; 120 Stat. 2664)

H.R. 5842/P.L. 109–379

Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006 (Dec. 1, 2006; 120 Stat. 2666)

S. 101/P.L. 109–380

To convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation. (Dec. 1, 2006; 120 Stat. 2671)

S. 1140/P.L. 109–381

To designate the State Route 1 Bridge in the State of Delaware as the ''Senator William V. Roth, Jr. Bridge''. (Dec. 1, 2006; 120 Stat. 2672)

S. 4001/P.L. 109–382

New England Wilderness Act of 2006 (Dec. 1, 2006; 120 Stat. 2673)

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