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Presidential Documents

Title 3—

The President

Presidential Determination No. 2007–17 of April 25, 2007

Transfer of Defense Articles and Services in Support of the Southern Sudan Security Sector Reform (SSR) Program

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and laws of the United States, including section 40(g) of the Arms Export Control Act (AECA) and section 301 of title 3, United States Code, I hereby:

• Determine and certify that the transaction, encompassing U.S. Government-funded transfers and commercial exports of defense articles and services necessary for an SSR program for the security sector of the Government of Southern Sudan, including support for: transformation of the Sudan People's Liberation Army from a guerrilla force into a smaller, conventional force; the Sudan People's Liberation Movement; a protective service detail, police service, intelligence, and other law enforcement entities of the Government of Southern Sudan; and private entities involved in the SSR program, is essential to the national security interests of the United States;

• Waive the prohibitions in section 40 of the AECA related to such a transaction; and

• Assign to you the functions of the President under section 40(g)(2) of the AECA to consult with and submit reports to the Congress for proposed specific transfers or exports, 15 days prior to permitting them to proceed, that are necessary for and within the scope of this waiver determination and the transaction referred to herein.

You are authorized and directed to report this determination to the Congress and arrange for its publication in the **Federal Register**.

THE WHITE HOUSE,
Washington, August 28, 2006.

[FR Doc. 07–2319
Filed 5–8–07; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register

Vol. 72, No. 89

Wednesday, May 9, 2007

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26692; Directorate Identifier 2006–CE–89–AD; Amendment 39–15043; AD 2007–10–02]

RIN 2120–AA64

Airworthiness Directives; REIMS AVIATION S.A. Model F406 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 aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

* * * Corrosion on the bearings with propagation to the bracket-hinge of the rudder. This corrosion has been discovered after rudder removals. This condition, if left uncorrected, could result in the loss of the rudder control on the airplane.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective June 13, 2007.

On June 13, 2007 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

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

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

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 27, 2007 (72 FR 8639). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that there have been:

* * * Corrosion on the bearings with propagation to the bracket-hinge of the rudder. This corrosion has been discovered after rudder removals. This condition, if left uncorrected, could result in the loss of the rudder control on the airplane.

You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 7 products of U.S. registry. We also estimate that it will take about 6 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $100 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $4,060 or $580 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–10–02 REIMS AVIATION S.A.: Amendment 39–15043; Docket No. FAA–2006–26692; Directorate Identifier 2006–CE–89–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 13, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Reims Aviation S.A. Model F406 airplanes, serial numbers F406–0001 through F406–0092, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that there have been:

* * * Corrosion on the bearings with propagation to the bracket-hinge of the rudder. This corrosion has been discovered after rudder removals. This condition, if left uncorrected, could result in the loss of the rudder control on the airplane.

Actions and Compliance

(e) Unless already done, do the following actions:

(1) Within the next 100 hours time-in-service (TIS) or 3 months after the effective date of this AD, whichever occurs first, do a one-time inspection of the rudder brackets-hinge and bearings for corrosion in accordance with the accomplishment instructions of REIMS AVIATION INDUSTRIES Service Bulletin No. F406–57, dated April 25, 2005. If corrosion is found, replace these parts before further flight.

(2) Within 600 hours TIS or 12 months after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 12 months, repetitively lubricate the rudder bearings. During this step, remove the rudder in accordance with the accomplishment instructions of Reims Aviation Industries Service Bulletin No. F406–57, dated April 25, 2005.

Note 1: We have established the repetitive inspection times of this AD so that they may coincide with annual inspections.

Note 2: We encourage you to put Reims temporary revision No. 4 into the maintenance program of the F406 airplane (chapter 5–10–01, page 17 of the maintenance manual).

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: We have added repetitive inspection requirements in the AD to coincide with the maintenance requirement in the service bulletin.

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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri, 64106; telephone: (816) 329–4144; 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 MCAI Direction générale de l'aviation civile (DGAC), which is the aviation authority for France, AD No. F–2005–081, dated May 25, 2005; and REIMS AVIATION INDUSTRIES Service Bulletin No. F406–57, dated April 25, 2005, for related information.

Material Incorporated by Reference

You must use REIMS AVIATION INDUSTRIES Service Bulletin No. F406–57, dated April 25, 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 REIMS AVIATION INDUSTRIES, 51360 PRUNAY—FRANCE.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on April 30, 2007.

Charles L. Smalley,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–8760 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21748; Directorate Identifier 2005–NM–071–AD; Amendment 39–15044; AD 2007–10–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series 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 767–200 and –300 series airplanes. For certain airplanes, this AD requires repetitive inspections for discrepancies of the tube assemblies and insulation of the metered fire extinguisher system and the bleed air duct couplings of the auxiliary power unit (APU) located in the aft cargo compartment, and corrective actions if necessary. For certain other airplanes, this AD requires a one-time inspection for sufficient clearance between the fire extinguishing tube and the APU bleed air duct in the aft cargo compartment, and modification if necessary. This AD also requires an inspection for signs of chafing and to verify sufficient clearance between the fire extinguisher system and the bleed air duct couplings of the APU. This AD results from one report indicating that an operator found a hole in the discharge tube assembly for the metered fire extinguishing system; and another report indicating that an operator found chafing of the fire extinguishing tube against the APU duct that resulted in a crack in the tube. We are issuing this AD to prevent fire extinguishing agent from leaking out of the tube assembly in the aft cargo compartment which, in the event of a fire in the aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent, and consequent inability of the fire extinguishing system to suppress the fire.

DATES: This AD becomes effective June 13, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 13, 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 service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Marcia Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6484; 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 issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 767–200 and –300 series airplanes. That supplemental NPRM was published in the **Federal Register** on June 7, 2006 (71 FR 32873). For certain airplanes, that supplemental NPRM proposed to require repetitive inspections for discrepancies of the tube assemblies and insulation of the metered fire extinguisher system and the bleed air duct couplings of the auxiliary power unit (APU) located in the aft cargo compartment; and corrective actions if necessary. For certain other airplanes, that supplemental NPRM proposed to require a one-time inspection for sufficient clearance between the fire extinguishing tube and the APU bleed air duct in the aft cargo compartment, and modification if necessary. That supplemental NPRM also proposed to require an inspection for signs of chafing and to verify sufficient clearance between the fire extinguisher system and the bleed air duct couplings of the APU.

Comments

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

Request To Refer to Latest Revision of Service Bulletin

Boeing, the Air Transport Association (ATA), on behalf of American Airlines, and Japan Airlines ask that we refer to Boeing Service Bulletin 767–26A0130, Revision 2, dated October 31, 2006, in the final rule. We referred to Revision 1 of the service bulletin dated December 15, 2005, as the appropriate source of service information for doing certain actions specified in the supplemental NPRM. Japan Airlines states that Revision 1 includes incorrect requirements, and asks that Revision 2 be included in the final rule to correct the specified requirements. Japan Airlines adds that if the final rule is issued before issuance of Revision 2 of the service bulletin, the mistakes (included in Japan Airlines comments) should be corrected in the final rule. Boeing states that inclusion of Revision 2 will avoid issuance of a future supplemental NPRM. American Airlines indicates that Boeing provided it with information acknowledging that Revision 1 would be revised and released in the second quarter of 2006. American Airlines recommends that Revision 2 refer to the APU duct couplings only, not both the APU duct and the APU duct couplings.

We agree to refer to Revision 2 of the service bulletin in paragraph (f)(1) of the AD. Revision 2 does the following:

- Corrects certain station numbers.
- Adds clarification procedures for moving the fire extinguisher tube, and clarifies the inspection and repair of the fire extinguisher tube.
- Clarifies certain procedures specified in Figures 3 through 12, 15, and 16.
- Adds Figures 19 and 20 to clarify clamp removal and installation.
- Adds manpower requirements for Figures 19 and 20.

Revision 2 also refers to the APU duct couplings instead of both the APU duct and the APU duct couplings in certain sections of the Accomplishment Instructions. We have revised the AD to refer to Revision 2 of the service bulletin as the appropriate source of service information for doing certain actions. We have also revised paragraph (g) of this AD to add credit for actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–26A0130, Revision 1, dated December 15, 2005. We acknowledge that there were errors in certain procedures specified in Revision 1, but those errors did not prevent accomplishing the inspections and any applicable corrective actions in a manner that would address the identified unsafe condition.

Request to Change Note 1

The ATA, on behalf of its member Delta Airlines, asks that Note 1 of the supplemental NPRM be changed to omit the revision level of Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004, so it matches the reference to Boeing Alert Service Bulletin 767–26A0123.

We partially agree with the request. In Note 1 of the supplemental NPRM Boeing Alert Service Bulletin 767–26A0123, without a date or revision level, referred to Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004, as the appropriate source of service information for accomplishing the modification of the fire extinguishing tube assembly. Since the AD must specify a revision level and date in the requirements, in lieu of removing the revision level and date for Boeing Service Bulletin 767–26–0118, we have removed Note 1 and added a new paragraph (f)(2)(ii) to the AD. Paragraph (f)(2)(ii) requires accomplishing the modification of the fire extinguishing tube assembly in accordance with Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004. We have also added a new paragraph (h) to this AD (and re-identified subsequent paragraphs) to include credit for previously accomplishing the actions specified in Boeing Service Bulletin 767–26–0118, dated June 20, 2002, or Revision 1, dated October 3, 2002.

Clarification Made to This AD

We have changed paragraph (f)(1) of this AD to clarify the station numbers for the fire extinguishing tube assemblies. Paragraph (f)(1) of the supplemental NPRM proposed to require performing detailed and general visual inspections for discrepancies of the fire extinguishing tube assemblies between STA 1197 and STA 1340. Those station numbers were incorrectly specified in the Summary section of Revision 1 of the service bulletin. However, paragraph (f)(1) specifies doing the actions in accordance with the Accomplishment Instructions of the service bulletin, and the correct station numbers (STA 1140 and STA 1340) are specified in the Accomplishment Instructions of both Revisions 1 and 2 of the referenced service bulletin. We inadvertently specified STA 1197 in paragraph (f)(1), and we have corrected that error accordingly.

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 749 airplanes of the affected design in the worldwide fleet. 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	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection in Service Bulletin 767–26A0123	1	$80	None	$80	292	$23,360
Inspection in Service Bulletin 767–26A0130, Revision 2	5	80	None	400	292	116,800

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

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–10–03 Boeing: Amendment 39–15044. Docket No. FAA–2005–21748; Directorate Identifier 2005-NM–071-AD.

Effective Date

(a) This AD becomes effective June 13, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 767–200 and –300 series airplanes; certificated in any category; with a metered fire extinguisher system in the aft cargo compartment.

Unsafe Condition

(d) This AD was prompted by one report indicating that an operator found a hole in the discharge tube assembly for the metered fire extinguishing system; and another report indicating that an operator found chafing of the fire extinguishing tube against the auxiliary power unit (APU) duct that resulted in a crack in the tube. We are issuing this AD to prevent fire extinguishing agent from leaking out of the tube assembly in the aft cargo compartment which, in the event of a fire in the aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent, and consequent inability of the fire extinguishing system to suppress the fire.

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.

Inspections and Corrective Actions

(f) Within 24 months or 8,000 flight hours after the effective date of this AD, whichever is first: Accomplish the actions required by paragraphs (f)(1) and (f)(2) of this AD, as applicable.

(1) For airplanes identified in Boeing Service Bulletin 767–26A0130, Revision 2, dated October 31, 2006: Perform detailed and general visual inspections for discrepancies of the fire extinguishing tube assemblies between station (STA) 1140 and STA 1340, and the insulation of the metered fire extinguisher system and the bleed air duct couplings of the APU located in the aft cargo compartment, and any applicable corrective actions, by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Service Bulletin 767–26A0130, Revision 2, dated October 31, 2006. Do all applicable corrective actions before further flight in accordance with the service bulletin. Repeat the inspections thereafter at intervals not to exceed 24 months or 8,000 flight hours, whichever is first. Installation of the tube assembly in the correct location, in accordance with the service bulletin, terminates the repetitive inspections for that assembly only.

(2) For airplanes identified in Boeing Alert Service Bulletin 767–26A0123, dated August 22, 2002: Accomplish the actions required by paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, as applicable.

(i) Perform a general visual inspection for sufficient clearance between the fire extinguishing tube and the APU duct on the left sidewall from STA 1355 through 1365 inclusive, and do all applicable modifications, by doing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767–26A0123, dated August 22, 2002. Do all applicable modifications before further flight.

(ii) If there is insufficient clearance between the fire extinguishing tube and the APU duct: Before further flight, accomplish the modification of the fire extinguishing tube assembly by doing all the actions specified in the Accomplishment Instructions of Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004. Accomplishing the modification in this paragraph terminates the repetitive inspections for that assembly only.

Credit for Actions Accomplished Previously

(g) Accomplishing the inspections and corrective actions required by paragraph (f)(1) of this AD before the effective date of this AD, in accordance with Boeing Alert Service Bulletin 767–26A0130, dated December 2, 2004, or Revision 1, dated December 15, 2005; is considered acceptable for compliance with the corresponding actions in paragraph (f)(1) of this AD.

(h) Accomplishing the actions required by paragraph (f)(2)(ii) of this AD before the effective date of this AD, in accordance with Boeing Service Bulletin 767–26–0118, dated June 20, 2002, or Revision 1, dated October 3, 2002; is considered acceptable for compliance with the corresponding actions in paragraph (f)(2)(ii) of this AD for accomplishing the modification of the fire extinguishing tube assembly.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, 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.

Material Incorporated by Reference

(j) You must use Boeing Service Bulletin 767–26A0130, Revision 2, dated October 31, 2006; Boeing Alert Service Bulletin 767–26A0123, dated August 22, 2002; and Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004; 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 FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; 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 April 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–8767 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2007–27512, Airspace Docket No. 07–AEA–01]

Establishment of Class E Airspace; Front Royal-Warren County, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a Class E airspace area at Front Royal-Warren County Airport, Front Royal, VA (KFFR) to provide for adequate controlled airspace for those aircraft using the new Area Navigation (RNAV) Instrument Approach Procedure to the Airport.

DATES: Effective 0901 UTC, July 5, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

Comments for inclusion in the Rules Docket must be received on or before June 8, 2007.

ADDRESSES: Send comments on the rule 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–2007–27512; airspace docket number, 07–AEA–01, 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 at 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 located on the plaza level of the Department of Transportation NASSIF Building at the street address stated above.

An informal docket may be examined during normal business hours in the FAA Eastern Service Center, by contacting the Manager, Systems Support, AJO–2E2, Federal Aviation Administration, Eastern Service Center, 1701 Columbia Ave, College Park, GA, 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, Systems Support, AJO–2E2, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA, 30337; telephone (404) 305–5570; fax (404) 305–5099.

SUPPLEMENTARY INFORMATION: A new Standard Instrument Approach Procedure (SIAP) to Front Royal-Warren County Airport, Front Royal, VA (KFFR), RNAV (GPS)–A, requires the establishment of Class E airspace extending upward from 700 feet above the surface in the vicinity of the airport. This action provides adequate controlled airspace to contain those aircraft executing the RNAV (GPS)–A approach. Class E airspace designations for airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9P, effective September 16, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA 2007–27512; Airspace Docket No. 07–AEA–01.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is non-controversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have 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).

Adoption of the Amendment

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

PART 71—[Amended]

■ 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.

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

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA VA E5 FRONT ROYAL, VA [New]

Front Royal-Warren County Airport, VA (Lat. 38°55′03.11″ N., long. 78°15′12.65″ W.)

That airspace extending upward from 700 feet above the surface within a 11.3-mile radius of Front Royal-Warren County Airport, VA.

* * * * *

Issued in College Park, GA, on April 18, 2007.

Lynda Otting,

Acting Group Manager, System Support, AJ02–E2, Eastern Service Center.

[FR Doc. 07–2210 Filed 5–8–07; 8:45am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from American Pharmaceutical Partners, Inc., to Abraxis Pharmaceuticals Products and to change the sponsor's mailing address.

DATES: This rule is effective May 9, 2007.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967, e-mail: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: American Pharmaceuticals Partners, Inc., 2045 North Cornell Ave., Melrose Park, IL 60160, has informed FDA of a change of name and mailing address to Abraxis Pharmaceutical Products, a Div. of Abraxis Bioscience, 6133 River Rd., suite 500, Rosemont, Il 60018. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect these changes.

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

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''American Pharmaceuticals Partners, Inc.'' and alphabetically adding a new entry for ''Abraxis Pharmaceutical Products''; and in the table in paragraph (c)(2) by revising the entry for ''063323'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Abraxis Pharmaceutical Products, a Div. of Abraxis Bioscience, 6133 River Rd., suite 500, Rosemont, IL 60018.	063323
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
063323	Abraxis Pharmaceutical Products, a Div. of Abraxis Bioscience, 6133 River Rd., suite 500, Rosemont, IL 60018
* * * * *	

Dated: May 1, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–8870 Filed 5–8–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Oxytetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for use of oxytetracycline hydrochloride soluble powder for skeletal marking of finfish fry and fingerlings by immersion.

DATES: This rule is effective May 9, 2007.

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

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–460 that provides for use of TETROXY Aquatic (oxytetracycline hydrochloride) Soluble Powder for skeletal marking of finfish fry and fingerlings by immersion. The application is approved as of April 20, 2007, and the regulations are amended in 21 CFR 529.1660 to reflect the approval.

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

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

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

List of Subjects in 21 CFR Part 529

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 529 continues to read as follows:

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

■ 2. In § 529.1660, revise paragraph (b)(1) to read as follows:

§ 529.1660 Oxytetracycline.

* * * * *

(b) * * *

(1) Nos. 046573 and 061623 for use of product in paragraph (a)(1) of this section.

* * * * *

Dated: May 1, 2007.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E7–8869 Filed 5–8–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 2007N–0136]

Medical Devices; Immunology and Microbiology Devices; Classification of Gene Expression Profiling Test System for Breast Cancer Prognosis

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying gene expression profiling test systems for breast cancer prognosis into class II (special controls). The special control that will apply to the device is the guidance document entitled ''Class II Special Controls Guidance Document: Gene Expression Profiling Test System for Breast Cancer Prognosis.'' The agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document that will serve as the special control for this device.

DATES: This final rule is effective June 8, 2007. The classification was effective February 6, 2007.

FOR FURTHER INFORMATION CONTACT: Reena Philip, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–1286.

SUPPLEMENTARY INFORMATION:

I. What Is the Background of This Rulemaking?

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of FDA's regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification (section 513(f)(2) of the act).

In accordance with section 513(f)(1) of the act, FDA issued an order on January 19, 2007, classifying the Agendia BV, MAMMAPRINT as class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. Agendia BV submitted a petition dated January 22, 2007, requesting classification of the MAMMAPRINT under section 513(f)(2) of the act. FDA filed the petition on January 30, 2007. The manufacturer recommended that the device be classified into class II.

In accordance with section 513(f)(2) of the act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the act. Devices are to be classified into class II if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition, FDA determined that the Agendia BV, MAMMAPRINT can be classified in class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of safety and effectiveness of the device.

The device is assigned the generic name ''gene expression profiling test system for breast cancer prognosis.'' It is identified as a device that measures the ribonucleic acid (RNA) expression level of multiple genes and combines this information to yield a signature (pattern or classifier or index) to aid in prognosis of previously diagnosed breast cancer.

A gene expression profiling test system for breast cancer prognosis is intended to provide prognostic information to aid in clinical evaluation of breast cancer patients. Failure of this device to perform as indicated may lead to erroneous test results. False positive results will misclassify the patient into a higher risk group and false negative results will misclassify the patient into a lower risk group. Misclassification of cancer recurrence risk may lead to incorrect prognosis with attendant psychological distress, inaccurate counseling, and suboptimal patient care.

FDA believes the class II special controls guidance document will aid in mitigating potential risks by providing recommendations on labeling and validation of performance characteristics. The guidance document also provides information on how to meet premarket (510(k)) submission requirements for the device. FDA believes that following the class II special controls guidance document generally addresses the risks to health identified in the previous paragraph. Therefore, on February 6, 2007, FDA issued an order to the petitioner classifying the device into class II. FDA is codifying this classification by adding § 866.6040.

Following the effective date of this final classification rule, any firm submitting a 510(k) premarket notification for a gene expression profiling test system for breast cancer prognosis will need to address the issues covered in the special controls guidance. However, the firm need only show that its device meets the recommendations of the guidance, or in some other way provides equivalent assurance of safety and effectiveness.

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, however, FDA has determined that premarket review of the system's key performance characteristics, test methodology, labeling, and other requirements as outlined in § 807.87, will provide reasonable assurance that acceptable levels of performance for both safety and effectiveness will be addressed before marketing clearance. Thus,

persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the gene expression profiling test system for breast cancer prognosis they intend to market.

II. What Is the Environmental Impact of This Rule?

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. What Is the Economic Impact of This Rule?

FDA has examined the impacts of the final rule under Executive Order 12866, 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 final rule is not a significant regulatory action under 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 classification of these devices into class II will relieve manufacturers of the device of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs, the agency certifies that the final rule will not have a significant 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 $122 million, using the most current (2005) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

IV. Does This Final Rule Have Federalism Implications?

FDA has analyzed this 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, a federalism summary impact statement is not required.

V. How Does This Rule Comply With the Paperwork Reduction Act of 1995?

This 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.

VI. What References Are on Display?

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Agendia BV, dated January 22, 2007.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 866.6040 is added to subpart G to read as follows:

§ 866.6040 Gene expression profiling test system for breast cancer prognosis.

(a) *Identification.* A gene expression profiling test system for breast cancer prognosis is a device that measures the ribonucleic acid (RNA) expression level of multiple genes and combines this information to yield a signature (pattern or classifier or index) to aid in prognosis of previously diagnosed breast cancer.

(b) *Classification.* Class II (special controls). The special control is FDA's guidance document entitled ''Class II Special Controls Guidance Document: Gene Expression Profiling Test System for Breast Cancer Prognosis.'' See § 866.1(e) for the availability of this guidance document.

Dated: May 1, 2007.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E7–8871 Filed 5–8–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–251–FOR]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Ohio regulatory program (the ''Ohio program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This amendment is intended to remove certain Conflict of Interest provisions from the approved Ohio program that were previously approved by OSM but have not been promulgated by Ohio through their rulemaking process.

EFFECTIVE DATE: May 9, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. George Rieger, Chief, Pittsburgh Field Division, Telephone: (717) 782–4036. E-mail: *grieger@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State

law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * * and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio program in the August 16, 1982, **Federal Register** (47 FR 34687). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.11, 935.15, and 935.16.

II. Submission of the Amendment

By letter dated August 30, 2006, Ohio sent us a proposed amendment to its program (Administrative Record Number OH–2187–00) under SMCRA (30 U.S.C. 1201 *et seq.*). In its letter, Ohio stated that it has reviewed amendments previously proposed by Ohio in Program Amendment #69. Ohio stated that those amendments of program amendment #69 related to Conflict of Interest have not been promulgated by Ohio and are deemed to be no longer necessary. Therefore, Ohio stated, it would like to withdraw the Conflict of Interest amendments from consideration by OSM.

OSM approved the Conflict of Interest amendments that Ohio proposed in program amendment #69 (including the subsequent revisions) in the **Federal Register** on July 17, 1995 (60 FR 36352). Because we had already published our approval of the Conflict of Interest provisions that Ohio has requested be withdrawn from consideration, we were unable to merely withdraw those provisions. Rather, we sought public comment on whether the removal of the Conflict of Interest provisions that we approved in 1995 would render the approved Ohio program less effective than SMCRA and the Federal regulations.

Background Information: Ohio program amendment #69 was originally submitted by Ohio by letter dated September 22, 1994 (Administrative Record Number OH–2059). Revisions to amendment #69 were subsequently submitted by letters dated March 8, 1995, and May 3, 1995 (Administrative Record Numbers OH–2099 and OH–2115, respectively). We announced receipt of those proposed amendments, and the two revisions, in the October 21, 1994; March 17, 1995; and May 12, 1995; **Federal Register** (59 FR 53122, 60 FR 14401, and 60 FR 25660, respectively). We approved the amendments in the July 17, 1995, **Federal Register** notice.

We announced receipt of Ohio's request that we remove the Conflict of Interest provisions from the approved Ohio program in the October 19, 2006, **Federal Register** (71 FR 61695). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment (Administrative Record Number OH–2187–01). We did not hold a hearing or meeting because no one requested one. The public comment period ended on November 20, 2006. We received no comments.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment. Any revisions that we do not specifically discuss below concern nonsubstantive minor wording, editorial, or renumbering of sections changes, and are approved herein without discussion.

Restrictions on Financial Interest of Employees. Ohio Administrative Code (OAC) Section 1501:13–1–03

1. OAC 1501: 13–1–03(D)(2) Definition of ''Employee''

In its September 22, 1994, amendment, Ohio proposed to revise the definition of ''Employee'' at paragraph (D)(2) to provide that members of the Ohio Board (currently ''Council'') on Unreclaimed Strip Mined Lands are included under the definition of ''employee.'' Ohio also proposed to revise this paragraph to provide that, for the purposes of OAC Section 1501:13–1–03, hearing officers for the Ohio Reclamation Board of Review (currently the Reclamation Commission) shall also be included within the definition of ''employee.'' Ohio also proposed to revise the appeal procedures at paragraphs (L)(1) and (2) to delete separate references to the Reclamation Commission's hearing officers because those hearing officers are to be included under the definition of ''employee'' in this rule. We approved these revisions in our July 17, 1995, notice.

In its August 30, 2006, letter to OSM, Ohio requested that the provisions that OSM approved on July 17, 1995, be withdrawn. Under this request, therefore, neither members of the Council nor hearing officers for the Reclamation Commission would be specifically identified as ''employees'' under the definition of ''employee'' at paragraph (D)(2). To approve these deletions from the Ohio provisions that were approved by OSM, we must determine whether the deletions render the Ohio program less effective than the Federal definition of ''employee'' at 30 CFR 705.5.

The Federal definition of ''employee'' at 30 CFR 705.5 provides as follows:

> Employee. Means (a) any person employed by the State Regulatory Authority who performs any function or duty under the Act, and (b) advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

The Ohio Revised Code (ORC) at section 1513.29 establishes the Council. Under ORC 1513.29, the Council's duties involve gathering information on unreclaimed strip mined lands, studying, and making recommendations concerning eroded land within the State, including land affected by strip mining for which no cash is held in the strip mining reclamation fund. In addition, an Ohio Attorney General's Opinion from 1978 states that the Council ''has the authority as a matter of law to fund reclamation projects on private lands pursuant to Chapter 1513 of the Revised Code * * *.'' (Ohio Op. Atty Gen No. 78–016) That is, members of the Council perform a function or duty under Chapter 1513 of the Ohio Revised Code, and fall within the definition of ''employee'' in OAC 1501: 13–1–03. We find that the existing Ohio definition of ''employee'' which does not specifically identify members of the Council as employees does not render the Ohio program less effective than the Federal definition of ''employee'' at 30 CFR 705.5 and can be approved.

Next, we will consider whether hearing officers for the Reclamation Commission are considered employees under the Federal regulations. The ORC at 1513.05 establishes the Reclamation Commission. That provision also provides that ''The commission shall appoint one or more hearing officers who shall be attorneys at law admitted to practice in this state to conduct hearings under this chapter.'' Therefore, it is clear that hearing officers for the Reclamation Commission are not members of the Reclamation Commission, but are appointed by the

Reclamation Commission to conduct hearings. It is our understanding that the hearing officer for the Reclamation Commission is an employee of the Ohio Department of Natural Resources and is considered by that department to be an ''employee'' under the Ohio definition of ''employee'' at OAC 1501: 13–1–03 and is required to file the appropriate conflict of interest forms under OAC 1501: 13–1–03(I). Therefore, we find that the existing Ohio definition of ''employee'' which does not specifically identify hearing officers for the Reclamation Commission as employees does not render the Ohio program less effective than the Federal definition of ''employee'' at 30 CFR 705.5 and can be approved. Our approval is based upon our understanding noted above.

2. OAC 1501: 13–1–03(I)(1) Use of Financial Interest Statement Form by Members of the Ohio Reclamation Commission

In its September 22, 1994, amendment, Ohio proposed to revise paragraph (I)(1) to add that members of the Ohio Reclamation Board of Review (currently Reclamation Commission) shall report all required information concerning employment and financial interests on Form OSM–23. We approved the provisions on July 17, 1995. On August 30, 2006, Ohio requested that its amendments to paragraph (I)(1) that we approved in 1995 be withdrawn. In effect, the phrase ''and members of the Reclamation Board of Review'' (currently the Reclamation Commission) will be deleted from provision concerning what to file at OAC 1501: 13–1–03(I)(1).

The Federal regulations at 30 CFR 705.11(a) provide that employees and members of advisory boards and commissions established in accordance with State laws or regulations to represent multiple interests, who perform a function or duty under SMCRA, must file a statement of employment and financial interests. The Ohio Reclamation Commission is such a multi-interest advisory board and, therefore, must file a statement of employment and financial interests.

The current Ohio provision at OAC 1501: 13–1–03(F)(1), concerning who shall file, provides that members of the Reclamation Commission are required to file a statement of employment and financial interests. Therefore, despite the fact that OAC 1501: 13–1–03(I)(1) concerning what to file does not specifically mention members of the Reclamation Commission, the Commission members are required to file by Ohio's regulations. Therefore, we find that the existing Ohio provision at OAC 1501: 13–1–03(I)(1), despite the fact that it does not specifically mention members of the Reclamation Commission definition, does not render the Ohio program less effective than the Federal regulations at 30 CFR 705.11(a) and can be approved.

We note that OAC 1501: 13–1–03(I)(1) provides that the report shall be on ''OSM Form 705–1'' as provided by OSM. This form number is not correct. The form that OSM will provide for reporting financial interests is OSM ''Form 23.''

3. OAC 1501: 13–1–03(J)(1) Acceptance of Gifts and Gratuities by Members of the Ohio Reclamation Commission

In its September 22, 1994, amendment, Ohio proposed to revise paragraph (J)(1) to prohibit, with certain exceptions, the solicitation or acceptance of gifts and gratuities by members of the Ohio Reclamation Board of Review (currently Reclamation Commission) from coal companies which are conducting or seeking to conduct regulated activities or which have an interest that may be substantially affected by the performance of the Reclamation Commission members' official duties. We approved the provisions on July 17, 1995.

On August 30, 2006, Ohio requested that its amendments to paragraph (J)(1) that we approved be withdrawn. In effect, the phrase ''and members of the Reclamation Board of Review'' will be deleted from the approved Ohio program at OAC 1501: 13–1–03(J)(1) concerning gifts and gratuities. Despite the fact that the Ohio provision at OAC 1501: 13–1–03(J)(1) does not prohibit members of the Reclamation Commission from soliciting or accepting gifts or any other thing of monetary value, the Ohio program is not rendered less effective than the Federal regulations at 30 CFR 705.18 concerning gifts and gratuities. Without the language that we approved on July 17, 1995, the State rule at OAC 1501: 13–1–03(J)(1) is substantively identical to the counterpart Federal regulations at 30 CFR 705.18(a) concerning the prohibitions against soliciting or receiving gifts and gratuities. That is, the Federal regulations do not require that members of multi-interest boards such as the Reclamation Commission must comply with the prohibitions against soliciting or receiving gifts and gratuities at 30 CFR 705.18.

The Federal regulations at 30 CFR 705.4(d) do provide, however, that members of multi-interest boards must recuse themselves from proceedings which may affect their direct or indirect financial interests. The counterpart State provision concerning recusal is OAC 1501: 13–1–03(C). Additionally, the Federal regulations at 30 CFR 705.11(a) provide that members of multi-interest boards must file a statement of employment and financial interests. The counterpart State provision concerning the requirement for members of multi-interest boards to file a statement of employment and financial interests is OAC 1501: 13–1–03(F)(1). Therefore, we find that the removal of the words ''and members of the Reclamation Board of Review'' from OAC 1501: 13–1–03(J)(1) does not render the Ohio provision less effective than the counterpart Federal regulation at 30 CFR 705.18(a) and can be approved.

4. OAC 1501: 13–1–03(L)(1) Appeal of Remedial Actions

In its September 22, 1994, amendment, Ohio proposed to revise paragraph (L)(1) to add that nothing in OAC Section 1501:13–1–03 modifies any right of appeal that any employee may have under State law of a decision by the Chief of the Division of Natural Resources, on an employee's appeal of remedial action for prohibited financial interests. The State also deleted the words ''and such board's hearing officers'' from the provision. We approved the provisions on July 17, 1995.

On August 30, 2006, Ohio requested that the amendment to paragraph (L)(1) that we approved be withdrawn. The existing State provision at OAC 1501: 13–1–03(L)(1), without the language that the State has requested be removed from the approved program, provides as follows:

> (1) Employees other than the chief of the Division of Mineral Resources Management and members of the reclamation commission and such commission's hearing officers may file their appeal in writing with the chief, who will conduct an informal hearing on the merits.

The counterpart Federal regulations at 30 CFR 705.21(a) concerning appeals procedures provide as follows:

> (a) Employees other than the Head of the State Regulatory Authority, may file their appeal, in writing, through established procedures within their particular State.

The Federal regulation at 30 CFR 705.21(a) that is quoted above provides that conflict of interest appeal procedures for employees within a State should be governed by established procedures within the State. That is, the Federal conflict of interest provisions provide that the State has the discretion to establish its own appeal procedures.

Additionally, the Federal regulations at 30 CFR 705.21(a) do not contain a counterpart to the language that Ohio wishes to be deleted from the approved program, which provides that nothing in the rule modifies any right of appeal of the Chief's decision that any employee may have under State law. Therefore, the removal of that language does not render OAC 1501: 13–1–03(L)(1) less effective than the Federal regulations at 30 CFR 705.21(a). Therefore, we find that the existing State provision at OAC 1501: 13–1–03(L)(1) is not inconsistent with the Federal conflict of interest provisions at 30 CFR 705.21 and can be approved.

5. OAC 1501: 13–1–03(L)(2) Appeal of Remedial Actions

In its September 22, 1994, amendment, Ohio proposed to revise paragraph (L)(2) by deleting language so that paragraph (L)(2) provides that only the Chief of the Division of Reclamation (currently the Division of Mineral Resources Management) may appeal a remedial action to the Director of OSM. We approved the proposed deletion of language on July 17, 1995.

On August 30, 2006, Ohio requested that the proposed deletion at paragraph (L)(2) that we approved be withdrawn. As a result, the existing State provision at OAC 1501: 13–1–03(L)(2) provides as follows:

(2) The chief of the Division of Mineral Resources Management and members of the reclamation commission and such commission's hearing officers may file their appeal in writing, with the director of the office of surface mining reclamation and enforcement, who will refer it to the conflict of interest appeals board within the United States Department of the Interior.

Under paragraph (L)(2), therefore, the Chief of the Division of Mineral Resources Management, members of the Reclamation Commission, and the Commission's hearing officers may file their appeals of orders for remedial action under paragraph (K) with OSM.

Under the Federal regulations, appeal procedures for employees are specified at 30 CFR 705.21(a), which provides that employees may file their appeals through established procedures within their respective States. Under the Federal regulations, appeal procedures for the head of the regulatory authority are specified at 30 CFR 705.21(b), which provides that the head of the State regulatory authority may file an appeal with OSM who will refer it to the Conflict of Interest Appeals Board within the Department of the Interior. Insofar as it applies to the Chief of the Division of Mineral Resources Management, who is the head of the Ohio Regulatory Authority, restored paragraph (L)(2) is substantively identical to, and therefore no less effective than, the Federal regulations at 30 CFR 705.21(b). With respect to Reclamation Commission hearing officers, who are ''employees'' under Ohio's approved program, restored paragraph (L)(2) is no less effective than 30 CFR 705.21(a), which allows States to establish appeal procedures for all employees except for the head of the regulatory authority. For hearing officers, the ''established procedures'' in Ohio will be those applicable to the United States Department of the Interior's Conflict of Interest Appeals Board. Finally, there are no specific Federal provisions concerning appeals of conflict of interest decisions by members of multiple interest boards, such as members of Ohio's Reclamation Commission. However, nothing in SMCRA or the Federal regulations prohibits Ohio from allowing these members to appeal these types of decisions. Therefore, restored paragraph (L)(2) is not inconsistent with SMCRA or the Federal regulations insofar as it applies to members of the Reclamation Commission. For all of these reasons, we are approving restored paragraph (L)(2).

6. OAC 1501: 13–1–03(L)(3) Appeal of Remedial Actions

In its September 22, 1994, amendment, Ohio proposed to add new paragraph (L)(3) to provide that members of the Ohio Reclamation Board of Review (currently the Reclamation Commission) may request advisory opinions from the Director of OSM on issues pertaining to an apparent prohibited financial interest. The provision also stated that resolution of conflicts is governed by section 1513.05 and 1513.29 of the Ohio Revised Code. We approved the proposed new language on July 17, 1995.

On August 30, 2006, Ohio requested that the proposed new language at paragraph (L)(3) that we approved be withdrawn. As noted above at Finding 5, the existing Ohio provision at OAC 1501: 13–1–03(L)(2) provides that members of the Reclamation Commission and such Commission's hearing officers may file an appeal in writing, with the Director of OSM. Therefore, the provision that we approved on July 17, 1995, at OAC 1501: 13–1–03(L)(3), which also provides that members of the Commission may request advisory opinions from OSM is not necessary. We find that the removal of paragraph (L)(3) from the approved Ohio program does not render the Ohio program less effective than the Federal regulations at 30 CFR 705.21 concerning appeal procedures and can be approved. We note that the language at paragraph (L)(3) also provided that resolution of conflicts is governed by section 1513.05 of the Ohio Revised Code. However, the removal of paragraph (L)(3) from the Ohio program does not negate the fact that the provisions at ORC 1513.05 and 1513.29 continue to apply to the Reclamation Commission.

IV. Summary and Disposition of Comments

Public Comments

On October 19, 2006, we published a **Federal Register** notice and asked for public comments of the amendment (Administrative Record Number OH–OH–2187–01). No comments were received.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Ohio program (Administrative Record Number OH–2187–02). No comments were received.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11) (ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.). None of the revisions that Ohio proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Number OH–2187–02). No EPA comments were received.

V. OSM's Decision

Based on the above findings, we are approving, the program amendment that Ohio sent to us on August 30, 2006.

To implement this decision, we are amending the Federal regulations at 30 CFR part 935, which codify decisions concerning the Ohio program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective

immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 15, 2007.

H. Vann Weaver,

Acting Regional Director, Appalachian Region.

■ For the reasons set out in the preamble, 30 CFR part 935 is amended as set forth below:

PART 935—OHIO

■ 1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 935.15 is amended by adding a new entry to the table in chronological order by ''Date of final publication'' to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* * *	* *
August 30, 2006	May 9, 2007	OAC 1501:13–1–03(D)(2), (I)(1), (J)(1), (L)(1), (L)(2), and the deletion of (L)(3).

[FR Doc. E7–8867 Filed 5–8–07; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 07–006]

RIN 1625–AA00

Safety Zone; KFOG ''Kaboom'' Fireworks Display, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay for the loading, transport, inactive period, and launching of fireworks used during the KFOG ''KaBoom'' Fireworks Display to be held on May 12, 2007. This safety zone is intended to prohibit vessels and people from entering into or remaining within the regulated areas in order to ensure the safety of participants and spectators.

DATES: This rule is effective from 8 a.m. on May 10, 2007, to 9:30 p.m. on May 12, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP San Francisco Bay 07–006 and are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Logistical details surrounding the event were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, safety zones are necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

For the same reasons listed in the previous paragraph, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in this fireworks display.

Background and Purpose

The San Francisco Radio Station KFOG is sponsoring a brief fireworks display on May 12, 2007 in the waters of San Francisco Bay near Piers 30 and 32. The fireworks display is meant for entertainment purposes in support of KFOG's annual festival in San Francisco. This safety zone is being issued to establish a temporary regulated area in San Francisco Bay around the fireworks launch barge during the loading of the pyrotechnics, during the transit of the barge to the display location, inactive period, and during the fireworks display. This temporary regulated area around the launch barge is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barge. The Coast Guard has granted the event sponsor a marine event permit for the fireworks display.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone on specified waters off of the San Francisco waterfront. During the loading of the fireworks barge, while the barge is being towed to the display location, and until the start of the fireworks display, the safety zone will apply to the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes prior to and during the twenty-two minute fireworks display, the area to which this safety zone applies to will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on May 10, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place on May 12, 2007. During the fireworks display, scheduled to commence at 9 p.m. on May 12, 2007, the fireworks barge will be located approximately 1,000 feet off of Pier 30 in position 37°47.21′ N, 122°22.86′ W.

The effect of the temporary safety zone will be to restrict general navigation in the vicinity of the fireworks barge while the fireworks are loaded at Pier 50, during the transit of the fireworks barge, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the safety zone. This safety zone is needed to keep spectators and vessels a safe distance away from the fireworks barge to ensure the safety of participants, spectators, and transiting vessels.

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.

Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public broadcast notice to mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are pleasure craft engaged in recreational activities.

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 is not expected to have a significant economic impact on a substantial number of entities, some of which may be small entities. This rule may affect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of San Francisco Bay to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via public notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

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

Collection of Information

This rule calls for 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 does 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 does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. Paragraph (34)(g) is applicable because this rule establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–180 to read as follows:

§ 165.T11–180 Safety Zone; KFOG ''KaBoom'' Fireworks Display, San Francisco Bay, CA.

(a) *Location.* This safety zone is established for the waters of San Francisco Bay surrounding a barge used as a firework launch platform during the KFOG ''KaBoom'' fireworks display. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until the start of the fireworks display, the regulated area encompasses the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes prior to and during the twenty-two minute fireworks display, the temporary regulated area increases in size to encompass the navigable waters around and under the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on May 10, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place on May 12, 2007. During the fireworks display, scheduled to start at 9 p.m. on May 12, 2007, the barge will be located approximately 1,000 feet from San Francisco Pier 30 in position 37°47.21′ N, 122°22.86′ W.

(b) *Enforcement Period.* This section will be enforced from 8 a.m. May 10, 2007 to 9:30 p.m. on May 12, 2007. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

The U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement as necessary.

Dated: April 20, 2007.

W.J. Uberti,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. E7–8815 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–07–040]

RIN 1625 AA00

Safety Zone; Fireworks Display, Pamlico River, Washington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone during the ''Washington Summer Festival and the Washington 4th of July Fireworks'' displays to be held on the waters of the Pamlico River, Washington, North Carolina. This action is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in portions of the Pamlico River adjacent to Washington, North Carolina during the fireworks display.

DATES: This rule is effective from 8:30 p.m. on June 8 until 10 p.m. on July 4, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD05–07–040] and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CWO Christopher Humphrey, Coast Guard Sector North Carolina, Atlantic Beach, NC at (252) 247–4525.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the event. The necessary information to determine whether the marine event poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. The danger posed by fireworks fall-out makes a safety zone necessary to provide for the safety of spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

Under 5 U.S.C. 553(d)(3) and for the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. Advance notifications will be made to users of the Pamlico River via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

Background and Purpose

On June 8 & 9 and July 4, 2007 the Washington/Beaufort County Chamber of Commerce and the City of Washington will sponsor the ''Washington Summer Festival'' and the ''4th of July'' fireworks displays over the waters of the Pamlico River. A fleet of spectator vessels is anticipated to gather nearby to view the display. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Rule

The Coast Guard is establishing a safety zone on specified waters of the Pamlico River adjacent to Washington, North Carolina. The regulated area includes a section of the Pamlico River

from the Highway 17 Swing Bridge south approximately one half mile long and bounded in width by each shoreline. The rule would be enforced from 8:30 p.m. until 10 p.m. and would restrict general navigation in the regulated area during the fireworks display. The Coast Guard, at its discretion, when practical would allow the passage of vessels when the fireworks displays are not taking place. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel would be allowed to enter or remain in the regulated area during the enforcement period. These regulations are needed to control vessel traffic during the events to enhance the safety of participants, spectators and transiting vessels.

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 (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts vessel traffic from transiting Pamlico River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts and area newspapers so mariners can adjust their plans accordingly.

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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Pamlico River during the scheduled events.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 8:30 p.m. until 10 p.m. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

Collection of Information

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does 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 does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, and Department of Homeland Security Management Directive 5100.1 which 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 (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–040 to read as follows:

§ 165.T05–040 Safety Zone; Pamlico River, Washington, North Carolina.

(a) *Regulated area.* The safety zone includes all waters of Pamlico River south of the intersection of the Highway 17 Swing Bridge south along the west river bank to latitude 35°32′19″ N, longitude 077°03′40″ W, thence across the river on a line 045 degrees due northeast across the river to the intersection of the east river bank at position 35°32′30″ N, longitude 077°03′25″ W, thence north along the shoreline to the Highway 17 Swing Bridge thence west to the point of origin. All coordinates reference Datum NAD 1983.

(b) *Definitions.* The following definitions apply to this section: (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by the Sector Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Regulations.* The general regulations governing safety zones, found in 33 CFR 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10 p.m. on June 8 & 9 and July 4, 2007.

Dated: April 24, 2007.

Gregory D. Case,

Commander, U.S. Coast Guard, Captain of the Port, Atlantic Beach, North Carolina.

[FR Doc. E7–8814 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2006–0913; FRL–8124–6]

Bacillus thuringiensis Vip3Aa19 Protein in Cotton; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an extension of the temporary exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* Vip3Aa19 protein in cotton when applied/used as a plant-incorporated protectant (PIP). Syngenta Seeds, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of the *Bacillus thuringiensis* Vip3Aa19 protein in cotton when applied/used as a PIP on cotton. The temporary tolerance exemption expires on May 1, 2008.

DATES: This regulation is effective May 9, 2007. Objections and requests for hearings must be received on or before July 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0913. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP

Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Alan Reynolds, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0515; e-mail address: *reynolds.alan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this ''**Federal Register**'' document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 174 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0913 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0913, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of January 12, 2007 (72 FR 1513) (FRL–8105–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 3G6547) by Syngenta Seeds, Inc., P.O. Box 12257, Research Triangle Park, NC 27709. The petition requested that 40 CFR 174.452 be amended by establishing an extension of the temporary exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* Vip3A protein when applied/used as a PIP on cotton. This notice included a summary of the petition prepared by the petitioner Syngenta Seeds, Inc. No public comments were received.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.'' Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues '' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Data have been submitted demonstrating a lack of mammalian toxicity at high levels of exposure to the pure (microbially expressed) Vip3Aa19 protein. These data demonstrate the safety of Vip3Aa19 at levels well above maximum possible exposure levels that are reasonably anticipated in the crops. This is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this PIP was derived (see 40 CFR 158.740(b)(2)(i)). For microbial products, the need for Tier II and III toxicity testing and residue data to verify the observed effects and clarify the source of these effects is triggered only by significant acute effects in studies such as the mouse oral toxicity study.

In previously submitted Vip3A studies and applications, the designation VIP3A or Vip3A was used to describe the Vip PIP protein and/or test material. In the final rule, it is necessary to distinguish the various Vip3A designations based on the Crickmore *Bacillus thuringiensis* Vip3A nomenclature (see *http://www.lifesci.sussex.ac.uk/Home/Neil_Crickmore/Bt/*). The original Vip3A toxin as expressed in COT102 is now known as Vip3Aa19 toxin according to the Crickmore nomenclature designation. A temporary exemption from the requirement of a tolerance already has been established for the *Bacillus thuringiensis* Vip3A protein and the genetic material necessary for its production in cotton published in the **Federal Register** on April 26, 2006 (71 FR 24582) (FRL–7772–7); (40 CFR 174.452). This temporary exemption from the requirement of a tolerance will be modified to reflect the new Crickmore designation, Vip3Aa19.

An acute oral toxicity study was submitted for the Vip3Aa19 protein. Male and female mice (16 of each) were dosed with 3,675 milligrams/kilograms bodyweight (mg/kg bwt) of Vip3Aa19 protein. All mice survived the study, gained weight, had no test material related clinical signs, and had no test material related findings at necropsy. This acute oral toxicity data supports the prediction that the Vip3Aa19 protein would be non-toxic to humans.

When proteins are toxic, they are known to act via acute mechanisms and at very low-dose levels (Sjoblad, Roy D., et al. 1992). Therefore, since no effects were shown to be caused by the PIPs, even at relatively high-dose levels, the Vip3Aa19 protein is not considered toxic. Amino acid sequence comparisons showed no similarity between the Vip3Aa19 protein and known toxic proteins available in public protein data bases. According to the Codex Alimintarius Commission (Codex) guidelines, the assessment of potential toxicity also includes stability to heat (Joint FAO/WHO Food Standard Programme, Codex Alimentarius Commission, 2003[1]). A heat liability study demonstrated that Vip3Aa19 is inactivated against fall armyworm when heated to 55 °C for 30 minutes.

Since Vip3Aa19 is a protein, allergenic sensitivities were considered. Currently, no definitive tests exist for determining the allergenic potential of novel proteins. Therefore, EPA uses a weight of the evidence approach where the following factors are considered: Source of the trait; amino acid sequence similarity with known allergens; prevalence in food; and biochemical properties of the protein, including *in vitro* digestibility in simulated gastric fluid (SGF), and glycosylation. This approach was described by the Codex guidelines for the conduct of food safety assessment of food derived from recombinant-DNA plants including the assessment of possible allergenicity in 2003 (Joint FAO/WHO Food Standard Programme, Codex Alimentarius Commission, 2003).

Data have been submitted that demonstrate that the Vip3A from recombinant maize (LPPACHA-0199) and *E. coli* (VIP3A-0100) proteins are rapidly degraded by gastric fluid *in vitro*. (VIP3A-0100 refers to a microbially expressed Vip3A that has been shown to be the equivalent of the plant-expressed Vip3A protein.) In a solution of simulated gastric fluid (containing pepsin) and either 80 µL of LPPACHA-0199 or 320 µL of VIP3A-0100 test protein, both were shown to be susceptible to pepsin degradation. These data support the conclusion that Vip3A proteins expressed in transgenic plants will be readily digested as a conventional dietary protein under typical mammalian gastric conditions. Further data demonstrate that Vip3Aa19 is not glycoslylated and a comparison of amino acid sequences of known allergens uncovered no evidence of any homology with Vip3Aa19, even at the level of eight contiguous amino acid residues. These data demonstrated that the mean Vip3Aa19 concentration in cotton seed ranged from ca. 2.51 to 3.23 µg Vip3A/g dry weight. Vip3Aa19 was not detected in cotton fiber or nectar. Analysis of the refined oil and de-fatted meal by Enzyme-Linked Immunosorbent Assay (ELISA) detected Vip3Aa19 protein in COT102 meal, but not in oil. Therefore, based on the data provided for the specific Vip3Aa19 protein, one can conclude that the Vip3Aa19 protein is present in low levels in cotton seed and not detected in cotton fiber.

Therefore, the potential for the Vip3Aa19 protein to be a food allergen is minimal. As noted in Unit III., toxic proteins typically act as acute toxins at low-dose levels. Therefore, since no effects were shown to be caused by this PIP, even at relatively high-dose levels, the Vip3Aa19 protein is not considered toxic.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the PIP chemical residue, and exposure from non-occupational sources. Exposure via the skin or inhalation is not likely since the PIP is contained within plant cells, which essentially eliminates these exposure routes or reduces these exposure routes to negligible. The amino acid homology assessment revealed no similarities to known aeroallergens, indicating that Vip3Aa19 has a low potential to be an inhalation allergen. It has been demonstrated that there is no evidence of occupationally related respiratory symptoms, based on a health survey on migrant workers after exposure to *Bacillus thuringiensis* pesticides (Berstein, et al. 1999), which provides further evidence of the negligible respiratory risks of *Bacillus thuringiensis* PIPs. Exposure via residential or lawn use to infants and children is also not expected because the use sites for the Vip3Aa19 protein are all the agricultural for control of insects. Oral exposure, at very low levels, may occur from ingestion of

[1] Alinorm 03/34: Joint FAO/WHO Food Standard Programme, Codex Alimentarius Commission, Twenty-Fifth Session, Rome, Italy 30 June–5 July, 2003. Appendix III, Guideline for the conduct of food safety assessment of foods derived from recombinant-DNA plants and Appendix IV, Annex on the assessment of possible allergenicity. Rome, Codex Alimentarius Commission, 2003. pp. 47–60.

processed corn products and, theoretically, drinking water.

However, oral toxicity testing done in rats at a dose in excess of 3 gram(g)/kg showed no adverse effects. Furthermore, the expected dietary exposure from cotton is several orders of magnitude lower than the amounts of Vip3Aa19 protein shown to have no toxicity. Therefore, even if negligible aggregate exposure should occur, the Agency concludes that such exposure would present no harm due to the lack of mammalian toxicity and the rapid digestibility demonstrated for the Vip3Aa19 proteins.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information on the cumulative effects of such residues and other substances that have a common mechanism of toxicity. These considerations include the cumulative effects on infants and children of such residues and other substances with a common mechanism of toxicity. Because there is no indication of mammalian toxicity, the Agency concludes that there are no cumulative effects arising from Vip3Aa19 protein residues in cotton.

VI. Determination of Safety for U.S. Population, Infants and Children

A. Toxicity and Allergenicity Conclusions

The data submitted and cited regarding potential health effects for the Vip3Aa19 protein include the characterization of the expressed Vip3Aa19 protein in cotton, as well as the acute oral toxicity, heat stability, and *in vitro* digestibility of the proteins. The results of these studies were determined applicable to evaluate human risk, and the validity, completeness, and reliability of the available data from the studies were considered.

Adequate information was submitted to show that the Vip3A protein test material derived from microbial cultures (designated VIP3A-0100) was biochemically and functionally similar to the Vip3Aa19 protein expressed in cotton. Microbially produced protein was chosen in order to obtain sufficient material for testing.

The acute oral toxicity data submitted supports the prediction that the Vip3Aa19 protein would be non-toxic to humans. As mentioned Unit III., when proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Sjoblad, Roy D., et al. 1992). Since no effects were shown to be caused by Vip3Aa19 protein, even at relatively high dose levels (3,675 mg Vip3Aa19/kg bwt), the Vip3Aa19 protein is not considered toxic. This is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this PIP was derived. (See 40 CFR 158.740(b)(2)(i)). Moreover, Vip3Aa19 showed no sequence similarity to any known toxin.

Protein residue chemistry data for Vip3Aa19 were not required for a human health effects assessment of the subject PIP ingredients because of the lack of mammalian toxicity. Expression data demonstrated that mean Vip3Aa19 concentrations in cotton seed ranged from approximately 2.51 to 3.23 µg Vip3Aa19/g dry weight. Vip3Aa19 was not detected in cotton fiber or nectar. Analysis of the refined oil and de-fatted meal by ELISA detected Vip3Aa19 protein in COT102 meal, but not in oil. Therefore, Vip3Aa19 is present in low levels in cotton seed and not detect in cotton fiber.

Since Vip3Aa19 is a protein, its potential allergenicity is also considered as part of the toxicity assessment. Information considered as part of the allergenicity assessment included data demonstrating that the Vip3Aa19 protein came from a *Bacillus thuringiensis* which is not a known allergenic source, showed no sequence similarity to known allergens, was readily degraded by pepsin, and was not glycosylated when expressed in the plant. Therefore, there is a reasonable certainty that the Vip3Aa19 protein will not be an allergen.

Neither available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers including infants and children), nor safety factors that are generally recognized as appropriate for the use of animal experimentation data were evaluated. The lack of mammalian toxicity at high levels of exposure to the Vip3Aa19 protein, as well as the minimal potential to be a food allergen, demonstrate the safety of Vip3Aa19 at levels well above possible maximum exposure levels anticipated in the crop.

The genetic material necessary for the production of the PIP active ingredients are the nucleic acids (DNA, RNA) which comprise genetic material encoding these proteins and their regulatory regions. The genetic material (DNA, RNA) necessary for the production of Vip3Aa19 protein already are exempted from the requirement of a tolerance under a blanket exemption for all nucleic acids (40 CFR 174.475).

B. Infants and Children Risk Conclusions

Section 408(b)(2)(C) of FFDCA provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity.

In addition, FFDCA section 408(b)(2)(C) also provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base, unless EPA determines that a different margin of safety will be safe for infants and children.

In this instance, based on all the available information, the Agency concludes that there is a finding of no toxicity for the Vip3Aa19 protein and the genetic material necessary for its production in cotton. Because there are no threshold effects of concern, the Agency has determined that the additional tenfold margin of safety is not necessary to protect infants and children. Further, the provisions of consumption patterns, special susceptibility, and cumulative effects do not apply.

C. Overall Safety Conclusion

There is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of the Vip3Aa19 protein and the genetic material necessary for its production in cotton, when it is applied/used in accordance with good agricultural practices. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as previously discussed, no toxicity to mammals has been observed, nor has there been any indication of allergenicity potential for this PIP.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredient is a protein, derived from sources that are not known to exert an influence on the endocrine system. Therefore, the Agency is not requiring information on the endocrine effects of the PIP at this time.

B. Analytical Method(s)

A method for extraction and ELISA analysis of the Vip3Aa19 protein in cotton has been submitted and is under review by the Agency. For the temporary tolerance exemption, the ELISA method described with the expression data is sufficient.

C. Codex Maximum Residue Level

No Codex maximum residue levels exist for the PIP *Bacillus thuringiensis* Vip3Aa19 protein and the genetic material necessary for its production in cotton.

VIII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, this rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 26, 2007.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

[PART 174—AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136-136y; 21 U.S.C. 346a and 371.

■ 2. Section 174.452 is revised to read as follows:

§ 174.452 Bacillus thuringiensis Vip3Aa19 protein in cotton; temporary exemption from the requirement of a tolerance.

Residues of *Bacillus thuringiensis* Vip3Aa19 protein in cotton are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant (PIP) in the food and feed commodities of cotton; vegetative-insecticidal protein in cotton seed, cotton oil, cotton meal, cotton hay, cotton hulls, cotton forage, and cotton gin byproducts. This temporary exemption from the requirement of tolerance will permit the use of the food commodities in this section when treated in accordance with the provisions of the experimental use permit (EUP) 67979–EUP–7, which is being issued in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked May 1, 2008. However, if the EUP is revoked, or if any experience with or scientific data on this pesticide indicate that the temporary tolerance exemption is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

[FR Doc. E7–8951 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0965; FRL–8124–2]

Flufenacet; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes pesticide tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA) for combined residues of flufenacet and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on grass (forage, hay), sweet corn (forage, kernel plus cob with husk removed, stover), wheat (bran, forage, grain, hay, straw), cattle kidney, goat kidney, hog kidney, horse kidney, and sheep kidney. Bayer Cropscience petitioned EPA to establish these tolerances.

DATES: This regulation is effective May 9, 2007. Objections and requests for hearings must be received on or before July 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also

Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0965. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jim Tompkins, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5697; e-mail address: *tompkins.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0965 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0965, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 20, 2006 (71 FR 76321) (FRL–8104–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F6095) by Bayer CropScience, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.527 be amended by establishing a tolerance for combined residues of the herbicide flufenacet (*N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl] oxy] acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the food commodities: corn, sweet, forage at 0.4 parts per million (ppm); corn, sweet, kernel plus cob with husks removed at 0.05 ppm; corn, sweet, stover at 0.4 ppm; wheat, forage at 10.0 ppm; wheat, grain at 1.0 ppm; wheat, hay at 2.0 ppm; wheat, straw at 0.5 ppm; seed-grass, forage at 7.0 ppm; seed-grass, forage, regrowth at 0.1 ppm; seed-grass, hay, regrowth at 0.5 ppm. That notice included a summary of the petition prepared by Bayer CropScience, the registrant. There were no comments received in response to the notice of filing.

After completing a review of the submitted data, the Agency determined that additional tolerances are needed in connection with the petitioned-for tolerances for wheat bran 0.80 ppm, grass forage at 7.0 ppm, and grass hay at 0.4 ppm, cattle kidney at 0.05 ppm, goat kidney at 0.05 ppm, hog kidney at 0.05 ppm, horse kidney at 0.05 ppm, and sheep kidney at 0.05 ppm. EPA determined that tolerance levels are needed that differ from those proposed by the registrant for sweet corn forage at 0.45 ppm (0.4 ppm proposed) sweet corn stover at 0.30 ppm, (0.4 ppm proposed) wheat forage at 6.0 ppm (10.0 ppm proposed), wheat grain at 0.60 ppm (1.0 ppm proposed), wheat hay at 1.2 ppm (2.0 ppm proposed), and wheat straw at 0.35 ppm (0.5 ppm proposed). EPA determined that tolerances are not necessary for fat, meat, and meat byproducts of cattle, goat, hog, horse,

and sheep. Since permanent tolerances are being established for wheat and kidney of cattle, goat, hog, horse, and sheep, emergency exemption tolerances for these commodities are being deleted.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a tolerance for combined residues of flufenacet. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the toxic effects caused by flufenacet as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document, entitled *Flufenacet: HED Human Health Risk Assessment for Uses on Wheat, Perennial Grasses Grown for Seed and Sweet Corn* which is in the docket for this rule.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify non-threshold hazards such as cancer. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk, estimates risk in terms of the probability of occurrence of additional cancer cases. More information can be found on the general principles EPA uses in risk characterization at *http://www.epa.gov/pesticides/health/human.htm*.

A summary of the toxicological endpoints for flufenacet used for human risk assessment can be found in Table 4 (p.14) of the document, entitled *Flufenacet: HED Human Health Risk Assessment for Uses on Wheat, Perennial Grasses Grown for Seed and Sweet Corn* which is in the docket for this rule.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.527) for the combined residues of flufenacet and its metabolites, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from flufenacet in food from existing and proposed tolerances as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the U.S. Department of Agriculture (USDA) 1994–1996 and 1988 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Anticipated residues for many crops (field corn, soybean, sweet corn, and wheat) were developed using field trial data. Anticipated residues for livestock commodities were derived using available feeding and metabolism studies in conjunction with the anticipated dietary burden to ruminants, swine and poultry. Tolerance level residues were used to assess flufenacet exposure from the remaining commodities (i.e., cereal grains other than wheat). Exposure estimates for all commodities were further refined using percent crop treated (PCT) data. Projected PCT data were used to refine anticipated residues for the new food uses (sweet corn and wheat). Available processing data were used to refine anticipated residues for cereal grains and corn. For all other processed commodities, DEEM (ver. 7.81) default processing factors were assumed.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 CSFII, and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Anticipated residues for many crops (field corn, soybean, sweet corn, and wheat) were developed using field trial data. Anticipated residues for livestock commodities were derived using available feeding and metabolism studies in conjunction with the anticipated dietary burden to ruminants, swine and poultry. Tolerance level residues were used to assess flufenacet exposure from the remaining commodities (i.e., cereal grains). Exposure estimates for all commodities were further refined using PCT data. Projected PCT data were used to refine anticipated residues for the new food uses (sweet corn and wheat). Available processing data were used to refine anticipated residues for cereal grains and corn. For all other processed

commodities, DEEM (ver. 7.81) default processing factors were assumed.

iii. *Cancer*. A cancer aggregate exposure assessment was not performed because flufenacet is not carcinogenic.

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must pursuant section 408(f)(1) of FFDCA require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. For the present action, EPA will issue such Data Call-Ins for information relating to anticipated residues as are required by section 408(b)(2)(E) of FFDCA and authorized under section 408(f)(1) of FFDCA. Such Data Call-Ins will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

Chronic and acute dietary exposure analyses for sweet corn were based on projected PCT when treated with flufenacet of an average of 3% (used for chronic exposure assessment) and a maximum of 10% (used for acute exposure assessment). These projected PCT estimates were based on the following. Flufenacet has been registered and used on field corn since 1998. Field corn and sweet corn are the same species and there are many weeds and herbicides used to control those weeds which are common to the two crops. Therefore the use of flufenacet on field corn was used as the basis for predicting flufenacet use on sweet corn. EPA also analyzed other factors based on available information that included more recent usage of other acetamide herbicides on both field corn and sweet corn, information on new products desired for sweet corn, including flufenacet, to combat newly invasive weeds and resistant weeds, and differences in importance of individual herbicides between field corn and sweet corn.

Chronic and acute dietary exposure analyses for wheat were based on projected PCT when treated with flufenacet of an average of 1% and a maximum of 3%. These projected PCT estimates were based on the following: Emergency exemption uses have been issued for flufenacet on wheat for several years. EPA initially estimated the PCT for wheat based on recent PCTs for winter wheat due to emergency exemption usage. EPA later examined acres treated in individual states and compared that information to the treatment acres permitted under the emergency exemptions. EPA also analyzed other factors based on available information that included usage of metribuzin on winter wheat (since a new use is the combination metribuzin and flufenacet), current and past Emergency Exemption requests for flufenacet in the Northwest and on the East Coast to control resistant Italian ryegrass, and more recent usage data.

For all other commodities, PCT estimates were based on a screening level usage analysis of pesticide usage data from the following sources:

- USDA-NASS (United States Department of Agriculture's National Agricultural Statistics Service)—pesticide usage data from 1998 to 2003.
- NCFAP (National Center for Food and Agricultural Policy—pesticide usage data from 1997 and is only used if data is not available from the other sources.
- Private pesticide market research—pesticide usage data from 1998 to 2004.

The Agency believes that the three conditions previously discussed have been met. With respect to Condition 1, EPA finds that the PCT information described above for flufenacet on sweet corn, wheat, and grass forage and other commodities with existing registrations for flufenacet is reliable and has a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which flufenacet may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for flufenacet in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of flufenacet. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppfeed1/models/water/index*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentrations in Groundwater (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of flufenacet (plus its degradate thiadione in surface water) for acute exposures are estimated to be 8.64 parts per billion (ppb) for surface water and 0.10 ppb for ground water. The EECs for chronic exposures are estimated to be 2.23 ppb for surface water and 0.10 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Flufenacet is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider

''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to flufenacet and any other substances and flufenacet does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that flufenacet has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is no indication of additional susceptibility of young rats or rabbits following prenatal exposure to flufenacet in the developmental toxicity studies. There was an indication of qualitative susceptibility in the 2–generation reproduction study. Effects seen in the offspring in the reproductive toxicity studies (including increased pup death in early lactation and cannibalism) were more severe than those seen in the parental animals (increased liver weight and cytomegaly), although there was no difference in the NOAELs/LOAELS between parental animals and offspring in that study. Increased susceptibility (qualitative and quantitative) was seen in the developmental neurotoxicity study in rats. Decreased body weight was seen in pups at all dose levels, and additional effects, including decreased motor activity, delayed developmental landmarks, and decreases in morphometric measurements were seen at mid and high doses. Morphometric measurements were not made at the low dose. A slight decrease in body weight in mid and high dose dams during early lactation may have been due to palatability of test substance and was not considered adverse.

The selection of 1.7 milligrams/kilograms/day (mg/kg/day) as a LOAEL for the developmental neurotoxicity study is considered to be a conservative recommendation as to the decreased body weight effect, because the decrease in pup body weight at that dose is transient, and a similar decrease was not seen in the 2–generation reproduction study (decreased pup body weight seen in the 1–generation range-finding reproduction study occurred at higher doses than those evaluated in the developmental neurotoxicity study).

3. *Conclusion*. Several factors weighed in favor of the conclusion that no additional safety factor is needed to protect the safety of infants and children. First, there was no evidence of increased susceptibility in the developmental toxicity studies (rats and rabbits), and qualitative susceptibility seen in the rat reproduction study did not raise concerns because the pup death may be attributable to maternal cannibalism, and there was a clear NOAEL for the effect. Second, there are also no additional residual uncertainties with respect to exposure data:

- The dietary drinking water assessment utilizes water concentration values generated by models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations which will not likely be exceeded.
- Although the exposure assessment from pesticide residues in food was somewhat refined, the assessment is based on reliable data and will not underestimate exposure/risk.
- There are no residential uses for flufenacet.

Nonetheless, for several reasons EPA determined that the 10X FQPA Safety Factor should be retained. The primary reason for retaining the additional safety factor is that there is uncertainty regarding the protectiveness of selected RfDs because of a lack of comparative susceptibility data for thyroid hormone levels. Secondarily there is also some uncertainty due to the lack of a NOAEL in the DNT for the decrease in morphometric measurements and body weight effects in pups and the lack of data on comparative sensitivity to neuropathologic lesions. Concerns with regard to these latter issues are more limited given dose response data on the morphometric changes indicating that these effects would not be expected at the low dose, the transient nature of the body weight effects seen at the low dose, and the fact that neuropathologic lesions were only seen at relatively high doses.

E. Aggregate Risks and Determination of Safety

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food plus drinking water to flufenacet will occupy 30% of the aPAD for the U.S. population, 25% of the aPAD for females 13 years and older, 89% of the aPAD for all infants (< 1 year old), and 42% of the aPAD for children 1–2 years old.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to flufenacet from food plus drinking water will utilize 2.9% of the cPAD for the U.S. population, 9.2% of the cPAD for all infants (< 1 year old), and 4.4% of the cPAD for children 1–2 years old. There are no residential uses for flufenacet that result in chronic residential exposure to flufenacet. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Flufenacet is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Flufenacet is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and

water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Because flufenacet is classified as a ''not likely'' carcinogen, the Agency does not expect exposure to flufenacet to result in any cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to flufenacet residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatographic/single ion mode (GC/SIM) common moiety method) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

Flufenacet is not in the Codex system, i.e., there are no established or pending Codex MRLs for flufenacet. Therefore, there are no harmonization issues.

V. Conclusion

Therefore, the tolerances are established for combined residues of flufenacet, (*N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl] oxy] acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety, in or on grass forage at 7.0 ppm, grass hay at 0.4 ppm, sweet corn forage at 0.45, sweet corn kernel plus cob with husk removed at 0.05 ppm, sweet corn stover at 0.30 ppm, wheat bran at 0.80 ppm, wheat forage at 6.0 ppm, wheat grain at 0.60 ppm, wheat hay at 1.2 ppm, wheat straw at 0.35 ppm, cattle kidney at 0.05 ppm, goat kidney at 0.05 ppm, hog kidney at 0.05 ppm, horse kidney at 0.05 ppm, and sheep kidney at 0.05 ppm. Section 18 emergency exemption tolerances are deleted for flufenacet in or on wheat (forage, grain, hay, straw) and fat, kidney, meat, and meat byproducts of cattle, goat, hog, horse, and sheep.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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 final 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 1, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.527 is amended as follows:

■ i. By revising the section heading;

■ ii. By revising paragraph (a);

■ iii. By removing the text of paragraph (b) and reserving with heading;

■ iv. By revising the introductory text of paragraph (c) and adding commodities to the table; and

■ v. By revising the introductory text of paragraph (d).

The amendments read as follows:

§ 180.527 Flufenacet, N-(4-fluorophenyl)-N-(1-methylethyl)-2-[[5-(trifluoromethyl)-1, 3, 4-thiadiazol-2-yl] oxy]acetamide and its metabolites containing the 4-fluoro-N-methylethyl benzenamine tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1, 3, 4-thiadiazol-2-yl] oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the following commodities.

Commodity	Parts per million
Cattle, kidney	0.05
Corn, field, forage	0.4
Corn, field, grain	0.05
Corn, field, stover	0.4
Corn, sweet, forage	0.45
Corn, sweet, kernel plus cob with husks removed	0.05
Corn, sweet, stover	0.30
Goat, kidney	0.05
Hog, kidney	0.05
Horse, kidney	0.05
Sheep, kidney	0.05
Soybean, seed	0.1
Wheat, bran	0.80
Wheat, forage	6.0
Wheat, grain	0.60
Wheat, hay	1.2
Wheat, straw	0.35

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances are established for combined residues of flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1, 3, 4-thiadiazol-2-yl] oxy]acetamide, and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety, with regional registration.

Commodity	Parts per million
Grass, forage	7.0
Grass, hay	0.4

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the herbicide flufenacet, *N*-(4-fluorophenyl)-*N*-(1-methylethyl)-2-[[5-(trifluoromethyl)-1,3,4-thiadiazol-2-yl]oxy]acetamide and its metabolites containing the 4-fluoro-*N*-methylethyl benzenamine moiety in or on the following raw agricultural commodities when present therein as a result of application of flufenacet to the growing crops in paragraph (a) of this section.

* * * * *

[FR Doc. E7–8936 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0535; FRL–8127–2]

Clethodim; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of clethodim and certain of its metabolites in or on asparagus; flax, seed; herb, subgroup 19A; hop, dried cones; leafy greens subgroup 4A; safflower, meal; safflower, seed; sesame, seed; and vegetable, legume, group 6, except soybean. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 9, 2007. Objections and requests for hearings must be received on or before July 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0535. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*,or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to

assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0535 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before July 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2005–0535, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

II. Petition for Tolerance

In the **Federal Register** of April 21, 2006 (71 FR 20669) (FRL–8056–8), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 3E6555, 5E6977, 4E6836, 5E6978, and 4F6895) by the Interregional Research Project #4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.458 be amended by establishing a tolerance for combined residues of the herbicide clethodim, (E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexene-1-one moiety in or on flax, seed at 0.5 parts per million (ppm) (PP 3E6555); herb, subgroup 19A at 10.0 ppm (4E6836); asparagus at 2.0 ppm and hop, dried cones at 0.5 ppm (5E6977); leafy greens subgroup 4A at 2.0 ppm (5E6978); and sesame, seed at 0.40 ppm; vegetable, legume, group 6 at 3.0 ppm; safflower, meal at 10.0 ppm; and safflower, seed at 5.0 ppm (4F6895). That notice referenced a summary of the petitions prepared by Valent U.S.A. Corporation, 133 N. California Blvd., Walnut Creek, CA 94596, the registrant, which is available to the public in the docket, *http://www.regulations.gov*.

There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has recommended certain changes to the petitions including:

- Revised tolerance levels for certain commodities, and:
- A specific tolerance expression to be applied to all new uses in an effort to harmonize tolerances with Codex Maxium Residue Limits. The reasons for these changes are explained in Unit V.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned for tolerances for combined residues of clethodim on flax, seed at 0.6 ppm; herb, subgroup 19A at 12.0 ppm (4E6836); asparagus at 1.7 ppm and hop, dried cones at 0.5 ppm; leafy greens subgroup 4A at 2.0 ppm (5E6978); and sesame, seed at 0.35 ppm; vegetable, legume (except soybean), group 6 at 3.5 ppm; safflower, meal at 10.0 ppm; and safflower, seed at 5.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by clethodim as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as ''Clethodim: Human Health Risk Assessment for Proposed Uses on Herb Sugbroup 19A, Leafy Greens.....and Flax seed, dated 03/07/2007'' in that docket.

Additionally, clethodim toxicological data are discussed in the final rule published in the **Federal Register** of March 14, 2001(66 FR 14829) (FRL–6770–8).

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which NOAELs are observed in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the LOAEL of concern identified is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for clethodim used for human risk assessment can be found at *www.regulations.gov* in document ''Clethodim: Human Health Risk Assessment for Proposed Uses on Herb Sugbroup 19A, Leafy Greens.....and Flax seed, dated 03/07/2007'' at page 14 in Docket ID EPA–HQ–OPP–2005–0535.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to clethodim, EPA considered exposure under the petitioned-for tolerances as well as all existing clethodim tolerances in (40 CFR 180.458). EPA assessed dietary exposures from clethodim in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for clethodim; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary (food and water) exposure assessment, EPA used the food consumption data from the U.S. Department of Agriculture's (USDA) Nationwide Continuing Surveys of Food Intake by Individuals (CSFII) from 1994-1996 and 1998. The chronic dietary exposure assessment was based on the assumption of tolerance-level residues for existing and proposed tolerances; and incorporated percent crop treated (PCT) information for certain registered uses.

iii. *Cancer*. Clethodim was negative for carcinogenicity in feeding studies in rats and mice and was classified as ''not likely'' to be a human carcinogen. Therefore, a quantitative exposure assessment to evaluate cancer risk is unnecessary.

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

a. The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue;

b. The exposure estimate does not underestimate exposure for any significant subpopulation group; and

c. Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

Commodity	Percent of Crop Treated (Weighted Average)
Beets	1
Broccoli	10
Cabbage	1
Cantaloupes	1
Carrots	10
Celery	5
Cotton	1
Cucumbers	1
Dry beans	5
Lettuce	1
Onions	10
Peanuts	5

Commodity	Percent of Crop Treated (Weighted Average)
Potatoes	5
Pumpkins	5
Soybeans	5
Squash	5
Strawberries	1
Sugar beets	45
Sunflowers	20
Sweet potatoes	1
Tomatoes	1
Watermelons	5

EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available federal, state, and private market survey data for that use, averaging by year, averaging across all years, and rounding up to the nearest multiple of five percent except for those situations in which the average PCT is less than one. In those cases <1% is used as the average and <2.5% is used as the maximum. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the single maximum value reported overall from available federal, state, and private market survey data on the existing use, across all years, and rounded up to the nearest multiple of five percent. In most cases, EPA uses available data from USDA/National Agricultural Statistics Service (NASS), Proprietary Market Surveys, and the National Center for Food and Agriculture Policy (NCFAP) for the most recent six years.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from sources as discussed above including Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which clethodim may be applied in a particular area.

2. *Dietary exposure from drinking water.*The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for clethodim in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of clethodim. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Surface water and ground water contamination may occur from the sulfoxide and sulfone degradates of clethodim, as well as from parent clethodim. However, the risk of water contamination is primarily associated with clethodim sulfone and clethodim sulfoxide rather than parent clethodim based on greater persistence and mobility for these degradates. Parent clethodim may move from the treated field to surface water or ground water through run-off or leaching which occurs shortly after application (e.g. rainfall). Also, the sulphoxide and sulphone degradates may migrate by runoff or leaching for longer periods of time since they are more persistent. All residues of clethodim (parent and degradates) are very mobile in soil.

The only significant routes of dissipation of clethodim are microbial degradation in soil and movement by leaching or runoff. Parent clethodim is moderately persistent to hydrolysis at pH 5 with half-lives of 26-42 days and stable at pH 7 and 9 with half-lives greater than 300 days. Even though acceptable water and soil photolysis studies show half-lives of 1.5 to 9.3 days, this may not be an important route of dissipation because of suspended sediment and shading. Photolysis is only an important route of dissipation in shallow, well-mixed surface water with no shading. The half-lives in aerobic soil are 2-3 days for parent clethodim, and 30-38 days for total toxic residues (parent + sulphoxide + sulphone). The sulphoxide and sulphone metabolites are more persistent than parent clethodim and are formed in significant quantities in soil. All residues of clethodim (parent and metabolites) are very mobile in soil with five out of six soil desorption coefficients (Kd) less than one. The field dissipation studies show that parent clethodim was only found at levels at or near the quantitation limit of 0.02 ppm, which is consistent with the rapid degradation in soil. Clethodim sulphoxide had an apparent half-life of 2.5 to 3.7 days, indicating that movement from the treated field may have been an important route of dissipation.

In surface water, parent clethodim may move from the treated field to surface water or ground water through run-off or leaching which occurs shortly after application (e.g. rainfall). Also, the sulphoxide and sulphone degradates may migrate by runoff or leaching for longer periods of time since they are

more persistent. All residues of clethodim (parent and degradates) are very mobile in soil.

In ground water, parent clethodim is mobile, but has a short metabolic half-life in soil under aerobic conditions. Therefore, parent compound should not be a ground water concern in most environments. While it is expected that parent clethodim can be transformed to sulphoxide or sulphone products quickly by soil metabolism ($t_{\frac{1}{2}}$ = 1 - 3 days), it may be more persistent since it is leached below the more biologically active top soil. In such instances (i.e., leaching rainfall shortly after application) parent clethodim concentrations may be higher than estimated and correspondingly, the concentration of the degradates sulphoxide and sulphone would be lower. In the event that parent clethodim did reach ground water, the available routes of disappearance would be dilution, some metabolism to persistent degradates, and slow hydrolysis with the rate depending on the pH of the ground water. Estimates are provided for both parent clethodim and total toxic clethodim (parent + sulphoxide + sulphone).

Based on the (FQPA Index Reservoir Screening Tool (FIRST)) model, Tier 1 surface water concentrations for parent clethodim and total toxic residues (parent + sulphoxide + sulphone) were estimated in drinking water. These estimates are based on a maximum application rate of 0.5 lb ai/acre per year (2 applications). The peak FIRST estimated environmental concentration (EEC) for clethodim and it's degradates, sulphoxide and sulphone for acute exposures are estimated to be 38.9 parts per billion (ppb) for surface water. The EECs for chronic exposures are estimated to be 7.6 ppb for surface water. For drinking water derived from ground water, the Screening Concentration in Ground water (SCI-GROW) model estimates a total toxic clethodim concentration of 1.39 ug/L sources were not included, as the EEC's for this water source are minimal in comparison to surface water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 38.9 ppb was used to access the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 7.6 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Although clethodim is registered for use in non-crop areas and for commercial use on ornamentals, no residential exposure is expected from these uses because these uses are clearly intended for commercial and institutional applications on commercially grown ornamentals and not for ornamentals in a residential setting. Therefore, non-occupational exposure assessment of clethodim was not performed.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to clethodim and any other substances and clethodim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that clethodim has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408 of FFDCA provides that EPA shall apply an additional (10X) tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data based on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* There is no evidence of susceptibility following *in utero* and/or postnatal exposure to clethodim in the developmental toxicity studies in rats or rabbits, and in the 2-generation rat reproduction study.

There are no residual uncertainties concerning pre- and postnatal toxicity and no neurotoxicity concerns.

3. *Conclusion.* EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity data base for clethodim is complete.

ii. There is no indication that clethodim is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that clethodim results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary (food and drinking water) exposure assessment will not underestimate the potential exposure for infants, children, and/or women of childbearing age. There is no potential for residential exposure.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-term, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk.* There were no effects observed in oral toxicity studies including developmental toxicity studies in rats and rabbits that could be attributable to a single dose (exposure).

Therefore, clethodim is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clethodim from food and water will utilize 29% of the cPAD for the general U.S. population group and 84% of the cPAD for children 1-2 years old, the subpopulation group with greatest exposure. There are no residential uses for clethodim that result in chronic residential exposure to clethodim.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clethodim is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clethodim is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Clethodim is classified as a ''not likely'' to be carcinogenic in humans based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in the rat. Therefore, clethodim is not expected to pose a cancer risk to humans.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to clethodim residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

For plants, adequate methodology is available for enforcement of the proposed tolerances through the use of FDA Multiresidue Methods. The analytical method used to assay clethodim residues in/on commodities that are the subject of this action was RM-26B-3 (a modification of RM-26B-2) or RE 45601 (also adapted from Valent (the registrant) method RM-26B), which was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-hydroxy clethodim sulfone) in/on green onions, leaf lettuce, and cabbage. Samples were analyzed for combined clethodim residues (dimethylester sulfone (DME) and 5-hydroxy dimethylester sulfone (DME-OH)) by gas chromatography with flame photometric detection in the sulfur mode (GC/FPD-S). In the analytical results, DME and DME-OH were reported as clethodim equivalents. Only one crop, hops, dried cones, had residues below the limit of quantitation (LOQ) <0.50 ppm) for combined total residues of clethodim (DME and DME-OH). The concurrent recoveries of clethodim (DME and DME-OH) for the submitted trials were generally within the accepted range of 70-120%. An exception was the concurrent recovery of DME-OH in succulent pea at 62%. There is no reason to believe that the residues of clethodim were unstable, or that the analytical method was not reliable under the conditions of these studies.

For livestock, Analytical Method RM-26B-3 (a modification of RM-26B-2) has been successfully validated for use with livestock commodities and has been submitted to the FDA for publication in PAM II.

IR-4 (petitioner) has previously submitted data describing the testing of clethodim and its metabolites through FDA Multiresidue Methods. These data, which have been forwarded to FDA for review indicate that adequate recoveries of clethodim, clethodim sulphoxide, and 5-OH clethodim sulphone have been obtained under FDA's multiresidue protocols.

Accordingly, EPA concludes that Adequate enforcement methodology (GC/FPD-S) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently Codex MRLs established for clethodim and its metabolites containing 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in or on bean, dry at 2 ppm; beans, except broad bean and soya bean at 0.5 ppm; field peas (dry) at 2 ppm; and soya bean (dry) at 10 ppm. Based on newly submitted field trial data, the Agency is establishing a new crop group tolerance, i.e., on vegetables, legume, group (crop group 6), except soybean. Because the Agency is establishing the tolerances on legume vegetables as a crop group, it cannot harmonize the crop group tolerance with the varying Codex MRLs for individual legume vegetables.

There are established Canadian MRLs for clethodim residues and its metabolites containing the 2-cyclohex-1-enone moiety on soybean at 10.0 ppm, beans, 0.5, chickpea at 0.5 ppm; lentils at 0.5 ppm; pea, dry at 0.5 ppm and flax seed at 0.3 ppm. In addition, Mexican MRLs are established for clethodim on bean, kidney at 2.0 ppm and soya bean at 10 ppm. Harmonization with Canadian and Mexican MRLs is not possible based on the MRL calculations of the newly submitted data.

V. Conclusion

The Agency has revised the proposed tolerance expression to make it consistent with the existing tolerance expression in 40 CFR 180.458 (a)(3). Clethodim is defined as the combined residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexen-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexen-3-one moieties and their sulphoxides and sulphones. In addition, the Agency revised tolerance levels proposed by IR-4 for certain commodities to reflect tolerance levels supported by current data bases.

Therefore, tolerances are established for the combined residues of the herbicide clethodim, (E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexen-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexen-3-one moieties and their sulphoxides and sulphones in or on flax, seed at 0.6 ppm; herb, subgroup 19A at 12.0 ppm; asparagus at 1.7 ppm; hop, dried cones at 0.5 ppm; leafy greens subgroup 4A at 2.0 ppm; and sesame, seed at 0.35 ppm; vegetable, legume group 6, except soybean at 3.5 ppm; safflower, meal at 10.0 ppm; and safflower, seed at 5.0 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not

subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 1, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.458 is amended by alphabetically adding the following commodities to the table in paragraph (a)(3) to read as follows:

§ 180.458 Clethodim; tolerances for residues.

(a) * * *

(3) * * *

Commodity	Parts per million
Asparagus	1.7
* * * * *	
Flax seed	0.6
* * * * *	
Herb subgroup 19A	12.0
* * * * *	
Hop, dried cones	0.5
* * * * *	
Leafy greens subgroup 4A	2.0
* * * * *	
Safflower, meal	10.0
Safflower, seed	5.0
Sesame, seed	0.35
* * * * *	
Vegetable, legume group 6, except soybean	3.5

* * * * *

[FR Doc. E7–8938 Filed 5–8–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0237; FRL–8127–3]

Fenpyroximate; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of fenpyroximate in or on honey. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide in managed beehives. This regulation establishes a maximum permissible level for residues of fenpyroximate in this food commodity. The tolerance expires and is revoked on December 31, 2010.

DATES: This regulation is effective May 9, 2007. Objections and requests for hearings must be received on or before July 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0237. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Stacey Groce, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–2505; e-mail address: *groce.stacey@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0237 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–0237 by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a time-limited tolerance for combined residues of the miticide fenpyroximate in or on honey at 0.10 parts per million (ppm). This tolerance expires and is revoked on December 31, 2010. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR).

Section 408(l)(6) of the FFDCA requires EPA to establish a tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency

exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Fenpyroximate on Honey and FFDCA Tolerances

The varroa mite, (*Varroa jacobsoni*), is an ectoparasite of honeybees. It was first detected in the continental United States in 1979 and is currently the most important pest of honey bee colonies. The feeding of varroa mites has a number of effects on the bee from damaging tissue to shortening the bee's life span as an adult. Further, the mites vector disease viruses and heavy levels of parasitism increase bee mortality and weaken colonies. Fluvalinate is currently registered for the control of varroa mites; however, populations of varroa mites have developed resistance to fluvalinate. The applicants for this use pattern assert that the continued survival of managed bee colonies is critical to the production of many agricultural crops and it is becoming increasingly difficult to control varroa mites due to pesticide resistance. EPA has authorized under FIFRA section 18 the use of fenpyroximate on honey for control of varroa mites in Nebraska, North Dakota, New York, Idaho, Oregon, and Washington States. In addition, EPA has authorized under the FIFRA section 18 crisis provision the use of fenpyroximate in beehives for control of varroa mites in Texas. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fenpyroximate in or on honey. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this time-limited tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although this time-limited tolerance expires and is revoked on December 31, 2010, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on honey after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this time-limited tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this time-limited tolerance is being approved under emergency conditions, EPA has not made any decisions about whether fenpyroximate meets EPA's registration requirements for use on honey or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of fenpyroximate by a State for special local needs under FIFRA section 24(c). Nor does this time-limited tolerance serve as the basis for any States other than Idaho, Nebraska, Minnesota, New York, North Dakota, Texas, and Washington States to use this pesticide on bee hives under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fenpyroximate contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of fenpyroximate and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for combined residues of fenpyroximate in or on honey at 0.10 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the

FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 X 10^6 or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fenpyroximate used for human risk assessment is discussed in Table 1 on page 5 of the Fenpyroximate Human Health Risk Assessment dated December 4, 2006: *Section 18 Request for Use in Bee Hives*, and can be located by searching for docket ID number EPA–HQ–OPP–2007–0237. Double-click on the document to view the referenced information.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.566) for the combined residues of the miticide fenpyroximate in or on a variety of raw agricultural commodities. Tolerances have also been established for fenpyroximate and its metabolites (E)-4-[(1,3-dimethyl-5-phenoxypyrazol-4-yl)-methylene aminooxymethyl] benzoic acid and (E)-1,1-dimethylethyl-2-hydroxyethyl 4-[[[[(1,3-dimethyl-5-phenoxy-1 H-pyrazol-4-yl) methylene] amino]oxy]methyl]benzoate, calculated as the parent compound at 0.015 ppm in milk, and the fat, meat, and meat byproducts (excluding liver and kidney) of cattle, goat, horse, and sheep at 0.03 ppm. Risk assessments were conducted by EPA to assess dietary exposures from fenpyroximate in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM-FCID™) version 2.02 analysis evaluated the individual food consumption as reported by respondents in the USDA 1994–1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: An unrefined Tier I acute dietary-exposure assessment was conducted for females 13–49 years old. The unrefined Tier I acute dietary analyses assumed that fenpyroximate residues were present in all commodities at tolerance levels and that 100% of all commodities (registered and proposed uses) are treated. Adequate processing data on apples, grapes, oranges, and mint are available. Modified processing factors based on these data were used for apple juice, pear juice, grape juice, raisins, citrus juice (orange, grapefruit, lemon, lime) and mint oils (peppermint and spearmint). The DEEM-FCID™ default processing factors were used for all other processing commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM-FCID™ version 2.02 analysis evaluated the individual food consumption as reported by respondents in the USDA 1994–1996 and 1998 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: An unrefined Tier I chronic dietary-exposure assessment was conducted for the general U.S. population and various sub-populations. The unrefined Tier I chronic dietary analyses assumed that fenpyroximate residues were present in all commodities at tolerance levels and that 100% of all commodities (registered and proposed uses) are treated. Adequate processing data on apples, grapes, oranges, and mint are available. Modified processing factors based on these data were used for apple juice, pear juice, grape juice, raisins, citrus juice (orange, grapefruit, lemon, lime) and mint oils (peppermint and spearmint). The DEEM-FCID™ default processing factors were used for all other processing commodities.

iii. *Cancer.* Fenpyroximate is classified as ''not likely'' to be a human carcinogen. Therefore a cancer risk assessment was not performed.

2. *Dietary exposure from drinking water.* The Agency determined that in addition to the parent compound, known as fenpyroximate, M-1, the z isomer of fenpyroximate, and the M-3 metabolite should be included in the drinking water assessment for fenpyroximate based on their structural similarity. Some surface water and ground water contamination may occur based on the proposed application rates and the environmental fate properties of fenpyroximate. However, the risk of water contamination from the parent compound is relatively low, based on its high sorption potential. Unlike the parent compound, sorption of the M-3 metabolite is much less, and it may move into water resources more readily. Fenpyroximate and M-1 are not expected to persist under terrestrial environmental conditions, with metabolism as the primary route of dissipation. Hydrolysis and photodegradation on soil are not expected to be significant routes of dissipation, but photodegradation in water could be significant assuming clear, well-mixed, shallow water bodies.

Based on Tier II screening-level surface water modeling for drinking water, the Agency estimated concentrations in surface water to be used for acute, chronic non-cancer, and cancer exposure assessment. Tier II surface water concentrations for parent fenpyroximate and M-1 were calculated using the Pesticide Root Zone Model/ Exposure Analysis Modeling System (PRZM-EXAMS) shell. The acute and chronic non-cancer concentrations for Georgia (GA) pecan (highest exposure) are 12.9 and 1.8 microgram/Liter (ug/L), respectively. EPA used the Screening Concentration Ground Water (SCI-GROW2) model to estimate a ground water concentration of 0.059 parts per billion (ppb). These results for both surface water and ground water are consistent with the fate and transport properties of fenpyroximate.

Modeled estimates of drinking water concentrations were incorporated directly into the dietary assessment using the estimated drinking water concentrations (EDWC) for surface water generated by the PRZM-EXAMS model. For the acute assessment, the peak concentration of 12.9 ppb was used to assess the contribution to drinking water; for the chronic assessment, the annual mean value of 1.8 ppb was used

to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Fenpyroximate is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fenpyroximate and any other substances and fenpyroximate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fenpyroximate has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

C. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional safety factor value based on the use of traditional uncertainty factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. The rat and rabbit developmental toxicity studies were tested at doses that produced minimal maternal toxicity. These doses were supported partly by range finding data. The 2–generation reproductive toxicity study indicated that maternal (decreased body weight) and offspring toxicity (decreased lactational weight gain) occurred at the same dose, suggesting no evidence of increased sensitivity or susceptibility. Reproductive parameters were not affected in this 2–generation reproduction study. There are no neurotoxicity studies other than a negative delayed acute neurotoxicity study in the hen. There was no indication of neurotoxicity present in any of the existing subchronic or chronic toxicity studies. The toxicology database is complete for FQPA purposes and there are no residual uncertainties for prenatal/postnatal toxicity.

3. *Conclusion*. There is a complete toxicity database for fenpyroximate and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be changed to 1X for the following reasons:

i. There are no concerns or residual uncertainties for prenatal or postnatal toxicity.

ii. The toxicological database is complete for the assessment of toxicity and susceptibility following prenatal and/or postnatal exposures. No clinical signs of neurotoxicity or neuropathology were observed in the database.

iii. There are no residual concerns regarding completeness of the exposure database.

iv. The dietary food exposure assessment is an unrefined, Tier I, acute and chronic analyses, which assumed that fenpyroximate residues were present in all commodities at tolerance levels and that 100% of all commodities (registered and proposed uses) were treated with fenpyroximate. By using these screening level assessments, actual exposures /risks will not be underestimated.

v. The dietary drinking water assessment utilizes water concentration values generated by models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations that will not likely be exceeded.

vi. There are currently no registered or proposed residential uses of fenpyroximate.

D. Aggregate Risks and Determination of Safety

The Agency currently has two ways to estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses. First, a screening assessment can be used, in which the Agency calculates drinking water levels of comparison (DWLOCs), which are used as a point of comparison against estimated drinking water concentrations (EDWCs). The DWLOC values are not regulatory standards for drinking water, but are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. More information on the use of DWLOCs in dietary aggregate risk assessments can be found at *http://www.epa.gov/oppfead1/trac/science/screeningsop.pdf*.

More recently, the Agency has used another approach to estimate aggregate exposure through food, residential and drinking water pathways. In this approach, modeled surface water and ground water EDWCs are directly incorporated into the dietary exposure analysis, along with food. This approach provides a more realistic estimate of exposure because actual body weights and water exposures are then added to estimated and water consumption form the CSFII are used. The combined food and water exposures are then added to estimated exposure from residential sources to calculate aggregate risks. The resulting exposure and risk estimates are still considered to be high end, due to the assumptions used in developing drinking water modeling inputs. The risk assessment for fenpyroximate used in this tolerance document uses this approach of incorporating water exposure directly into the dietary exposure analysis.

There are no registered or proposed uses of fenpyroximate, which result in residential exposures, so the aggregate exposure assessment required by FFDCA section 408(b)(2)(D)(vi) consists solely of dietary (food + drinking water) exposures.

Aggregate exposure risk assessments were conducted by incorporating the drinking water concentrations directly into the dietary exposure assessment for the acute and chronic aggregate exposures (food + drinking water). These aggregate exposures do not exceed the Agency's level of concern since they were less than 100% of the respective population adjusted doses (PADs).

1. *Acute risk*. An unrefined acute dietary-exposure assessment was conducted for females 13 to 49 years old. Since an effect of concern attributable to a single dose in toxicity studies was not identified for the general U.S. population, an acute dietary-exposure assessment was not performed for this population. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fenpyroximate will occupy 6.8% of the acute population adjusted dose (aPAD) for females 13 years and older. EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

2. *Chronic risk*. Using the exposure assumptions discussed in this unit for chronic exposure, EPA has concluded that exposure to fenpyroximate from food and water will utilize 9.8% of the chronic population adjusted dose (cPAD) for the U.S. population, 20% of the cPAD for all infants, 1 year old, and 34% of the cPAD for children 1 to 2 years old. There are no residential uses for fenpyroximate which result in chronic residential exposure to fenpyroximate. Therefore, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Aggregate cancer risk for U.S. population*. A cancer aggregate-risk assessment was not performed because fenpyroximate has been classified as not likely to be carcinogenic to humans.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fenpyroximate residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology and high-performance liquid chromatography/mass spectrometry/mass spectrometry (HPLC/MS/MS) is available to enforce the tolerance expression. The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address:*residuemethods@epa.gov*.

B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits (MRLs) for the residues of fenpyroximate in honey. Therefore, there are no international harmonization concerns at this time.

VI. Conclusion

Therefore, the time-limited tolerance is established for combined residues of fenpyroximate, (E)-1,1-dimethylethyl 4-[[[(E)-[(1,3-dimethyl-5-phenoxy-1H-pyrazol-4-yl)methylene] amino]oxy]methyl]benzoate, in or on honey at 0.10 ppm. This tolerance expires and is revoked on December 31, 2010.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 26, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.566 is amended by adding text and a table to paragraph (b) to read as follows:

§ 180.566 Fenpyroximate; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemption*. Time-limited tolerance is established for the combined residues of fenpyroximate, (E)-1,1-dimethylethyl 4-

[[[(E)-[(1,3-dimethyl-5-phenoxy-1H-pyrazol-4-yl) methylene] amino]oxy] methyl]benzoate in or on honey at 0.10 ppm. This tolerance expires and is revoked on the date specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Honey	0.10 ppm	12/31/2010

* * * * *

[FR Doc. E7–8954 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0880; FRL–8125–5]

Foramsulfuron; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of foramsulfuron on corn, sweet (K+CWHR); corn, sweet, forage; corn, sweet, stover; corn, pop grain; and corn, pop, stover when applied/used as a herbicide. The Interregional Project Number 4 (IR-4) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of foramsulfuron.

DATES: This regulation is effective May 9, 2007. Objections and requests for hearings must be received on or before July 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0880. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: *brothers.shaja@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in [insert appropriate cite to either another unit in the preamble or a section in a rule]. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0880 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0880, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of November 22, 2006 (71 FR 67574) (FRL–8102–1), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5E7004) by IR-4, 500 College Road, East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.1219 be amended by establishing an exemption from the requirement of a tolerance for residues of foramsulfuron on corn, sweet (K+CWHR); corn, sweet, forage; corn, sweet, stover; corn, pop grain; and corn, pop, stover. This notice included a summary of the petition prepared by the registrant Bayer CropScience. There was one comment submitted by a private citizen who opposed the authorization to sell any pesticide that leaves a residue on food. The Agency has received this comment on numerous occasions and rejects it for the reason previously stated in the **Federal Register** of January 7, 2005, (70 FR 1349) (FRL–7694–3).

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The Agency determined the toxicological profile for foramsulfuron supports a tolerance exemption as result of the lack of toxicity associated with this chemical. For conclusive information on foramsulfuron's toxicity profile, please view the final rule published in the **Federal Register** of March 29, 2002 (67 FR 15120), (FRL–6829–8) (*http://www.epa.gov/fedrgstr/EPA-PEST/2002/March/Day-29/p7502.htmtp*).

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

Due to the low toxicity, it was determined that a dietary aggregate exposure risk assessment (food and water) is not needed. Therefore, an aggregate dietary assessment was not conducted. For more information on this determination, please view the final rule published in the **Federal Register** of March 29, 2002 (67 FR 15120), (*http://www.epa.gov/fedrgstr/EPA-PEST/2002/March/Day-29/p7502.htmtp*).

V. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information concerning the cumulative effects'' of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to foramsulfuron and any other substances, and foramsulfuron does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that foramsulfuron has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

VI. Safety Factor for the Protection of Infants and Children

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. Since a dietary risk assessment was not conducted for foramsulfuron due to its low toxicity, a safety factor for infants and children is not applicable to the determination of the risk due to exposure of infants and children to foramsulfuron.

2. *Prenatal and postnatal sensitivity*. No significant toxicity or prenatal or postnatal toxicity was seen in any of the studies conducted with foramsulfuron.

3. *Conclusion*. There is a complete toxicity database for foramsulfuron. Since a dietary risk assessment was not

conducted for foramsulfuron due to its low toxicity, a safety factor for infants and children is not applicable to the determination of the risk due to exposure of infants and children to foramsulfuron.

VII. Determination of Safety

Based on the information in this preamble and the final rule published in the **Federal Register** of March 29, 2002 (67 FR 15120), EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to foramsulfuron residues.

VIII. Other Considerations

A. Endocrine Disruptors

No special studies have been conducted to investigate the potential of foramsulfuron to induce estrogenic or their endocrine effects. However, no evidence of estrogenic or other endocrine effects have been noted in any of the standard toxicology studies that have been conducted with this product. Hence, there is no reason to suspect that any such effects would be likely.

B. Analytical Method

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Tolerances

There is an existing exemption for field corn.

D. International Tolerances

There are no established or proposed Codex maximum residue limits for foramsulfuron.

IX. Conclusion

Therefore, an exemption is established for foramsulfuron in/on corn, sweet (K+CWHR); corn, sweet, forage; corn, sweet, stover; corn, pop grain; and corn, pop, stover.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 26, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1219 is revised to read as follows:

§ 180.1219 Foramsulfuron; exemption from the requirement of a tolerance.

The pesticide foramsulfuron (N,N-dimethyl-2-[3-(4,6-dimethoxy-pyrimidin-2- yl)ureidosulfonyl]-4-formylaminobenzamide) is exempted from the requirement of a tolerance in corn, field, grain; corn, field, forage; corn, field, stover; corn, sweet (K+CWHR); corn, sweet, forage; corn, sweet, stover; corn, pop grain; and corn, pop, stover when applied as a herbicide in accordance with good agricultural practices.

[FR Doc. E7–8901 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No 070322064–7097–02.; I.D. 030607E]

RIN 0648–AV20

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2007 Georges Bank Cod Hook Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch

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

ACTION: Final rule.

SUMMARY: This final rule implements the Georges Bank (GB) Cod Hook Sector Fishing Year (FY) 2007 Operations Plan and Agreement, approved by the Administrator, Northeast Region, NMFS (Regional Administrator). Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) (Amendment 13) authorized allocation of up to 20 percent of the annual GB cod total allowable catch (TAC) to the GB Cod Hook Sector (Sector). Pursuant to that authorization, the Sector submitted an Operations Plan and Sector Contract entitled, ''Georges Bank Cod Hook Sector Fishing Year 2007–2008 Operations Plan and Agreement'' (together referred to as the Sector Agreement) and requested an allocation of GB cod, consistent with regulations implementing Amendment 13. This action results in authorization of the Sector Operations Plan during the 2007 fishing year and allocation of 675 mt of GB cod to the Sector.

DATES: Effective May 3, 2007.

ADDRESSES: Copies of the Sector Agreement and the environmental assessment (EA) are available from the NE Regional Office: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. The Final Regulatory Flexibility Analysis (FRFA) consists of the Initial Regulatory Flexibility Analysis (IRFA), public comments and responses, and the summary of impacts and alternatives contained in the Classification section of the preamble of this final rule. A copy of the Environmental Assessment (EA)/Regulatory Impact Review (RIR)/FRFA is accessible via the Internet at *http://www.noaa.gov/nero/regs/com.html.* Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to the address above or by e-mail to *David-Rostker@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone (978) 281–9347, fax (978) 281–9135, e-mail *Thomas.Warren@NOAA.gov.*

SUPPLEMENTARY INFORMATION: A proposed rule that solicited public comment on the Sector Agreement was published in the **Federal Register** on April 16, 2007 (72 FR 18940), and public comments were accepted through May 1, 2007. The Regional Administrator approved the FY 2007 Sector Operations Plan, based on public comment and input from the New England Fishery Management Council (Council), and based on a determination that the Operations Plan and Agreement are consistent with the goals of the FMP and applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under § 648.87. Details pertaining to the principal regulations applying to the Sector, the process of review and approval of sectors, and facts regarding the Sector's submission of the FY 2007 Sector Agreement are contained in the proposed rule. A supplemental EA entitled ''Approval of the Georges Bank Cod Hook Sector Operations Plan,'' which analyzes the impacts of the proposed Sector Agreement, was also prepared.

The 2007 Sector Agreement and Operations Plan contains the same elements as the FY 2006 Sector Agreement. The Sector Agreement will be overseen by a Board of Directors and a Sector Manager. The Sector's GB cod TAC is based upon the number of Sector members and their qualifying historic landings of GB cod. The GB cod TAC is a ''hard'' TAC, meaning that, once the TAC is reached, Sector vessels may not fish under a NE Multispecies DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations). Should the hard TAC be exceeded, the Sector's allocation will be reduced by the overharvest in the following year.

The 2007 Operations Plan includes exemptions from the following restrictions of the FMP: The Gulf of Maine (GOM) and GB cod trip limit; the GOM, GB, and Southern New England (SNE) limit on the number of hooks fished; the GB Seasonal Closure Area; the DAS Leasing Program vessel size restrictions; differential DAS in the GOM Differential DAS Area and in the SNE Differential DAS Area (in those portions of the differential areas that overlap the Sector Area); and the Western U.S./Canada Area 72-hr observer program notification. In addition, the Operations Plan allows Sector members to fish in the ''common pool,'' subject to all of the restrictions of the FMP, prior to approval of the Operations Plan. If Sector members fish during FY 2007 under ''common pool'' rules, prior to fishing in the approved Sector, all cod caught will count toward the Sectors GB cod TAC. This flexibility was requested so that Sector members would be able to fish immediately at the beginning of the fishing year, and not be required to wait until approval of the Operations Plan. Justification for the other exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA.

A total of 25 Sector members signed the FY 2007 Sector Contract and will participate in the Sector. The proposed rule indicated that 35 Sector members and a GB cod TAC of 798 mt were expected (9.48 percent of the TAC); however, after the Operations Plan was submitted to NMFS, 10 individuals decided not to join the Sector. The GB cod TAC calculation is based upon the qualifying historic cod landings of the participating Sector vessels, regardless of gear used. The allocation percentage is calculated by dividing the sum of total landings of GB cod landed by Sector members in FY 1996 through 2001, by the sum of the total accumulated landings of GB cod landed by all NE multispecies vessels for the same time period (9,084,963 lb (4,121 mt)/113,278,842 lb (51,382.42 mt)). Based upon the qualifying landings history of the 25 Sector members, the Sector TAC of GB cod is 675 mt (8.02 percent times the fishery-wide GB cod target TAC of 8,416 mt). The fishery-wide GB cod target TAC of 8,416 mt is less than the total GB cod target TAC proposed for FY 2007 (9,822 mt) because the 9,822 mt includes Canadian catch.

The Sector Agreement contains procedures for the enforcement of the Sector rules, a schedule of penalties, and provides the authority to the Sector Manager to issue stop fishing orders to members of the Sector. Participating vessels are required to land fish only in designated landing ports and are required to provide the Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hr of offloading.

Dealers purchasing fish from participating vessels are required to provide the Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Sector Manager must transmit to NMFS a copy of the VTRs and the aggregate catch information from these reports. After 90 percent of the Sector's allocation has been harvested, the Sector Manager is required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Sector's GB cod TAC, minus a reserve, will be allocated to each month of the fishing year. GB cod quota that is not landed during a given month will be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels may not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. Once the annual TAC of GB cod is reached, Sector members may not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies for the rest of the fishing year.

The harvest rules do not preclude vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels are be required to fish under the NE multispecies DAS program to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels are required to call the Sector Manager prior to leaving port. All legal-sized cod caught must be retained and landed and count against the Sector's aggregate allocation. Participating vessels are not allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during FY 2007 will be deducted from that Sector member's individual DAS allocation. Similarly, all GB cod landed by a participating vessel while conducting research will count toward the Sector's allocation of GB cod TAC. Participating vessels will be exempt from the GB Seasonal Closure Area during May.

A Letter of Authorization will be issued to each member of the Sector exempting them, conditional upon their compliance with the Sector Agreement, from the GOM and GB cod possession restrictions; the GB Seasonal Closure Area; the Western U.S./Canada Area 72-hr observer notification requirement; the DAS Leasing Program vessel size restrictions; differential DAS; the limits on the number of hooks requirements; and the prohibition on fishing as a Sector vessel and ''common-pool'' vessel during the same fishing year, as specified in §§ 648.86(b)(2), 648.81(g), 648.85(a)(3)(ii)(C), 648.82(k)(4)(ix), 648.82 (e)(2), 648.80(a)(4)(v), and 648.87(b)(1)(xii), respectively.

Comments and Responses

One comment on the Operations Plan was received.

Comment: The commenter did not support the allowance of any exemptions in order to conserve the fish stocks.

Response: The EA concludes that the approval of the Operations Plan would result in positive environmental impacts. The authorized exemptions are contingent upon compliance with the Operations Plan, including the GB cod hard TAC. NMFS's approval of the exemptions is consistent with the FMP and the Magnuson-Stevens Fishery Conservation and Management Act. This will not have a negative impact on fish stocks.

Classification

NMFS has determined that this final rule is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Pursuant to 5 U.S.C. 553(d)(1), the Assistant Administrator for Fisheries, NOAA, (AA) finds justification to waive the delay in effectiveness of this action, because it provides the basis for NMFS to immediately grant the following exemptions from the regulations implementing the FMP for sector members, while the regulations shall remain applicable to non-members:

1. GOM and GB cod trip limit;
2. GB Seasonal Closure;
3. GOM, GB, and SNE limit on number of hooks fished;
4. DAS Leasing Program vessel size restriction;
5. Differential DAS (in the GOM Differential DAS Area and the SNE Differential DAS Area); and
6. The Western U.S./Canada Management Area 72-hr observer program notification.

Because the Sector will be fishing under a hard TAC for GB cod, effort controls (i.e., exemptions 1–5 above) are not necessary to constrain the impact of the Sector on the GB cod stock. Should the Sector's allocated GB cod TAC be harvested, participating vessels would no longer be allowed to fish under a NE multispecies DAS, possess or land GB cod or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or charter/party regulations). Sector members will be required to fish under their current NE multispecies DAS allocation to account for any other regulated NE multispecies that they may catch while fishing for GB cod and are restricted to using hook gear only. Because hook gear has nearly zero interaction with GB yellowtail flounder, Sector vessels are exempt from the requirement to call the observer program 72 hours in advance of starting a NE multispecies DAS when fishing in the Western U.S./Canada Area (number 6 above), since this requirement is primarily concerned with monitoring catch of GB yellowtail flounder.

This final rule does not contain policies with federalism or ''takings'' implications as those terms are defined in Executive Order (E.O.) 13132 and E.O. 12630, respectively.

A FRFA was prepared as required by section 603 of the Regulatory Flexibility Act (RFA). A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to the proposed rule and in the EA prepared for this action, and is not repeated here.

Summary of the Issues Raised by Public Comments in Response to the IRFA. A Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made From the Proposed Rule as a Result of Such Comments

No public comments pertaining to the IRFA or the economic effects of this action were received, nor any changes made to the action as described by the proposed rule.

Description of and Estimate of the Number of Small Entities To Which the Proposed Rule Would Apply

The Small Business Administration size standard for small commercial fishing entities is $4 million in average annual receipts, and the size standard for small charter/party operators is $6.5 million in average annual receipts. While an entity may own multiple vessels, available data make it difficult to determine which vessels may be controlled by a single entity. For this reason, each vessel is treated as a single entity for purposes of size determination and impact assessment. All permitted

and participating vessels in the groundfish fishery, including prospective Hook Gear Sector members, are considered to be small entities according to this standard and, therefore, there is no differential impact between large and small entities. The number of participants in the Sector is 25, substantially less than the total number of active vessels in the groundfish fishery. Only these 25 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Sector for FY 2007.

Description of Steps the Agency Has Taken To Minimize the Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

Approval of the FY 2007 Sector Operations Plan results in an allocation of 675 mt of GB cod to the GB Cod Hook Sector, and the minimization of economic impacts on the Sector. Once the GB cod TAC is harvested, participating vessels are not be allowed to fish under a NE Multispecies DAS, possess or land GB cod, or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or party/charter regulations). Vessels intending to fish in the Sector during FY 2007 may fish prior to approval of the Sector Operations Plan, provided they comply with all requirements of the FMP, and report any cod caught to the Sector Manager. Sector vessels may only fish with jigs, non-automated demersel longline, or handgear. Under the Operations Plan, members are exempt from several restrictions of the FMP described in the preamble of the proposed rule, this final rule, and in the EA.

The reasons for approving the 2007 Sector Operations as proposed are as follows: Operation of the Sector would positively impact the members of the Sector (25 vessels or less) that have voluntarily joined the Sector, who are relatively dependent upon groundfish revenue compared to other participants in the groundfish fishery. Sector operations will indirectly benefit the communities of Chatham and Harwichport, MA, and to a lesser extent, other Cape Cod communities involved in the groundfish fishery. During FY 2005, members of the Sector landed 275,743 lb (125,054 kg) of cod and 1,114,401 lb (505,397 kg) of haddock, generating approximately $402,000, and $1,314,000 in revenue, respectively (assuming a dock-side price of $1.46 and $1.18 per lb, respectively). Sector members also landed various other species, which contributed slightly more to their revenue. In general, the operation of the Sector will continue to mitigate the negative economic impacts that result from the current suite of regulations that apply to the groundfish fishery (most recently, Framework Adjustment 42; 71 FR 62156; October 23, 2006). The Sector, by fishing under rules that are designed to meet their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which is expected to result in economic gains. For example, Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are also able to maximize their efficiency (revenue per trip) due to the Sector's exemption from trip limits and hook numbers. For some vessel owners in the Sector, participation in the Sector enables their businesses to remain economically viable. For the above reasons, approval of the 2007 Sector Operations minimizes the impact on small entities.

In contrast, under the No Action alternative, all Sector members would have remained in the common pool of vessels and fished under all the rules implemented by Amendment 13 and subsequent Framework Adjustments. Under the regulatory scenario of the No Action alternative, relative to the preferred alternative, Sector members would likely have faced increased economic uncertainty, loss of efficiency, and loss of revenue. Because cod usually represents a high proportion of total fishing income for hook gear vessels, revenues for Sector members are sensitive to regulations that impact how and when they can fish for cod, such as trip limits and hook gear restrictions. Sector members would have beeen unnecessarily impacted by regulations designed to affect the catch of species of which hook gear catches very little (e.g., yellowtail flounder, because hook gear is more selective than other gear types). For example, under the No Action alternative, Sector members would have been affected by the differential DAS counting requirement, one of the objectives of which is to protect yellowtail flounder.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Action

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under control number 0648–0202. Public reporting burden for the Submission of a Plan of Operation for an Approved Sector Allocation is estimated to average 50 hr per response, and for the Annual Reporting Requirements for Sectors is estimated to average 6 hr 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. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov,* or fax to (202) 395–7285. Nothwithstanding 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.

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

Dated: May 3, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 07–2281 Filed 5–3–07; 5:04 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 72, No. 89
Wednesday, May 9, 2007

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

FEDERAL TRADE COMMISSION

16 CFR Part 259

Guide Concerning Fuel Economy Advertising for New Automobiles

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: As part of the Commission's systematic review of all current FTC rules and guides, the Commission requests public comment on the overall costs, benefits, necessity, and regulatory and economic impact of the FTC's Guide Concerning Fuel Economy Advertising for New Automobiles (''Fuel Economy Guide'' or ''Guide''). The Commission is also seeking comments on whether the Guide should be amended in light of recent amendments to the Environmental Protection Agency's (''EPA'') fuel economy labeling rules for new automobiles.

DATES: Written comments will be accepted until July 23, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Fuel Economy Guide Review, Matter No. R711008'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex M), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material, however, must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments filed in electronic form should be submitted by following the instructions on the web-based form at *https://secure.commentworks.com/ftc-fueleconomy*. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You also may visit *http://www.regulations.gov* to read this proposed Rule, and may file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 601 New Jersey Avenue, NW., Washington, DC 20001.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission adopted the Fuel Economy Guide in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy information in advertising. The Guide helps advertisers avoid making claims that are unfair and deceptive under Section 5 of the FTC Act (15 U.S.C. 45). In particular, the Guide contains specific information about the disclosure of mileage information generated by EPA's well-established fuel economy program. Under EPA regulations (40 CFR Part 600), issued pursuant to the Automobile Information Disclosure Act (15 U.S.C. 2206), vehicle manufacturers must disclose fuel economy numbers on labels attached to new automobiles. In addition, EPA regulations contain specific testing protocols (see 40 CFR Part 86) that manufacturers must use to derive the fuel economy information used on labels.

To avoid deceptive and unfair claims in advertisements that contain fuel economy representations, the FTC's Guide advises marketers to disclose the established fuel economy of the vehicle as determined by the EPA tests. If advertisers make fuel economy claims based on non-EPA tests, the Guide directs them to disclose EPA-derived fuel economy information and provide details about the non-EPA tests such as the source of the test, driving conditions, and vehicle configurations. The Guidance also provides information on how advertisers should make such disclosures (e.g., the prominence of the disclosures in relation to other claims in the ad). In 1978 and in 1995, the Commission amended the Guide to make it consistent with changes to EPA's regulations. (43 FR 55757 (Nov. 29, 1978); and 60 FR 56230 (Nov. 8, 1995)). On December 27, 2006 (71 FR 77872), the EPA published new requirements for fuel economy labeling. The revised EPA rules include modifications to the mandatory fuel economy test that, among other things, incorporate different driving conditions (e.g., cold temperatures) into the determination of fuel mileage estimates. The recent EPA amendments also modify the design of the fuel economy label and require disclosure of combined (city/highway) fuel economy figures.

II. Regulatory Review Program

The Commission reviews all current Commission rules and guides periodically. These reviews seek information about the cost and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

modification or rescission. Therefore, the Commission solicits comments on, among other things, the economic impact of and the continuing need for the Fuel Economy Guide; possible conflict between the Guide and state, local or other federal laws; and the effect on the Guide of any technological, economic, or other industry changes.

III. Request for Comment

The Commission solicits comments on the following specific questions related to the Guide:

(1) Is there a continuing need for the Fuel Economy Guide? Is the Guide necessary to prevent unfair and/or deceptive practices in advertising for new automobiles? Are there any specific provisions of the Guide that are no longer needed to prevent unfair and/or deceptive advertising practices?

(2) What changes, if any, should be made to the Guide to reflect recent amendments to EPA's fuel economy testing and labeling requirements?

(3) What benefits has the Guide provided to purchasers of new automobiles? Has the Guide imposed costs on purchasers?

(4) What changes, if any, should be made to the Guide to increase its benefits to purchasers? How would these changes affect the costs that the Guide imposes on firms who conform to its advice? How would these changes affect the benefits to purchasers?

(5) What significant burdens or costs, including costs of compliance, has the Guide imposed on firms that conform to its advice? Are any provisions in the Guide duplicative or otherwise unnecessary? Are any of the Guide's provisions unnecessarily prescriptive?

(6) Has the Guide provided benefits to firms that conform to its advice? If so, what benefits?

(7) What changes, if any, should be made to the Guide to reduce the burdens or costs imposed on firms who conform to its advice? How would these changes affect the benefits provided by the Guide?

(8) Does the Guide overlap or conflict with other federal, state, or local laws or regulations?

(9) Since the Guide was issued, what effects have changes in relevant technology or economic conditions had on the Guide?

(10) Are there any unfair and deceptive practices occurring in the promotion or advertising of fuel economy that are not covered by the Guide? If so, what mechanisms should be explored to address such practices (e.g., consumer education, industry self regulation, or revisions to the Guide)?

List of Subjects in 16 CFR Part 259

Advertising, Fuel economy, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–8886 Filed 5–8–07; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–125–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment revises the Virginia Coal Surface Mining Reclamation Regulations concerning review of a decision not to inspect or enforce. The amendment is intended to specify the time limit for filing a request for review of a decision, and to identify to whom a request for review should be filed.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on June 8, 2007. If requested, we will hold a public hearing on the amendment on June 4, 2007. We will accept requests to speak at the hearing until 4 p.m. (local time), on May 24, 2007.

ADDRESSES: You may submit comments, identified by VA–125–FOR, by any of the following methods:

- *E-mail: tdieringer@osmre.gov.* Include VA–125–FOR in the subject line of the message.
- *Mail/Hand Delivery:* Mr. Tim Dieringer, Director, Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading in the **SUPPLEMENTARY INFORMATION** section of this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Docket: You may review copies of the Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Big Stone Gap Area Office.

Mr. Tim Dieringer, Director, Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (276) 523–4303. E-mail: *tdieringer@osmre.gov.*

Mr. Leslie S. Vincent, Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (276) 523–8100. E-mail: *lsv@mme.state.va.us.*

FOR FURTHER INFORMATION CONTACT: Mr. Tim Dieringer, Director, Knoxville Field Office; Telephone: (276) 523–4303. E-mail: *tdieringer@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act* * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981 **Federal Register** (46 FR 61088). You can also find later actions

concerning Virginia's program and program amendments at 30 CFR 946.12, 946.13, and 946.15.

II. Description of the Proposed Amendment

By letter dated March 12, 2007 (Administrative Record Number VA–1063), the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. The program amendment revises the Virginia Administrative Code (VAC) at 4 VAC 25–130–842.15(d) in order to clarify the process for requesting a review of a decision by the Division of Mined Land Reclamation (DMLR) not to inspect or enforce. The revision specifies that a person requesting a formal hearing to review a decision by DMLR not to inspect or enforce must do so within 30 days of DMLR's determination. The revision also specifies that the request for formal review must be filed with the Director, DMLR.

The following amendment is proposed:

4VAC 25–130–842.15(d). Review of decision not to inspect or enforce.

This provision is proposed to be amended at subsection (d) by adding the phrase ''within 30 days of the Division's determination'' to clarify the time limit within which a person may request a formal hearing to review a decision not to inspect or enforce. Subsection (d) is also amended to specify that all requests for hearings and appeals for review and reconsideration be filed with the Director, Division of Mined Land Reclamation so as to be consistent with similar regulations.

As amended, 4VAC2 5–130–842.15(d) provides as follows:

(d) Any person who requested a review of a decision not to inspect or enforce under this section and who is or may be adversely affected by any determination made under Subsection (b) of this section may request review of that determination by filing within 30 days of the division's determination an application for formal review and request for hearing under the Virginia Administrative Process Act, § 2.2–4000 *et seq.* of the Code of Virginia. All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Virginia program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We may not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Big Stone Gap Area Office may not be logged in.

Electronic Comments

Please submit Internet comments as an e-mail or Word file avoiding the use of special characters and any form of encryption. Please also include Attn: SATS NO. VA–125-FOR and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Big Stone Gap Area office at (276) 523–4303.

Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on May 24, 2007. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State

governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. The basis for this determination is our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) Considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 22, 2007.

H. Vann Weaver,

Acting Regional Director, Appalachian Region.

[FR Doc. E7–8868 Filed 5–8–07; 8:45 am]

BILLING CODE 4310–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–1854; MB Docket No. 07–78; RM–11366]

Radio Broadcasting Services; Christine, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Katherine Pyeatt (''Petitioner'') proposing the allotment of Channel 245C3 at Christine, Texas, as a first local service. The proposed coordinates are 28–40–00 NL and 98–30–15 WL with a site restriction of 13.6 km (8.4 miles) south of city reference.

DATES: Comments must be filed on or before June 18, 2007, and reply comments on or before July 3, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner and her counsel, as follows: Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas, 75214 and Gene A. Bechtel, Esquire, Law Office of Gene Bechtel, 1050 17th Street, NW., Suite 600, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau, (202) 418–2738.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 07–78, adopted April 25, 2007, and released April 27, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR Sections 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Christine, Channel 245C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–8903 Filed 5–8–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–1849; MB Docket No. 07–79; RM–11362]

Radio Broadcasting Services; Dinosaur, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Cumulus Licensing LLC (''Petitioner'') proposing the allotment of Channel 262C0 at Dinosaur, Colorado. The proposed coordinates are 40–03–26 NL and 108–39–46 WL with a site restriction of 36.4 km (22.6 miles) southeast of city reference.

DATES: Comments must be filed on or before June 18, 2007, and reply comments on or before July 3, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner's counsel, as follows: Mark N. Lipp, Esquire, Wiley Rein & Fielding LLP, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau, (202) 418–2738.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 07–79, adopted April 25, 2007, and released April 27, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. Section 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR Section 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR Sections 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Dinosaur, Channel 262C0.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–8907 Filed 5–8–07; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 72, No. 89

Wednesday, May 9, 2007

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.

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development; One Hundred and Fifty-First Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and fifty-first meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 7:45 a.m. to 4 p.m. on May 15, 2007 at the Hyatt Regency Hotel on Capitol Hill; located at 400 New Jersey, NW., Washington, DC. The meeting venue is in the Hyatt Regency's Congressional Rooms C, D, and E which are located on the hotel's lobby level.

The morning session, which focuses on foreign development assistance, will be opened by Dr. Robert Easter, Interim Chairman of the BIFAD. Dr. Easter is the Dean, College of Agriculture, Consumer and Environmental Sciences at the University of Illinois. He was elected by the Board to serve in this capacity upon the April 3, 2007 resignation of Mr. Peter McPherson. It is planned that the Honorable Nita M. Lowey (D–NY), Chairman, House Appropriations Subcommittee on State and Foreign Operations will discuss legislative priorities for foreign assistance. Her discussion will be followed by a special presentation on ''Challenges Facing US Foreign Development Assistance: 2008 and Beyond,'' and an update by the Office of the Director of Foreign Assistance (''F'') on the Foreign Assistance Framework and the 2008 Budget. After a midmorning break the Board will discuss operational and management issues covering the Collaborative Research Support Programs (CRSPS), Training, Institutional Capacity Building, and Universities as Sub-contractors as related to Title XII.

Following the executive luncheon, which is closed to the public, the Board will discuss the strategic direction of BIFAD for 2007; especially with regard to USAID's Transformational Development thrusts and the recommendations made in Richard E. Bissell's 2006 report on ''Implementation of Title XII'' to the Board. Last on the Agenda, the Board will discuss plans for their October 17, 2007 meeting in Des Moines, Iowa. The Iowa meeting will be held in conjunction with the World Food Prize Symposium. The October meeting's theme ''Bio-Energy and Implications'' will align with that of the World Food Symposium's.

This Board meeting is free and open to the public. Those wishing to attend the meeting or obtain additional information about BIFAD should contact Ronald S. Senykoff, the Designated Federal Officer for BIFAD. Write him in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture, Bureau for Economic Growth, Agriculture and Trade, 1300 Pennsylvania Avenue, NW., Room 2.11–085, Washington, DC 20523–2110 or telephone him at (202) 712–0218 or fax (202) 216–3010.

Ronald S. Senykoff,

USAID Designated Federal Officer for BIFAD, Office of Agriculture, Bureau for Economic Growth, Agriculture & Trade, U.S. Agency for International Development.

[FR Doc. 07–2278 Filed 5–8–07; 8:45 am]

BILLING CODE 6116–07–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 4, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Importation of Fruits and Vegetables.

OMB Control Number: 0579–0236.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests not known to be widely distributed throughout the United States. The regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56–319.56–8) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and spread of plant pests that are new to or not widely distributed within the United States.

Need and Use of the Information: APHIS will used the collected information on the Phytosanitary Certificate to determine the pest condition of the shipment at the time of

inspection in the foreign country. The information is also used as a guide to the intensity of the inspection that is conducted when the shipment arrives. Without the information, all shipments would need to be inspected very thoroughly, thereby requiring considerably more time.

Description of Respondents: Business or other for profit; Federal Government.

Number of Respondents: 141.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 103.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–8874 Filed 5–8–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 4, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service—Farm Service Agency

Title: National Organic Program.

OMB Control Number: 0581–0191.

Summary of Collection: The Organic Foods Production Act (OFPA) of 1990, Title XXI of the Food, Agriculture, Conservation and Trade Act of 1990 (Farm Bill), U.S.C. Title 7 Section 6503(a) mandates that the Secretary of Agriculture develop a national organic program. The purposes of the regulation mandated by OFPA are: (1) To establish national standards governing the marketing of certain agricultural products as organically produced products; (2) to assure consumers that organically produced products meet a consistent standard; and (3) to facilitate interstate commerce in fresh and processed food that is organically produced. The National Organic Program (NOP) regulation fulfills the requirements of the OFPA. It includes comprehensive production and handling standards, labeling provisions, requirements for the certification of producers and handlers, accreditation of certifying agents by USDA and an administrative subpart for fees, State Programs, National List, appeals, compliance and pesticide residue testing. Agricultural Marketing Service will approve programs for State governments wishing to establish State Organic Programs.

Need and Use of the Information: The information collected is used to evaluate compliance with OFPA and NOP for administering the program, for management decisions and planning, for establishing the cost of the program and to support administrative and regulatory actions in response to non-compliance with OFPA. Certifying agents will have to submit an application to USDA to become accredited to certify organic production and handling operations. Auditors will review the application, perform site evaluation and submit reports to USDA, who will make a decision to grant or deny accreditation. Producers, handlers and certifying agents whose operations are not approved have the right to mediation and appeal the decision. Reporting and recordkeeping are essential to the integrity of the organic certification system.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 16,095.

Frequency of Responses: Reporting: Annually; Recordkeeping.

Total Burden Hours: 635,520.

Charlene Parker

Departmental Information Collection Clearance Officer.

[FR Doc. E7–8875 Filed 5–8–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Red Rock Ranger District, Coconino National Forest, AZ

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On January 26, 2007, a Notice of Intent (NOI) to prepare an environmental impact statement for an Outfitter and Guide Management Plan on the Red Rock Ranger District was published in the **Federal Register** (71 FR 4346–4348). The 2006 NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Sandra Nagiller, NEPA Coordinator, Coconino National Forest, 1824 S. Thompson St., Flagstaff, AZ, 86001, telephone (928) 527–3413.

SUPPLEMENTARY INFORMATION: The Red Rock Ranger district is currently completing an assessment of the special use program. This assessment will be used in the future development of a new proposed action for management of outfitter and guide permits.

Dated: April 30, 2007.

Joseph P. Stringer,

Deputy Forest Supervisor.

[FR Doc. 07–2282 Filed 5–8–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the emergency provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Bureau: International Trade Administration (ITA).

Title: Implementation of Tariff Rate Quota Established Under the Tax Relief and Health Care Act of 2006 for Imports of Certain Cotton Woven Fabrics.

Agency Form Number: None.
OMB Number: None.
Type of Request: Emergency submission.
Burden Hours: 10.
Number of Respondents: 10.
Average Hours Per Response: 1.
Needs and Uses: The Tax Relief and Heath Care Act of 2006 (''the Act'') contains provisions to assist the men's and boys'' cotton shirting industry. Among these provisions, the Act creates an annual tariff rate quota (TRQ) providing for temporary reductions through December 31, 2009 in the import duties of cotton woven fabrics suitable for making men's and boys' cotton shirts (new Harmonized Tariff Schedule of the United States (HTS) headings 9902.52.08, 9902.52.09, 9902.52.10, 9902.52.11, 9902.52.12, 9902.52.13, 9902.52.14, 9902.52.15, 9902.52.16, 9902.52.17, 9902.52.18, and 9902.52.19). The reduction in duty is limited to 85 percent of the total square meter equivalents of all imported woven fabrics of cotton containing 85 percent or more by weight cotton used by manufacturers in cutting and sewing men's and boy's cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.

Section 406(b)(1) of the Act requires the Secretary of Commerce to fairly allocate the tariff rate quota. More specifically, the Secretary of Commerce must issue licenses and ensure that the tariff rate quota is fairly allocated to eligible manufacturers under such headings 9902.52.08 through 9902.52.19. The TRQ is effective for goods entered or withdrawn from warehouse for consumption, on or after January 1, 2007, and will remain in force through 2009. The TRQ will be allocated each year and a TRQ allocation will be valid only in the year for which it is issued.

The reduction of import duties provided by the TRQ will be of considerable benefit to firms that receive TRQ allocations. It will lower the firms' cost of production, enabling them to better compete with foreign imports.

The Department of Commerce has prepared, and will transmit to OMB for approval, an interim final rule to implement these responsibilities. The major firms that stand to benefit from the TRQ were consulted during this process.

The Department must collect a notarized affidavit in order to carry out its responsibilities under the Act pursuant to Section 406(b)(3) of the Act .

Affected Public: Business or other for-profit organizations.
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th & Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *dHynek@doc.gov*.

Written comments and recommendations for the proposed information collection should be sent by May 31, 2007 to David Rostker, OMB Desk Officer, via the Internet at *David_Rostker@omb.eop.gov* or fax (202) 395–7285.

Dated: May 3, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–8834 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Atlantic Highly Migratory Species Vessel Chartering Permits.
Form Number(s): None.
OMB Approval Number: 0648–0495.
Type of Request: Regular submission.
Burden Hours: 8.
Number of Respondents: 10.
Average Hours per Response: Applications, 40 minutes; notification of chartering arrangement termination, 5 minutes.
Needs and Uses: This information collection consists of a permitting requirement for any chartering arrangement involving a U.S. vessel, excluding bareboat charters, made with a country other than the United States. This requirement was recommended at a 2002 International Commission for the Conservation of Atlantic Tunas meeting as a means of potentially reducing double reporting and incidences of illegal, unreported, and unregulated fishing.
Affected Public: Not-for-profit institutions; business or other for-profit organizations; State, Local or Tribal Government.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain benefits.
OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: May 3, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–8835 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the emergency provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).
Title: Thermal Imaging Camera Reporting.
Agency Form Number: None.
OMB Approval Number: None.
Type of Request: Emergency submission.
Burden Hours: 60.
Average Time Per Response: 1 hour.
Number of Respondents: 30.
Needs and Uses: The U.S. Government (USG) is removing the export licensing requirement for certain thermal imaging cameras to certain destinations. A new biannual reporting requirement will be imposed to allow the USG to verify that the cameras are continuing to be sold to appropriate end-users and that the relaxation in controls is not jeopardizing U.S. national security or foreign policy interests.
Affected Public: Businesses or other for-profit institutions.
Frequency: Biannually.

Respondents Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202)395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent by June 15, 2007 to David Rostker, OMB Desk Officer, *David_Rostker@omb.eop.gov*, or Fax number, (202) 395–7285.

Dated: May 3, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–8836 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–886

Polyethylene Retail Carrier Bags from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 19, 2007, the Department of Commerce (the ''Department'') published *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 12762 (March 19, 2007) (''*Final Results*''), covering the period of review (''POR'') January 26, 2004, through July 31, 2005. We are amending the *Final Results* to correct ministerial errors made in the calculation of the dumping margins for Crown Polyethylene Products (International) Ltd. (''Crown'') and High Den Enterprises Ltd. (''High Den''), pursuant to section 751(h) of the Tariff Act of 1930, as amended (''the Act'').

EFFECTIVE DATE: May 9, 2007.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4243 or (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Scope of Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (''PRCBs'') which may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'').[1] This subheading may also cover products that are outside the scope of this order. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

[1] Until July 1, 2005, these products were classifiable under HTSUS 3923.21.0090 (Sacks and bags of polymers of ethylene, other). *See Harmonized Tariff Schedule of the United States (2005)- Supplement 1 Annotated for Statistical Reporting Purposes Change Record - 17th Edition - Supplement 1*, available at http://hotdocs.usitc.gov/docs/tata/hts/bychapter/0510/0510chgs.pdf.

Background

On March 19, 2007, the Department published the *Final Results* in the **Federal Register**. On March 20, 2007, we received ministerial error allegations from Crown and High Den, respectively. On March 26, 2007, we received rebuttal comments from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC and Superbag Corporation, domestic interested parties and petitioners in the underlying investigation. A ministerial error as defined in section 751(h) of the Act (*see also* 19 CFR 351.224(f)), includes ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the {Secretary} considers ministerial.'' After analyzing the comments by interested parties, we have determined, in accordance with section 751(h) of the Act that ministerial errors existed in the calculations for the *Final Results* with respect to Crown and High Den. For a detailed explanation of these issues, *see* the memorandum to the file from Laurel LaCivita, Senior Case Analyst, through Charles Riggle, Program Manager, ''Analysis for the Amended Final Results of the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Crown Polyethylene Products (International) Ltd.,'' dated April 18, 2007, and memorandum to the file from Laurel LaCivita, Senior Case Analyst, through Charles Riggle, Program Manager, ''Analysis for the Amended Final Results of the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: High Den Enterprises Ltd. (''High Den'')'' dated April 18, 2007. Both memoranda are on file in the Central Records Unit, room B–099 in the main building of the Department of Commerce.

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of the administrative review of PRCBs from the PRC for Crown and High Den.

Amended Final Results

The revised weighted–average dumping margins for Crown and High Den are detailed in the chart below.

Manufacturer/Exporter	Final Results of Review (Percent)	Amended Final Results of Review (Percent)
Crown	7.68	7.65
High Den	14.01	11.99

The Department shall determine, and U.S. Customs and Border Protection shall assess, antidumping duties on all appropriate entries based on the amended final results. For details on the assessment of antidumping duties on all appropriate entries, see Final Results, 72 FR 12762, 12764.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: April 30, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–8904 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–401–806)

Amended Final Results of the Antidumping Duty Administrative Review: Stainless Steel Wire Rod from Sweden

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 9, 2007.

FOR FURTHER INFORMATION CONTACT: Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1766.

SUPPLEMENTARY INFORMATION:

Amendment to Final Results

In accordance with section 751(a) of the Tariff Act of 1930, as amended (the ''Act''), on April 10, 2007, the Department published the final results of the 2004–2005 administrative review of the antidumping duty order on stainless steel wire rod (''SSWR'') from Sweden, in which we determined that the respondent, Fagersta Stainless AB (''FSAB'')[1], sold subject merchandise to the United States at less than normal value during the period of review (''POR'').[2] *See Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review*, 72 FR 17834 (April 10, 2007) (''*Final Results*''). On April 16, 2007, we received an allegation, timely filed pursuant to section 751(h) of the Act and 19 CFR 351.224(c)(2), from FSAB that the Department made a ministerial error in the *Final Results*. The petitioners[3] did not comment on the alleged ministerial error.

After analyzing FSAB's submission, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224, that we made a ministerial error in our final margin calculation for FSAB. Specifically, although we correctly converted FSAB's U.S. affiliate's reported U.S. inventory carrying costs as intended, we inadvertently did not utilize the correctly converted U.S. inventory carrying costs in the final margin calculation. For a detailed discussion of the ministerial error, as well as the Department's analysis, *see* the memorandum to James P. Maeder, Jr., Office Director, from the SSWR Team, dated May 2, 2007.

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the final results of the 2004–2005 antidumping duty administrative review of the order on SSWR from Sweden. The revised dumping margin is as follows:

Manufacturer/Exporter	Original Final Margin Percentage	Revised Final Margin Percentage
Fagersta Stainless AB/AB Sandvik Materials Technology/Kanthal AB.	20.42	19.36

The Department will disclose calculations performed for the amended final results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment and Cash Deposit Rates

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries based on the amended final results. For details on the calculation of importer–specific assessment rates, see *Final Results*, 72 FR 178347. The Department will issue appropriate assessment instructions directly to CBP 15 days after the date of publication of these amended final results of review. The Department will also notify CBP of the revised cash deposit rate for FSAB, effective upon publication of these amended final results of review. This cash deposit requirement shall remain in effect until further notice.

These amended final results of this administrative review and this notice are issued and published in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: May 2, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–8905 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–DS–S

[1] In the final results of this review, we determined it appropriate to treat FSAB and its affiliates, AB Sandvik Materials Technology (''SMT'') and Kanthal AB (''Kanthal''), as one entity for margin calculation purposes because they met the regulatory criteria for collapsing affiliated producers.

[2] The POR of this review is September 1, 2004, through August 31, 2005.

[3] The petitioners include the following companies: Carpenter Technology Corporation; Crucible Specialty Metals Division, Crucible Materials Corporation; and Electroalloy Corporation, a Division of G.O. Carlson, Inc.

DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–818)

Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 9, 2007.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3338 or (202) 482–2209, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2006, the U.S. Department of Commerce (''the Department'') published a notice of initiation of the administrative review of the countervailing duty order on corrosion–resistant carbon steel flat products from the Republic of Korea covering the period of review January 1, 2005, through December 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). The preliminary results are currently due no later than May 3, 2007.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245–day period to issue its preliminary results by up to 120 days.

Due to the complexity of the issues in this administrative review, we have determined that it is not practicable to complete the preliminary results of this review within the 245–day period. Therefore, in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of the review by 120 days. The preliminary results are now due no later than August 31, 2007. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: May 2, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–8906 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–835)

Stainless Steel Sheet and Strip from the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 9, 2007.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0395.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2006, the U.S. Department of Commerce (''the Department'') published a notice of initiation of the administrative review of the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea covering the period of review January 1, 2005, through December 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). The preliminary results are currently due no later than May 3, 2007.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245–day period to issue its preliminary results by up to 120 days.

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This notice is issued and published in accordance with section 751(a)(3)(A) of the Act.

Dated: May 2, 2007.

Stephen J. Claeys.

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–8908 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Notice of Completion of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final injury determination of the United States International Trade Commission respecting Oil Country Tubular Goods from Mexico, Secretariat File No. USA/MEX–2001–1904–06.

SUMMARY: Pursuant to the Order of the Binational Panel dated March 22, 2007, the determination described above was completed on March 22, 2007.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On March 22, 2007, the Binational Panel issued an order which affirmed the final injury determination of the United States International Trade Commission (''ITC'') concerning Oil Country Tubular Goods from Mexico. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no request for an Extraordinary Challenge was filed. No such request was filed. Therefore, on

the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules*, the Panel Review was completed and the panelists discharged from their duties effective March 22, 2007.

Dated: May 3, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–8832 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050307C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Ad Hoc Aquaculture Advisory Panel (AP).

DATES: The Ad Hoc Aquaculture AP meeting will convene at 8 a.m. on Wednesday, May 30, 2007 and conclude Thursday, May 31, 2007 no later than 1 p.m.

ADDRESSES: The meeting will be held at the Wyndham Westshore, 4860 W. Kennedy Blvd., Tampa, FL 33609; telephone: (813) 286–4400.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director, telephone (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Ad Hoc Aquaculture AP will be convened to review an options paper for ''Generic Amendment to provide for Regulation of Offshore Marine Aquaculture''. The options paper provides alternatives and conditions for permitting offshore (EEZ) facilities to conduct aquaculture of species of fish endemic to the Gulf of Mexico. The options paper, when completed, will constitute the pubic hearing draft for this activity.

Although other non-emergency issues not on the agenda may come before the Ad Hoc Aquaculture AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Ad Hoc Aquaculture AP will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling (813) 348–1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: May 4, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–8855 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050307B]

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Squid, Mackerel and Butterfish Monitoring Committee will hold a meeting.

DATES: The meeting will be held at 10 a.m. on Wednesday, May 30, 2007.

ADDRESSES: The meeting will be held at the office of the Mid-Atlantic Fishery Management Council, 300 S. New St., Room 2115, Federal Bldg, Dover, DE 19904; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Room 2115, Dover, DE 19904; telephone: (302) 674–2331, extension 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to examine the biology, fisheries, and current stock status of Atlantic mackerel, Loligo and Illex squid and butterfish; and, to make recommendations to the Council relative to the 2008 quotas specifications and other management measures for this species complex.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Bryan at the Mid-Atlantic Council Office, (302) 674–2331 extension 18, at least 5 days prior to the meeting date.

Dated: May 4, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–8854 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050307E]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Multispecies (Groundfish/Monkfish) Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, May 31, 2007, at 9 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

The Multispecies (Groundfish) Committee will hold a joint meeting with the Multispecies (Monkfish) Committee to continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The Multispecies (Groundfish) Committee will discuss revisions to the days-at-sea system, including a suggestion to develop a days-at-sea performance plan. They will also discuss a proposal to develop a limited entry program for party/charter fishing vessels that fish in the Gulf of Maine. After these discussions, the Committee will develop a recommendation for the Council on which alternative management systems (including the area management and point system proposals discussed at a meeting on April 20, 2007) should be developed in Amendment 16 as alternatives that will be considered for implementation in fishing year 2009. The Committee may recommend any of the alternatives for further development, or may make other recommendations on the contents of the amendment. The two Committees will then discuss the overlap between the groundfish and monkfish management plans and will consider whether the two plans should be merged, or if other changes are necessary in light of planned Amendment 16 development. The Multispecies (Groundfish) Committee will then review sector proposals received by the Council and develop a recommendation for the Council on what to do with those proposals. Finally, the Multispecies (Groundfish) Committee will consider recommending a standard that the Regional Administrator can use to approve additional gears in the Eastern U.S./Canada Haddock Special Access Program and in the Category B (regular) Day-at-Sea Program.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: May 4, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–8852 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050307D]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Advisory Panel and Plan Development Team (PDT) as well as its Skate Committee in May and June, 2007 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: These meetings will be held on Thursday, May 31, 2007 at 8:30 a.m. and Friday, June 1, 2007 at 8:30 a.m.

ADDRESSES: These meetings will be held at the Providence Biltmore, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700; fax: (401) 455–3040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The agendas for the following meetings are as follows:

1. *Thursday, May 31, 2007*; The PDT and Advisory Panel will develop recommendations for management alternatives to reduce mortality on skates, reduce bycatch, and rebuild overfished Thorny and Winter skates. Recommendations may also be made for alternatives addressing other issues.

2. *Friday, June 1, 2007*; The committee will review scoping comments on Amendment 3 and develop management alternatives based on recommendations from the PDT and Advisory Panel. Management alternatives will focus on reducing mortality on skates, reducing bycatch, and rebuilding overfished Thorny and Winter skates. The committee may also develop alternatives to address other skate management issues.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 4, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–8853 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Legal Processes.

Form Number(s): None.

Agency Approval Number: 0651–0046.

Type of Request: Revision of a currently approved collection.

Burden: 31 hours annually.

Number of Respondents: 176 responses per year.

Avg. Hours per Response: The USPTO estimates that it will take the public approximately 5 minutes (0.08 hours) to 1 hour to gather the necessary information, prepare the appropriate documents, and submit the required information to the USPTO.

Needs and Uses: This collection covers information requirements related to civil actions and claims involving current or former employees of the United States Patent and Trademark Office (USPTO). The rules for these legal processes may be found under 37 CFR part 104, which outlines procedures for service of process, demands for employee testimony and production of documents, reports of unauthorized testimony, employee indemnification, and filing claims against the USPTO under the Federal Tort Claims Act (28 U.S.C. 2672). The public uses this collection to serve a summons or complaint on the USPTO, demand employee testimony or documents related to a legal proceeding, or file a claim against the USPTO under the Federal Tort Claims Act. Respondents may petition the USPTO to waive or suspend the rules for legal processes in extraordinary situations. This collection is also necessary so that current and former USPTO employees may properly forward service and demands to the Office of General Counsel, report unauthorized testimony, and request indemnification. No forms are provided by the USPTO for submitting the information in this collection.

Affected Public: Individuals or households, businesses or other for-profits, not-for-profit institutions, and the Federal Government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- *E-mail*: *Susan.Fawcett@uspto.gov*. Include ''0651–0046 copy request'' in the subject line of the message.
- *Fax*: 571–273–0112, marked to the attention of Susan Fawcett.
- *Mail*: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before June 8, 2007 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: May 2, 2007.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.

[FR Doc. E7–8883 Filed 5–8–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Commission on Care for America's Returning Wounded Warriors

AGENCY: Department of Defense.

ACTION: Federal Advisory Committee Meeting Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended) and 41 Code of Federal Regulations (CFR) 102–3.140 through 160, the Department of Defense announces the forthcoming public meeting:

Name of Committee: President's Commission on Care for America's Returning Wounded Warriors (hereafter referred to as the Commission).

Date of Meeting: May 24, 2007.

Time of Meeting: 10 a.m. to (To Be Determined).

Place of Meeting: San Diego California-San Diego Marriott Hotel and Marina, 333 West Harbor Drive, San Diego, CA 92101.

Purpose of Meeting: To obtain, review, and evaluate information related to the Commission's mission to examine the care provided to wounded service members. The Commission will receive briefings on topics relating to the care and rehabilitation of wounded service members.

Agenda:

9 a.m. to 9:45 a.m. Administrative Work Meeting (Not Open to the Public).

10 a.m.—To Be Determined (Public Session).

Presentations:

IT.

Mental Health/PTSD.

System Issues.

Review of Walter Reed and San Antonio Site visits.

State Veterans Benefits and Programs.

Public Comment.

Following its public meeting, various subcommittees of the Commission will conduct preparatory work meetings in the San Diego area to gather information, conduct research and analyze relevant issues and facts in preparation for future meetings of the Commission. Pursuant to section 102–3.160(a) of 41 Code of Federal Regulations (CFR), these subcommittee meetings are not open to the public, and the subcommittees are required to report their findings to the Commission for further deliberation.

The Commission's May 24, 2007 meeting at the San Diego Marriott Hotel and Marina, 333 West Harbor Drive, San Diego, CA 92101, subject to the availability of seating, is open to the public.

Interested persons or organizations may submit written statements for consideration by the Commission at any time or in response to the stated agenda of a planned meeting. Persons desiring to make an oral presentation or submit a written statement to the Commission for the May 24–25, 2007 meeting must notify the point of contact listed below no later than May 18, 2007.

Oral presentations by members of the public will be permitted only on 24 May at 1 to 1:30 before the full Commission. Presentations will be limited to 5 minutes. The Executive Director and the Designated Federal Official will select individuals for oral presentations and notify them in advance of the opportunity to make a 5 minute presentation to the Commission.

The Number of oral presentations to be made will depend on the number of requests received from members of the public. Each person desiring to make an oral presentation must provide the point of contact listed below with one (1) copy of the presentation by May 18, 2007, 5 p.m. and one copy of any material that is intended for distribution at the meeting.

Persons submitting a written statement must submit one copy of the statement to the Commission staff by May 18, 2007, 5 p.m.

Point of Contact is Denise Daily or Adrianne Holloway, toll free 877 588 2035 or Fax statements (703) 588–2046.

FOR FURTHER INFORMATION ON SUBMITTING STATEMENTS CONTACT: Col Denise Daily or Adrianne Holloway, toll free 877 588 2035 or Fax statements (703) 588–2046.

Dated: May 3, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–2313 Filed 5–4–07; 4:27 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Federal Advisory Committee Charter Modification

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.65, the Department of Defense gives notice that the name of the Board of Visitors Joint Military Intelligence College is hereby changed to the Board of Visitors National Defense Intelligence College.

The mission of the college's board of visitors remains unchanged; however, the Department of Defense changed the name of the college to the National Defense Intelligence College. As such, the Department of Defense is changing the name of the board of visitors to reflect the college's new name.

The purpose of the Board of Visitors for the National Defense Intelligence College (hereafter referred to as the Board of Visitors) is to provide the Secretary of Defense independent advice on matters relating to the mission of the National Defense Intelligence College. The Director, Defense Intelligence Agency may act upon the Board of Visitor's advice and recommendations.

The Board of Visitors shall be comprised of no more than twelve members, and the Department of Defense, to achieve a balanced membership, will include a cross-section of experts and eminent authorities in the fields of national intelligence, defense and academia.

The Secretary of Defense approves the appointment of the members, and those who are not full-time Federal officers or employees are appointed as Special Government Employees under the authority of 5 U.S.C. 3109. With the exception of travel and per diem for official travel, the members shall serve without compensation. The Director, Defense Intelligence Agency shall select the committee's chairperson from the Board of Visitors at large.

The Board of Visitors shall meet at the call of the committee's Designated Federal Officer, in consultation with the Chairperson and the Director, Defense Intelligence Agency. The Designated Federal Officer shall be a full-time or part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

The Board of Visitors shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and other appropriate Federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered committee, and shall report all their recommendations and advice to the Board of Visitors for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Department of Defense or any Federal officers or employees who are not members of the Board of Visitors.

FOR FURTHER INFORMATION: Contact Frank Wilson, DoD Committee Management Officer, 703–601–2554.

May 3, 2007.

L. M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–2314 Filed 5–4–07; 4:27 pm]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2007–OS–0046]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on June 8, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 696–4940.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on May 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 3, 2007.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

DoDEA 27

SYSTEM NAME:

Department of Defense Education Activity Research Approval Process.

SYSTEM LOCATION:

Department of Defense Education Activity, 4040 North Fairfax Drive, Arlington, VA 22203–1635.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested, or whom Department of Defense Education Activity (DoDEA) has requested, or whom DoDEA has otherwise authorized, to conduct research involving DoDEA staff, DoDEA students, or parents/sponsors of DoDEA students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research proposals, including the researcher(s)' name, address, email address, telephone number, the university or research affiliation of the researcher, DoDEA Form 2071.3–F1, Research Study Request, and related supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 2164, Department of Defense Elementary and Secondary Schools; and 20 U.S.C. 921–932 Overseas Defense Dependent's Education.

PURPOSE(S):

A management tool on research projects concerning Department of Defense Education Activity students, parent(s)/sponsor(s), and faculty or staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are file folders and electronic storage media.

RETRIEVABILITY:

Individual's name, case number, subject matter of the research project, and location(s) where the research is being conducted.

SAFEGUARDS:

Access is provided on a 'need-to-know' basis and to authorized authenticated personnel only. Records are maintained in controlled access rooms or areas. Computer terminal access is controlled by terminal identification and the password or similar system. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers.

RETENTION AND DISPOSAL:

Destroy 7 years after completion, or when no longer needed for reference. Paper records are destroyed by shredding. Electronic records are destroyed by shredding of computer disks and permanent deletion of files stored on computer hard drives.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Research and Evaluation, Education Directorate, Department of Defense Education Activity, 4040 North Fairfax Drive, Arlington, VA 22203–1635.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of record should address written inquiries to the Privacy Act Officer, Department of Defense Dependents Schools, 4040 North Fairfax Drive, Arlington, VA 22203–1635.

Written requests should contain the individual name and address and must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Privacy Act Officer, Department of Defense Dependents Schools, 4040 North Fairfax Drive, Arlington, VA 22203–1635.

Written requests should contain the individual name and address and must be signed.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals who have requested permission to conduct research, which have been appointed by Department of Defense Education Activity (DoDEA), or otherwise authorized by DoDEA to conduct research.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–8863 Filed 5–8–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2007–OS–0045]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Threat Reduction Agency.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Threat Reduction Agency proposes to alter a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on June 8, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Freedom of Information and Privacy Office, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Carter at (703) 767–1771.

SUPPLEMENTARY INFORMATION: The Defense Threat Reduction Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

HDTRA 014

SYSTEM NAME:

Student Records (August 5, 2005, 70 FR 45371).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Department of Defense, Department of Energy, FBI and CIA personnel, local and state government officials, and civilian organizations personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's name, Social Security Number (SSN), occupational series, grade, supervisory status, registration, student development curricula, training data (start and completion dates), course descriptions, and related data. Where training is required for professional licenses, certification, or recertification, the file may include proficiency data in one or more skill areas. Electronic records may contain computer logon data and personal emergency contact information.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 4103, Establishment of Training Programs; 10 U.S.C. 1701, Management Policies; E.O. 11348, Providing for the further training of Government employees; 5 CFR part 410, Office of Personnel Management-Training; and E.O. 9397 (SSN).''

* * * * *

NOTIFICATION PROCEDURE:

Delete address and replace with ''Defense Nuclear Weapons School,

Defense Threat Reduction Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, Albuquerque, NM 87117–5669.''

RECORD ACCESS PROCEDURES:

Delete address and replace with ''Nuclear Weapons School, Defense Threat Reduction Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, Albuquerque, NM 87117–5669.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DTRA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 318, or may be obtained from the Defense Threat Reduction Agency, Policy & Program Development Division, 8725 John J. Kingman Road, Stop 6201, Fort Belvoir, VA 22060.''

RECORD SOURCE CATEGORIES:

Add to the entry ''or instructor.''

* * * * *

HDTRA 014

SYSTEM NAME:

Student Records.

SYSTEM LOCATION:

Defense Nuclear Weapons School, Defense Threat Reduction Agency, 1900 Wyoming Boulevard SE., Kirtland Air Force Base, Albuquerque, NM 87117–5669.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense, Department of Energy, FBI and CIA personnel, local and state government officials, and civilian organizations personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), occupational series, grade, supervisory status, registration, student development curricula, training data (start and completion dates), course descriptions, and related data. Where training is required for professional licenses, certification, or recertification, the file may include proficiency data in one or more skill areas. Electronic records may contain computer logon data and personal emergency contact information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 4103, Establishment of Training Programs; 10 U.S.C. 1701, Management Policies; E.O. 11348, Providing for the further training of Government employees; 5 CFR part 410, Office of Personnel Management-Training; and E.O. 9397 (SSN).

PURPOSE(S):

To determine applicant eligibility, as a record of attendance and training, completion or elimination, as a locator, and a source of statistical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DTRA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and/or Social Security Number (SSN).

SAFEGUARDS:

Records and computer printouts are available only to authorized persons with an official need-to-know. The files are in a secure office area with limited access during duty hours. The office is locked during non-duty hours.

RETENTION AND DISPOSAL:

Individual's academic records are retained for 75 years. Records are maintained at the school for five years, then subsequently retired to the Federal Records Center, Fort Worth, TX for the remaining 70 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant, Defense Nuclear Weapons School, Defense Threat Reduction Agency, 1900 Wyoming Boulevard SE., Kirtland Air Force Base, NM 87117–5669.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Nuclear Weapons School, Defense Threat Reduction Agency, 1900 Wyoming Boulevard SE., Kirtland Air Force Base, Albuquerque, NM 87117–5669.

Requests should contain individual's name, Social Security Number (SSN), current address, and sufficient information to permit locating the record.

For personal visits, the individual should provide military or civilian identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Nuclear Weapons School, Defense Threat Reduction Agency, 1900 Wyoming Boulevard SE., Kirtland Air Force Base, Albuquerque, NM 87117–5669.

Requests should contain individual's name, Social Security Number (SSN), current address, and sufficient information to permit locating the record.

For personal visits, the individual should provide military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The DTRA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DTRA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the General Counsel, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

RECORD SOURCE CATEGORIES:

From the individual or instructor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–8864 Filed 5–8–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of Secretary

[DoD–2007–OS–0044]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Threat Reduction Agency.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Threat Reduction Agency is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on June 8, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Freedom of Information and Privacy

Office, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Carter at (703) 767–1771.

SUPPLEMENTARY INFORMATION: The Defense Threat Reduction Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 2, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 3, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

HDTRA 024

SYSTEM NAME:

Recall Roster.

SYSTEM LOCATION:

Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201, and DTRA Field Offices. Official mailing addresses are published as an appendix to the DTRA compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and military personnel, consultants and contractors that are employed with Defense Threat Reduction Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, emergency contact information, organizational and home address, work and home telephone numbers, electronic mail, facsimile, cellular and pager numbers, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; Executive Order 12656, Assignment of Emergency Preparedness Responsibilities; Presidential Decision Directive 67, Enduring Constitutional Government and Continuity of Government Operations; Federal Preparedness Circular 65, Federal Executive Branch Continuity of Operations; DoD Directive 3020.36, Assignment of National Security Emergency Preparedness (NSEP) Responsibilities to DoD Components; and E.O. 9397(SSN).

PURPOSE(S):

These records support agency requirements for emergency notification of personnel, development of locator listings, and all other official management functions where personnel and organizational point-of-contact information is required.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name.

SAFEGUARDS:

Buildings are protected by security guards and an intrusion alarm system. Records are maintained in areas accessible only to Defense Threat Reduction Agency personnel on a need-to-know basis. The computer files are required to be password protected. Records are secured in locked or guarded buildings in locked offices, or locked cabinets during non-duty hours. The Information Technology system is installed in the server room which has badge-controlled access as well as server username/password controls.

RETENTION AND DISPOSAL:

Records are temporary and destroyed when updated, and upon transfer or separation of an individual.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Communications Officer, Combating WMD Enterprise, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about them is contained in this system of records should address written inquiries to the Chief Communications Officer, Combating WMD Enterprise, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

Written requests should contain the individual's full name and duty station.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Chief Communications Officer, Combating WMD Enterprise, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6201.

Written requests should contain the individual's full name and duty station.

CONTESTING RECORD PROCEDURES:

DTRA rules for accessing records, for contesting contents and appealing initial agency determinations are published in DTRA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual and official personnel office documents containing point-of-contract information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–8865 Filed 5–8–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Neurovel, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Neurovel, Inc., a revocable, nonassignable, exclusive license in the field of nerve stimulation and the recording of such nerve stimulation in humans and animals including, but not limited to, applications such as a retinal prosthesis and a cortical implant in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 5,264,722: Nanochannel Glass Matrix Used In Making Mesoscopic Structures, Navy Case No. 74,224.//U.S. Patent No. 6,393,327: Microelectronic Stimulator

Array, Navy Case No. 82,449.//U.S. Patent No. 6,647,297: Permanent Retinal Implant Device, Navy Case No. 83,839.//U.S. Patent No. 6,970,745: Microelectronic Stimulator Array for Stimulating Nerve Tissue, Navy Case No. 83,682.//U.S. Patent Application Serial No. 10/446,257: Fabrication of Microelectrode Arrays Having High Aspect Ratio Microwires, Navy Case No. 83,713 and any continuations, divisions or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than May 24, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: May 3, 2007.

L.R. Almand,

Office of the Navy Judge Advocate General, Administrative Law Division, Federal Register Liaison Officer.

[FR Doc. E7–8897 Filed 5–8–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 9, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 3, 2007.

Angela C. Arrington,

IC Clearance Official Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: An Experimental Study of the Project CRISS Reading Program on Ninth-Grade Reading Achievement in Rural High Schools.

Frequency: Monthly, Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 8,235.

Burden Hours: 7,607.

Abstract: This is an experimental study of an adolescent reading comprehension program called Project CRISS. The study is being performed by the Regional Educational Laboratory, Northwest. RELs are authorized to conduct scientifically valid research on promising educational programs that meet regional needs. The study will collect data on students, teachers, and principals.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3329. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW, Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–8859 Filed 5–8–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 8, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information

collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 2, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: Impact Evaluation on Student Achievement of Teacher Professional Development in Mathematics.

Frequency: On Occasion.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 926.

Burden Hours: 1,492.

Abstract: Data collection to test a model of math professional development that addresses student misconceptions in foundational topics key to success in algebra and beyond.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3282. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to (202) 245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–8878 Filed 5–8–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by June 1, 2007. Interested persons are invited to submit comments on or before June 8, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 3, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: U.S.-Russian Program: Improving Research and Educational Activities in Higher Education.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 12.

Burden Hours: 360.

Abstract: This is a new Special Focus Competition, administered by the Fund for the Improvement for Postsecondary Education (FIPSE). FIPSE's U.S.-Russia Program will award grants to U.S. institutions participating in bilateral institutional cooperation to support innovative projects that will improve research and education activities in higher education in the U.S. and Russia. The rationale for the U.S.-Russia Program is based upon the need for increased interconnectedness between the U.S. and Russia in order to operate effectively in a global economy. Institutions will be funded by their respective government agencies in areas that advance the study of English and Russian and demonstrate innovative and/or best practices in a variety of academic disciplines, such as mathematics, science, and economics.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3323. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor,

Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–8879 Filed 5–8–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On April 27, 2007, the Department of Education published a notice in the **Federal Register** (Page 20998, Column 1) for the information collection, ''The Effect of Connected Mathematics 2 (CM2) on the Math Achievement of Middle School Students''. This notice hereby corrects the reporting and recordkeeping hour burden to 15,383 responses and 6,407 hours. The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: May 2, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

[FR Doc. E7–8877 Filed 5–8–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–409–000]

Black Marlin Pipeline Company; Notice of Cash-Out Report

May 2, 2007.

Take notice that on April 27, 2007, Black Marlin Pipeline Company (Black Marlin) tendered for filing its annual cash-out report for the calendar year ended December 31, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time, May 9, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8841 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2170]

Chugach Electric Association; Notice of Authorization for Continued Project Operation

May 2, 2007.

On April 22, 2005, Chugach Electric Association, licensee for the Cooper Lake Hydroelectric Project, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Cooper Lake Project is located on the Cooper Lake in South Central Alaska near Anchorage, AK.

The license for Project No. 2170 was issued for a period ending April 30, 2007. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2170 is issued to Chugach Electric Association, for a period effective May 1, 2007 through April 30, 2008, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2008, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that Chugach Electric Association, is authorized to continue operation of the Cooper Lake Project until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8839 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–413–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2007.

Take notice that on April 27, 2007, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of June 1, 2007:

First Revised Sheet No. 227
Second Revised Sheet No. 228
Fourth Revised Sheet No. 229
Sixth Revised Sheet No. 538
Original Sheet No. 538A
Fourth Revised Sheet No. 539
Second Revised Sheet No. 540

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8845 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–414–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2007.

Take notice that on April 30, 2007, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of June 1, 2007:

Ninth Revised Sheet No. 501
Fourth Revised Sheet No. 501A
Fifth Revised Sheet No. 502
Fifth Revised Sheet No. 502A
Third Revised Sheet No. 502B
Ninth Revised Sheet No. 503
Fourth Revised Sheet No. 503.01
Third Revised Sheet No. 503A
Seventh Revised Sheet No. 511

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8846 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–412–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2007.

Take notice that on April 27, 2007, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of June 1, 2007:

First Revised Sheet No. 85
First Revised Sheet No. 86
Second Revised Sheet No. 333
Original Sheet No. 333A
Original Sheet No. 333B
Original Sheet No. 333C

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date

need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8844 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–415–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2007.

Take notice that on April 30, 2007, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of June 1, 2007:

Eighth Revised Sheet No. 318
Fourth Revised Sheet No. 330

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8847 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–410–000]

Discovery Gas Transmission LLC; Notice of Cash-Out Report

May 2, 2007.

Take notice that on April 27, 2007, Discovery Gas Transmission LLC (Discovery) tendered for filing its annual cash-out report for the calendar year ended December 31, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time, May 9, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8842 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–411–000]

Discovery Gas Transmission LLC; Notice of Revenue Credit Report

May 2, 2007.

Take notice that on April 27, 2007, Discovery Gas Transmission LLC, (Discovery) tendered for filing its revenue credit report for the 2006 calendar year pursuant to section 27, ''Revenue Crediting'' of the general terms and conditions contained in its FERC Gas Tariff, which requires Discovery to credit ninety percent of the revenues collected in excess of $4,489.891 for a calendar year from certain transportation services rendered on the Expansion Facilities.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time, May 9, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8843 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2219]

Garkane Energy Cooperative, Inc.; Notice of Authorization for Continued Project Operation

May 2, 2007.

On April 29, 2005, Garkane Energy Cooperative, Inc, licensee for the Boulder Creek Hydroelectric Project, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Boulder Creek Project is located on the Boulder Creek in Garfield County, Utah.

The license for Project No. 2219 was issued for a period ending April 30, 2007. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2219 is issued to Garkane Energy Cooperative, Inc., for a period effective May 1, 2007 through April 30, 2008, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2008, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that Garkane Energy Cooperative, Inc., is authorized to continue operation of the Boulder Creek Project until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8840 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–416–000]

Panhandle Eastern Pipe Line Company, LP; Notice of Tariff Filing

May 2, 2007.

Take notice that on April 30, 2007, Panhandle Eastern Pipe Line Company, LP (Panhandle) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 3B, to become effective June 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8848 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–418–000]

Sea Robin Pipeline Company, LLC; Notice of Tariff Filing

May 2, 2007.

Take notice that on April 30, 2007, Sea Robin Pipeline Company, LLC (Sea Robin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 4, to become effective June 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8850 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–420–000]

Stingray Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2007.

Take notice that on April 30, 2007, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of Stingray's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of May 1, 2007:

Third Revised Sheet No. 140A
Second Revised Sheet No. 302A
Second Revised Sheet No. 302B
First Revised Sheet No. 302C
Second Revised Sheet No. 305B
First Revised Sheet No. 305C
Original Sheet No. 305D
First Revised Sheet No. 318
First Revised Sheet No. 319
First Revised Sheet No. 320
Second Revised Sheet No. 321
First Revised Sheet No. 322

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8838 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–417–000]

Trunkline Gas Company, LLC; Notice of Proposed Changes In FERC Gas Tariff

May 2, 2007.

Take notice that on April 30, 2007, Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective June 1, 2007:

Second Revised Sheet No. 6
First Revised Sheet No. 7

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8849 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12769–000]

Ice House Partners, Inc.; Notice Soliciting Scoping Comments

May 2, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* P–12769–000.

c. *Date filed:* January 22, 2007.

d. *Applicant:* Ice House Partners, Inc.

e. *Name of Project:* Ice House Power Project.

f. *Location:* On the Nashua River in the Town of Ayer, Middlesex County, Massachusetts. The project would utilize lands of the United States.

g. *Filed Pursuant to:* Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. §§ 2705, 2708.

h. *Applicant Contact:* Liisa Dowd, Ice House Partners, Inc., 323 West Main Street, Ayer, MA 01432, (978) 772–3303.

i. *FERC Contact:* Tom Dean, (202) 502–6041.

j. *Deadline for filing scoping comments:* June 1, 2007.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application is not ready for environmental analysis at this time.

l. *The Ice House Project would consist of:* (1) The 300-foot-long, 10-foot-high Ice House dam consisting of a 210-foot-long spillway topped with reinstalled flashboards; (2) a 137-acre reservoir with a normal full pond elevation of 217 feet National Geodetic Vertical Datum with flashboards installed; (3) an existing 50-foot-wide, 600-foot-long power canal; (4) a restored powerhouse containing two retrofitted generating units with a total installed capacity of 270 kilowatts (kW); (5) an existing transmission line; and (6) appurtenant facilities. The project would have an average annual generation of 2,500,000 kW-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. You may also register online at *http://www.ferc.gov.esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process

The Commission staff intends to prepare a single Environmental Assessment (EA) for the Ice House Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff do not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document (SD) issued on May 1, 2007.

Copies of the SD outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–8851 Filed 5–8–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0094; FRL–8123–2]

Agency Information Collection Activities; Proposed Collection; Comment Request; Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances; EPA ICR No. 0574.13, OMB Control No. 2070–0012

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances'' and identified by EPA ICR No. 0574.13 and OMB Control No. 2070–0012, is scheduled to expire on December 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before July 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID)

number EPA–HQ–OPPT–2007–0094, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2007–0094. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2007–0094. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Rose Allison, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8970; fax number: (202) 564–4775; e-mail address: *allison.rose@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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 estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are companies that manufacture, process, or import chemical substances.

Title: Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances.

ICR numbers: EPA ICR No. 0574.13, OMB Control No. 2070–0012.

ICR status: This ICR is currently scheduled to expire on December 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Section 5 of the Toxic Substances Control Act (TSCA) requires manufacturers and importers of new chemical substances to submit to EPA notice of intent to manufacture or import a new chemical substance 90 days before manufacture or import begins. EPA reviews the information contained in the notice to evaluate the health and environmental effects of the new chemical substance. On the basis of the review, EPA may take further regulatory action under TSCA, if warranted. If EPA takes no action within 90 days, the submitter is free to manufacture or import the new chemical substance without restriction.

TSCA section 5 also authorizes EPA to issue Significant New Use Rules (SNURs). EPA uses this authority to take follow-up action on new or existing chemicals that may present an unreasonable risk to human health or the environment if used in a manner that may result in different and/or higher exposures of a chemical to humans or the environment. Once a use is determined to be a significant new use, persons must submit a notice to EPA 90 days before beginning manufacture, processing, or importation of a chemical substance for that use. Such a notice allows EPA to receive and review information on such a use and, if necessary, regulate the use before it occurs.

Finally, TSCA section 5 also permits applications for exemption from TSCA section 5 review under certain circumstances. An applicant must provide information sufficient for EPA to make a determination that the circumstances in question qualify for an exemption. In granting an exemption, EPA may impose appropriate restrictions.

This information collection addresses the reporting and recordkeeping requirements associated with TSCA section 5.

Responses to the collection of information are mandatory (see 40 CFR parts 700, 720, 721, 723, and 725). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 105.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 443.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 3.3.

Estimated total annual burden hours: 146,060 hours.

Estimated total annual costs: $34,298,675. This includes an estimated burden cost of $34,298,675 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 17,731 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's experience with the numbers of submissions since the most recent OMB approval of this collection. This change is an adjustment.

V. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 30, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–8941 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0270; FRL–8125–3]

Agency Information Collection Activities; Proposed Collection; Comment Request; Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule; EPA ICR No. 1365.08, OMB Control No. 2070–0091

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule'' and identified by EPA ICR No. 1365.08 and OMB Control No. 2070–0091, is scheduled to expire on January 31, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before July 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID)

number EPA–HQ–OPPT–2007–0270, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2007–0270. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2007–0270. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Robert Courtnage, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 566–1081; fax number: (202) 566–0473; e-mail address: *courtnage.robert@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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 estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are local education agencies (LEAs) (e.g., elementary or secondary public school districts or a private school or school system); an asbestos training provider to schools and educational systems; a state

education department or commission; or a state public health department or commission.

Title: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule.

ICR numbers: EPA ICR No. 1365.08, OMB Control No. 2070–0091.

ICR status: This ICR is currently scheduled to expire on January 31, 2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires LEAs to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires states to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on states and training providers related to the model accreditation plan rule.

Responses to the collection of information are mandatory (see 40 CFR part 763, subpart E). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 5.5 hours and 140 hours per response, depending on the category of the respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 125,691.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 2,530,600 hours.

Estimated total annual costs: $76,352,159. This includes an estimated burden cost of $76,352,159 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. Are There Changes in the Estimates from the Last Approval?

There is a net increase of 45,160 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's revised estimates of numbers of LEAs and of training providers. This change is an adjustment.

V. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 30, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–8943 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0274; FRL–8125–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; Safer Detergent Stewardship Initiative (SDSI) Program; EPA ICR No. 2261.01, OMB Control No. 2070–new

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request for a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Safer Detergent Stewardship Initiative (SDSI) Program'' is identified by EPA ICR No. 2261.01 and OMB Control No. 2070–new. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before July 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2007–0274, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2007–0274. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–

2007–0274. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. 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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Kathleen Vokes, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9910; fax number: (202) 564–8893; e-mail address: *vokes.kathleen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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 estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What Information Collection Activity or ICR Does this Action Apply to?

Affected entities: Entities potentially affected by this action are establishments or organizations engaged in formulating, producing, purchasing or distributing surfactants or products containing surfactants.

Title: Safer Detergent Stewardship Initiative (SDSI) Program.

ICR numbers: EPA ICR No. 2261.01, OMB Control No. 2070–new.

ICR status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: SDSI is a voluntary program administered by EPA to offer resources and recognition to businesses involved in the transition to safer surfactants. Surfactants are a major ingredient in

cleaning products such as detergents, cleaners, airplane deicers and fire-fighting foams. Safer surfactants are those that break down quickly to non-polluting compounds.

Under SDSI, businesses that have fully transitioned to safer surfactants, or (for non-profits, academic institutions, etc.) can document outstanding efforts to encourage the use of safer surfactants, are granted Champion status. At this level, the participant is invited to the SDSI Awards ceremony, listed on the EPA SDSI website as a champion, and may use a special logo in their literature to help explain their participation in the program. Businesses that commit to a full and timely transition to safer surfactants, or (for non-profits, academic institutions, etc.) can document outstanding efforts to encourage the use of safer surfactants, are granted Partner status. This category provides recognition of significant accomplishments towards the use of safer surfactants. Partners will be listed on the EPA SDSI website and may be granted recognition as a Champion in the future if appropriate.

This information collection addresses reporting activities that support the administration of the SDSI program.

Responses to this collection of information are voluntary. Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 10 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 375.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 3,750 hours.

Estimated total annual costs: $182,625. This includes an estimated burden cost of $182,625 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 30, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–8944 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8310–3]

Inspection Grant Guidelines for States; Solid Waste Disposal Act, Subtitle I, as Amended by Title XV, Subtitle B of the Energy Policy Act of 2005

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: By this notice, the Environmental Protection Agency (EPA), Office of Underground Storage Tanks (OUST) is advising the public that on April 24, 2007 EPA issued the inspection grant guidelines and subsequently made the guidelines available on EPA's Web site. In this notice, EPA is publishing the inspection grant guidelines in their entirety. EPA developed the inspection grant guidelines as required by Sections 9005(c)(1) and 9005(c)(2) of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1523 of the Energy Policy Act of 2005.

DATES: On April 24, 2007, EPA issued and subsequently posted the inspection grant guidelines on EPA's Web site. EPA is notifying the public via this notice that the inspection grant guidelines are available as of May 9,2007.

ADDRESSES: EPA posted the inspection grant guidelines on our Web site at: *http://www.epa.gov/oust/fedlaws/epact_05.htm#Final* . You may also obtain paper copies from the National Service Center for Environmental Publications (NSCEP), EPA's publications distribution warehouse. You may request copies from NSCEP by calling 1–800–490–9198; writing to U.S. EPA/NSCEP, Box 42419, Cincinnati, OH 45242–0419; or faxing your request to NSCEP at 301–604–3408. Ask for: *Grant Guidelines To States For Implementing The Inspection Provisions Of The Energy Policy Act Of 2005* (EPA 510–R–07–004, April 2007).

FOR FURTHER INFORMATION CONTACT: Tim R. Smith, EPA's Office of Underground Storage Tanks, at *smith.timr@epa.gov* or 703–603–7158.

SUPPLEMENTARY INFORMATION: On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act, titled the Underground Storage Tank Compliance Act of 2005, contains amendments to Subtitle I of the Solid Waste Disposal Act. This is the first federal legislative change for the underground storage tank (UST) program since its inception over 20 years ago. The UST provisions of the law significantly affect federal and state UST programs, require major changes to the programs, and are aimed at further reducing UST releases to our environment. Among other things, the UST provisions of the Energy Policy Act require that states receiving funding under Subtitle I comply with certain requirements contained in the law. OUST worked, and is continuing to work, with its partners to develop grant guidelines that EPA regional tank programs will incorporate into states' grant agreements. The guidelines will provide states that receive UST funds with specific requirements, based on the UST provisions of the Energy Policy Act, for their state UST programs.

Sections 9005(c)(1) and 9005(c)(2) of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1523 of the Energy Policy Act, require states that receive Subtitle I funding to ensure that USTs not inspected since December 22, 1998 have an on-site inspection before August 8, 2007 and subsequently

undergo an on-site inspection at least once every three years thereafter. As a result of that requirement, EPA worked with states and other stakeholders to develop inspection grant guidelines. In November 2006, EPA released a draft of the inspection grant guidelines. EPA considered comments and, subsequently on April 24, 2007, issued the inspection grant guidelines. EPA will incorporate these guidelines into grant agreements between EPA and states. States receiving funds from EPA for their UST programs must comply with the UST provisions of the Energy Policy Act and will be subject to action by EPA under 40 CFR 31.43 if they fail to comply with the guidelines.

Statutory and Executive Order Reviews: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. Section 601 et seq.) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. Although this action does create new binding legal requirements, such requirements do not substantially and directly affect tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. Section 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Section 3501 et seq.). The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this final action will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit a report to Congress containing this final action prior to the publication of this action in the **Federal Register**.

Grant Guidelines to States for Implementing the Inspection Provisions of the Energy Policy Act of 2005

U.S. Environmental Protection Agency; Office of Underground Storage Tanks; April 2007

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Appendix B—Inspection Requirements of the Energy Policy Act: Determining Which Underground Storage Tanks Have Undergone an Inspection Since December 22, 1998 (June 8, 2006 Memorandum)

Overview of the Inspection Grant Guidelines

Why Is EPA Issuing These Guidelines?

The U.S. Environmental Protection Agency (EPA), in consultation with states, developed these grant guidelines to implement the inspection provisions in Sections 9005(c)(1) and 9005(c)(2) of the Solid Waste Disposal Act (SWDA), enacted by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 signed by President Bush on August 8, 2005.

Section 1523 of the Energy Policy Act amends Section 9005 in Subtitle I of the Solid Waste Disposal Act to add requirements for underground storage tank (UST) system inspections for states receiving Subtitle I funding as follows:

1. Uninspected underground storage tanks—Section 9005(c)(1) requires that underground storage tanks that have not been inspected since December 22, 1998 must have an on-site inspection conducted not later than August 8, 2007 to determine compliance with Subtitle I and 40 CFR 280 requirements or requirements or standards of a state program developed under Section 9004.

2. Periodic inspections—Section 9005(c)(2) requires that, after all underground storage tanks required by Section 9005(c)(1) have been inspected, on-site inspections of each underground storage tank identified in these guidelines must be conducted at least once every three years to determine compliance with Subtitle I and 40 CFR 280 requirements or requirements or standards of a state program developed under Section 9004.

EPA's Office of Underground Storage Tanks (OUST) is issuing these grant guidelines to establish the minimum requirements states receiving Subtitle I funding must meet in order to comply with the inspection provisions of Subtitle I enacted by the Energy Policy Act.

What Is in These Guidelines?

These guidelines describe the minimum requirements a state's on-site inspection program must contain under Section 9005(c) of Subtitle I in order for a state to comply with statutory requirements for Subtitle I funding. These guidelines include: Identification of which underground storage tanks require an on-site inspection; requirements for the on-site inspection; who can perform the on-site inspection; and what information needs to be reported to EPA.

When Do These Guidelines Take Effect?

These guidelines are effective August 8, 2007. Until August 8, 2007, states may continue to follow the interim guidance on inspections issued in OUST's November 17, 2005 and June 8, 2006 memorandums. See Appendices A and B for copies.

Requirements for On-Site Inspections

A state receiving Subtitle I funding must conduct on-site inspections of each underground storage tank in accordance with these guidelines.

Which Underground Storage Tanks Require an On-Site Inspection?

For purposes of these guidelines, the term ''underground storage tank'' means those tanks that satisfy the definition of underground storage tank in 40 CFR

280.12, except for those tanks identified in 40 CFR 280.10(b) and 280.10(c) as excluded or deferred tanks. These guidelines apply to underground storage tanks that have not been permanently closed or undergone a change in service in accordance with 40 CFR 280.71 or requirements or standards of a state program approved under Section 9004. An on-site inspection is not required for underground storage tanks that have been determined by the state to be abandoned.

When Must Underground Storage Tanks Be Inspected?

States must by August 8, 2007 conduct an on-site inspection for each underground storage tank that has not been inspected since December 22, 1998.[1] After completion of those inspections, each underground storage tank must be inspected by August 8, 2010 (EPA has the authority to extend this date until August 8, 2011 if a state demonstrates insufficient resources to conduct inspections) and at least once every three years thereafter.

What Are the Requirements for the On-Site Inspection?

The purpose of the on-site inspection is to determine compliance with Subtitle I and 40 CFR 280 requirements or in the case of a state with a program approved under Section 9004 of Subtitle I, compliance with the requirements of that program.

For purposes of these guidelines, an on-site inspection includes an inspection conducted at the site of each underground storage tank, inspection of associated equipment, and the review of applicable records. Review of applicable records and other activities that can be accomplished off-site may be combined with activities conducted at the site of the underground storage tank to fulfill the on-site inspection requirement. Desk audits, self-certifications, information request letters, and any other such activities are not sufficient by themselves to fulfill the on-site inspection requirements. However, information obtained from such activities may be used in conjunction with the on-site inspection to satisfy the on-site inspection requirement. At a minimum, an on-site inspection must assess compliance with the following:

- Notification (failure to notify)
- Corrosion protection
  - —Tanks and piping have appropriate corrosion protection
  - —Documentation available including testing, inspections, and other records
- Overfill prevention in place and operational
- Spill prevention in place and operational
- Tank and piping release detection
  - —Appropriate method and appropriate equipment or procedures in place
  - —Documentation of proper monitoring and testing
- Reporting suspected releases
- Records of tank and piping repairs
- Secondary containment where required
- Financial responsibility
- Temporary closure

A state does not need to make a compliance determination at the time of the inspection in order for the inspection to qualify as an on-site inspection under these grant guidelines. However, the individual performing the inspection or the state underground storage tank implementing agency must request from the owner or operator all information needed to make a compliance determination. EPA encourages states to make a compliance determination in a timely manner. States should generally continue to conduct enforcement activities as appropriate to address any noncompliance with applicable underground storage tank program requirements; however, these guidelines do not address the nature or scope of such enforcement activities.

Who May Perform the On-Site Inspection?

An on-site inspection of an underground storage tank must be conducted by one of the following:

- EPA inspector.
- A state underground storage tank implementing agency inspector.
- Other state or local agency inspector the state underground storage tank implementing agency has duly designated, in accordance with state procedures, to conduct underground storage tank inspections.
- A contractor EPA or a state underground storage tank implementing agency has duly designated to conduct underground storage tank inspections.
- A private underground storage tank inspector[2] (private inspector) operating under a third-party inspection program as described below.

Solely for the purposes of these grant guidelines, a third-party inspection program is a state program in which a state-authorized private inspector is paid by the owner or operator of an underground storage tank to perform an on-site inspection. At a minimum, states choosing to implement a third-party inspection program must meet the following requirements:

- Private inspectors must be certified, licensed, or registered by the state to perform on-site inspections. At a minimum, private inspectors must meet the following requirements:
  - —Be trained in the state-specific inspection protocols and procedures, and perform inspections pursuant to such protocols and procedures.
  - —Successfully complete the state's required training program. The training program for private inspectors must be comparable to the training program for state inspectors.
- Third-party inspection programs must require private inspectors to meet conflict of interest requirements developed by the state. At a minimum, private inspectors must not be: The owner or operator of the underground storage tank; an employee of the owner or operator of the underground storage tank; or a person having daily on-site responsibility for the operation and maintenance of the underground storage tank.
- Third-party inspection programs must use an inspection report form developed by the state that covers the requirements identified in the *What Are The Requirements For The On-Site Inspection?* section of these guidelines. As previously indicated, not all required activities have to be conducted at the site. Review of applicable records and other activities that can be accomplished off-site may be combined with activities conducted at the site to fulfill the on-site inspection requirement.
- Private inspectors must complete and submit the inspection report to the state underground storage tank-implementing agency in the manner and time frame established by the state. States must either require that private

[1] On June 8, 2006, OUST issued a memorandum in order to identify which underground storage tanks need to have an on-site inspection before August 8, 2007. See Appendix B for a copy of the memorandum—Inspection Requirements Of The Energy Policy Act: Determining Which Underground Storage Tanks Have Undergone An Inspection Since December 22, 1998.

[2] In light of certain practical considerations relating to the underground storage tank regulated universe and specific features of Subtitle I grant funding, EPA believes that it is appropriate, solely for the purpose of these grant guidelines, to allow states the option of using a third-party inspection program to meet the on-site inspection requirement. In particular, Subtitle I requires states, as a condition of funding, or EPA as appropriate, to inspect all underground storage tanks every three years. EPA recognizes that a flexible approach is necessary in order to assist states in meeting the three-year inspection requirement given the large number of underground storage tanks, the varied distribution of such underground storage tanks from state to state, and because fulfilling the inspection requirement is a condition of a state's Subtitle I funding.

inspectors retain inspection related documentation in a comparable manner to state inspectors or submit the documentation to the state. The state must review each inspection report and make a compliance determination for each site.

• Third-party inspection programs must contain an audit program, developed by the state, to monitor private inspectors on a routine basis. The audit program must include a sufficient number of on-site inspections to effectively assess inspector performance.

• States must retain the capability to conduct: Audits of inspections conducted by private inspectors; for-cause inspections (e.g., inspections conducted as a result of a complaint); and inspections of other underground storage tank sites that the state determines warrant an on-site inspection. The state underground storage tank agency or another duly designated state or local agency must perform a sufficient number of these inspections so the state retains the capacity to perform on-site inspections and maintains the integrity of the third-party inspection program.

• If a private inspector fails to demonstrate to the state adequate competence and proficiency to perform underground storage tank inspections, or the state otherwise determines it is not appropriate for the private inspector to conduct on-site inspections as part of a third-party inspection program, the state must take appropriate action against the private inspector. Appropriate action should generally be defined by the state in its third-party inspection program and may include enforcement mechanisms such as: Temporary suspension or permanent revocation of the private inspector's certification, license, or registration; fines, penalties, retraining, and examination; or any other action the state deems appropriate to include as an enforcement mechanism against the private inspector.

States implementing a third-party inspection program as of the published date of these guidelines in the **Federal Register** have until August 8, 2010 to meet the third-party inspection program requirements described above. States that implement a third-party inspection program after the published date of these guidelines in the **Federal Register** must meet the requirements at the time the program is implemented.

What Are the Reporting Requirements to EPA?

Each state that receives Subtitle I funding must report to EPA the number of on-site inspections conducted during the reporting period as part of its quarterly or semi-annual performance report.

How Will States Demonstrate Compliance With These Guidelines?

After August 8, 2007, and before receiving future grant funding, states must provide one of the following to EPA:

• For a state that has met the inspection requirements, the state must submit a certification indicating that the state meets the requirements in these guidelines.

• For a state that has not yet met the requirements for inspections, the state must provide a document that describes the state's efforts to meet the requirements. This document must include:

—A description of the state's activities to date to meet the requirements in these guidelines;

—A description of the state's planned activities to meet the requirements; and

—The date by which the state expects to meet the requirements.

EPA may verify state certifications of compliance through site visits, record reviews, or audits as authorized by 40 CFR Part 31.

How Will EPA Enforce States' Compliance With the Requirements in These Guidelines?

As a matter of law, each state that receives funding under Subtitle I, which would include a Leaking Underground Storage Tank (LUST) Cooperative Agreement, must comply with certain underground storage tank requirements of Subtitle I. EPA anticipates State and Tribal Assistance Grants (STAG) funds will be available for inspection and other underground storage tank compliance activities. EPA will also condition STAG grants with compliance with these guidelines. Absent a compelling reason to the contrary, EPA expects to address noncompliance with these STAG grant conditions by utilizing EPA's grant enforcement authorities under 40 CFR Part 31.43, as necessary and appropriate.

For More Information About the Inspection Grant Guidelines

Visit the EPA Office of Underground Storage Tank's Web site at *www.epa.gov/oust* or call 703–603–9900.

Background About the Energy Policy Act of 2005

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act (titled the Underground Storage Tank Compliance Act) contains amendments to Subtitle I of the Solid Waste Disposal Act '' the original legislation that created the underground storage tank (UST) program. These amendments significantly affect federal and state underground storage tank programs, will require major changes to the programs, and are aimed at reducing underground storage tank releases to our environment.

The amendments focus on preventing releases. Among other things, they expand eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund and include provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

Some of these provisions require implementation by August 2006; others will require implementation in subsequent years. To implement the new law, EPA and states will work closely with tribes, other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.

To see the full text of this new legislation and for more information about EPA's work to implement the underground storage tank provisions of the law, see: *http://www.epa.gov/oust/fedlaws/nrg05_01.htm*

BILLING CODE 6560–50–P

Appendix A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 17 2005

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MEMORANDUM

SUBJECT: Short-Term Recommendation About Inspections To Meet The Energy Policy Act Of 2005 Requirements

FROM: Cliff Rothenstein, Director
Office of Underground Storage Tanks

TO: State UST Managers
EPA UST Regional Division Directors

I am writing to update you about implementing the Energy Policy Act of 2005, provide a short-term recommendation about site inspections, and give a brief overview of the Act's underground storage tank (UST) provisions which significantly affect federal and state programs. EPA is currently working to develop guidance on implementing the various UST provisions in the Act, and we expect to complete the guidance on inspections by April 2006. In the meantime, I encourage state UST programs to continue conducting on-site inspections as discussed below.

Brief Overview Of The Energy Policy Act

As you know, President Bush on August 8, 2005 signed Public Law 109-58, the Energy Policy Act of 2005. Title XV, Subtitle B of this Act (entitled the Underground Storage Tank Compliance Act of 2005) contains amendments to Subtitle I of the Resource Conservation Recovery Act – the original legislation that created the federal UST program. This new law significantly affects state and federal underground storage tank programs and will require major changes in them. Additionally, gas station owners and operators, as well as non-marketers who own or operate USTs, will be impacted by the changes states and EPA make in their tank programs.

The Underground Storage Tank Compliance Act focuses on preventing releases. Among other things, the Act expands eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund, extends the LUST Trust Fund tax through 2011, and includes provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

Some of these provisions require implementation by August 2006; others will require implementation in subsequent years. EPA is working closely with states, tribes, other federal agencies, tank owners and operators, and other stakeholders to implement these mandated changes affecting underground storage tank facilities.

To view the full text of this new legislation, see: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ058.109.pdf (scroll to Title XV – Ethanol And Motor Fuels, Subtitle B – Underground Storage Tank Compliance, on pages 500-513).

Specifics About Continuing Inspections

Under Section 1523 of the Energy Policy Act of 2005, EPA or states which receive Subtitle I funding shall conduct on-site inspections by August 8, 2007 of all tanks which have not undergone inspection since December 22, 1998. Following the completion of this task, EPA or states that receive Subtitle I funding shall conduct on-site inspections of all regulated tanks at least once every three years.

We have established an inspections workgroup, composed of EPA and state members, to help develop guidance covering inspections. While we work on the guidance, I urge you to continue performing on-site inspections at UST facilities. I encourage you to focus your inspections on facilities with USTs in place on or before December 22, 1998 and which have not been inspected since December 22, 1998. For inspections conducted in the period from August 8, 2005 to the date of the publication of our guidance, we will consider any on-site inspection as meeting the new inspection requirements as long as the inspection is:

- conducted by a state, local (when contracted or delegated by a state), EPA, or certified third-party inspector; and
- sufficient to determine compliance with federal UST requirements in Subtitle I or state requirements that are part of a state UST program EPA has approved under the state program approval (SPA) procedures.

Next Steps

EPA expects to publish final guidance on inspections by April. I will continue to share with you important information about the inspection requirements, as well as other requirements in the Underground Storage Tank Compliance Act, as we move forward with implementation.

My staff and I look forward to working with you to implement this important provision of the Underground Storage Tank Compliance Act. If you have questions about the inspection requirements, contact Jerry Parker at parker.jerry@epa.gov or 703-603-7167. For more information about EPA's efforts to implement the law, contact Mark Barolo at barolo.mark@epa.gov or 703-603-7141.

cc: EPA UST Regional Branch Chiefs
EPA UST Regional Program Managers
OUST Managers
OUST Regional Liaisons

Appendix B

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 8 2006

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Inspection Requirements Of The Energy Policy Act: Determining Which Underground Storage Tanks Have Undergone An Inspection Since December 22, 1998

FROM: Cliff Rothenstein, Director
Office of Underground Storage Tanks

TO: EPA Regional UST Division Directors
State UST Program Managers

I am writing to share with you the Agency's determination on how to interpret a key provision of the Energy Policy Act, that is, the requirement to inspect all underground storage tanks (USTs) that have not undergone an inspection since December 22, 1998. To implement this provision, states that receive Solid Waste Disposal Act (SWDA) Subtitle I funding must determine which USTs have undergone an inspection in the relevant time frame. As described more fully below, USTs that have undergone a compliance monitoring activity since December 22, 1998, do not need to have an on-site inspection by August 8, 2007.

This document applies to USTs regulated under Subtitle I in operation on or before December 22, 1998. As used in this document, USTs means those tanks that satisfy the definition of "UST" in 40 C.F.R. § 280.12, except for those tanks identified in 40 C.F.R. §§ 280.10(b) and 280.10(c) as excluded or deferred USTs. This document does not apply to USTs installed after December 22, 1998, because such USTs are not subject to the two-year inspection requirement.

Energy Policy Act Inspection Requirements

The UST provisions in the Energy Policy Act of 2005 contain amendments to Subtitle I of SWDA. Section 1523 of the Energy Policy Act amends section 9005 of SWDA by requiring periodic on-site inspections for USTs. In particular, under section 9005(c)(1), USTs that have not been inspected since December 22, 1998 must have an on-site inspection by August 8, 2007.

Determining Which Underground Storage Tanks Have Undergone An Inspection Since December 22, 1998

In section 9005(c)(1), Congress uses the term "inspection" in connection with determining whether an UST had already undergone an inspection between December 22, 1998 and August 8, 2005. In contrast, however, further in section 9005(c)(1) and then in section 9005(c)(2), Congress uses the term "*on-site* inspection" (emphasis added) in connection with subsequent inspections that EPA or states must conduct within, respectively, a 2-year or 3-year timetable. When enacting section 9005(c)(1), Congress was aware that the states and EPA were using a variety of compliance monitoring activities to determine an owner/operator's compliance with Subtitle I and its implementing regulations or a requirement or standard of a state program developed under Subtitle I.[1] The use of the term "inspection" without the modifier "on-site" in section 9005(c)(1) reflects Congress' understanding of the variety of state and federal activities that had been used prior to the enactment of the Energy Policy Act to determine an owner/operator's compliance with the applicable UST regulations and is limited to the context of this provision in this legislation. By enacting section 9005(c)(2), Congress made a deliberate choice to alter both the frequency of inspections, as well as the variety of existing activities used to determine an owner/operator's compliance, by legislating that EPA or a state conduct on-site inspections of all USTs every three years.

Therefore, solely for purposes of implementing the requirements of section 9005(c)(1), USTs that have not undergone a compliance monitoring activity since December 22, 1998, have not undergone an inspection under section 9005(c)(1) and thus must have an on-site inspection by August 8, 2007. For the limited purpose of determining which USTs have undergone a compliance monitoring activity since December 22, 1998, the state agency responsible for implementing the UST regulatory program may count any of the activities that the state, or an entity on behalf of the state, was using from December 22, 1998, through August 8, 2005, to reasonably monitor, evaluate, or determine an owner/operator's compliance with the federal UST regulations or the regulations of a state approved under section 9004.[2] Any UST that had undergone such a state or federal activity from December 22, 1998, through August 8, 2005, is not required to have an on-site inspection by August 8, 2007, under section 9005(c)(1).

Next Steps

This summer OUST expects to publish draft inspection grant guidelines to implement section 9005(c) of SWDA Subtitle I as amended by the Energy Policy Act of 2005. These guidelines will incorporate the determination made in this memorandum, and detail what states must do to meet the on-site inspection requirements in 9005(c). If you have questions or comments about this memorandum or the inspection requirements contained in the Energy Policy Act, please contact Tim Smith of my office at smith.timr@epa.gov or 703-603-7158.

cc: EPA Regional UST Branch Chiefs
EPA Regional UST Program Managers
OUST Managers
OUST Regional Liaisons

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[1] For instance, the Government Accountability Office (GAO) issued a Report to Congress in May 2001 describing the breadth of UST inspection programs which included the use of tank owners' self-certification that their tanks were in compliance as one activity used to determine UST compliance. The Report also included inspections. EPA considers an inspection to be a visit to a facility or site for the purpose of gathering information, including direct observations, to determine compliance with a statutory requirement, regulation, or other legal obligation.

[2] While not all such state activities meet EPA's definition of an inspection, based upon information before Congress prior to enacting section 9005(c)(1), see n.1, above, such activities were described to Congress as ways in which some states determine an owner/operator's compliance with the applicable UST regulations.

Dated: May 2, 2007.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 07–2266 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8310–4]

Grant Guidelines for States Regarding State Compliance Reports on Government Underground Storage Tanks; Solid Waste Disposal Act, Subtitle I, as Amended by Title XV, Subtitle B of the Energy Policy Act of 2005

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: By this notice, the Environmental Protection Agency (EPA), Office of Underground Storage Tanks (OUST) is advising the public that on April 24, 2007 EPA issued the grant guidelines for state compliance reports on government underground storage tanks (USTs) and subsequently made the guidelines available on EPA's Web site. In this notice, EPA is publishing the grant guidelines for state compliance reports on government USTs in their entirety. EPA developed the grant guidelines for state compliance reports on government USTs as required by Section 9003(j) of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1526 of the Energy Policy Act of 2005.

DATES: On April 24, 2007, EPA issued and subsequently posted on EPA's Web site the grant guidelines for state compliance reports on government USTs. EPA is notifying the public via this notice that the grant guidelines for state compliance reports on government USTs are available as of May 9, 2007.

ADDRESSES: EPA posted the grant guidelines for state compliance reports on a government USTs on our Web site at: *http://www.epa.gov/oust/fedlaws/epact_05.htm#Final.* You may also obtain paper copies from the National Service Center for Environmental Publications (NSCEP), EPA's publications distribution warehouse. You may requests copies from NSCEP by calling 1–800–490–9198; writing to U.S. EPA/NSCEP, Box 42419, Cincinnati, OH 45242–0419; or faxing your request to NSCEP at 301–604–3408. Ask for: *Grant Guidelines To States For Implementing The Provision Of The Energy Policy Act Of 2005 Requiring States To Report On The Compliance Of Government Underground Storage Tanks* (EPA 510–R–07–003, April 2007).

FOR FURTHER INFORMATION CONTACT: Steven McNeely, EPA's Office of Underground Storage Tanks, at *mcneely.steven@epa.gov* or 703–603–7164.

SUPPLEMENTARY INFORMATION: On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act, titled the Underground Storage Tank Compliance Act of 2005, contains amendments to Subtitle I of the Solid Waste Disposal Act. This is the first federal legislative change for the underground storage tank (UST) program since its inception over 20 years ago. The UST provisions of the law significantly affect federal and state UST programs, require major changes to the programs, and are aimed at further reducing UST releases to our environment. Among other things, the UST provisions of the Energy Policy Act require that states receiving funding under Subtitle I comply with certain requirements contained in the law. OUST worked, and is continuing to work, with its partners to develop grant guidelines that EPA regional tank programs will incorporate into states' grant agreements. The guidenlines will provide states that receive UST funds with specific requirements, based on the UST provisions of the Energy Policy Act, for their state UST programs.

Section 9003(j) of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1526 of the Energy Policy Act, requires states that receive Subtitle I funding must report to EPA no later than August 8, 2007 on the compliance status of government-owned and government-operated USTs. As a result of that requirement, EPA worked with states and other stakeholders to develop grant guidelines for state compliance reports on government USTs. States receiving funds from EPA for their UST programs must comply with the UST provisions of the Energy Policy Act and will be subject to action by EPA under 40 CFR 31.43 if they fail to comply with the guidelines.

Statutory and Executive Order Reviews: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. Section 601 et.) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. Although this action does create new binding legal requirements, such requirements do not substantially and directly affect tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. Section 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Section 3501 et seq.). The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each house of the Congress and to the Comptroller General of the United States. Since this final action will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit a report to Congress containing this final action prior to the publication of this action in the **Federal Register.**

Grant Guidelines to States for Implementing the Provision of the Energy Policy Act of 2005 Requiring States to Report on the Compliance of Government Underground Storage Tanks

U.S. Environmental Protection Agency; Office of Underground Storage Tanks; April 2007.

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Overview of the Government Underground Storage Tanks Compliance Report Grant Guidelines

Why Is EPA Issuing these Guidelines?

The U.S. Environmental Protection Agency (EPA), in consultation with states, developed these grant guidelines to implement the provision in Section 9003(j) [1] of the Solid Waste Disposal Act, enacted by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 signed by President Bush on August 8, 2005.

Subsection (b) of Section 1526 of the Energy Policy Act amends Subtitle I of the Solid Waste Disposal Act by requiring states that receive Subtitle I funding to report on the compliance status of their government-owned and/or -operated underground storage tanks (UST). EPA must require each state that receives funding under Subtitle I to submit a state compliance report on government underground storage tanks no later than two years after the date of enactment of the Act. States must submit their compliance reports to the EPA Administrator. The Administrator will make the reports available to the public. The law specifies that each state report:

1. List the location and owner of each underground storage tank regulated under Subtitle I and owned or operated by the federal, state, or local governments in the state that, as of the date of submission of the report, is not in compliance with Section 9003;

2. Specify the date of the last inspection; and

3. Describe the actions that have been and will be taken to ensure compliance of the government underground storage tank listed.

When Do These Guidelines Take Effect?

States must submit reports to EPA on or before August 8, 2007. This is a one-time report required under Subsection (b) of Section 1526 of the Energy Policy Act.

To Whom Do These Guidelines Apply?

Any state receiving Subtitle I funding must submit to EPA a state compliance report on government underground storage tanks.

Requirements for the Government Underground Storage Tanks Compliance Report

What Must a State Compliance Report on Government Underground Storage Tanks Include?

A state compliance report on government underground storage tanks must provide the following information for each *noncompliant* federal-, state-, and local-government underground storage tank in its jurisdiction:

1. The location and owner of each government underground storage tank [2] that, as of the date of submission of the report,[3] is not in compliance with 40 CFR Part 280 or with state requirements that are part of a state underground storage tank program EPA has approved under the state program approval (SPA) procedures. At a minimum, states must include the owner's name; UST identification number(s); facility address(es); and city, county, state, and zip code. The compliance determination should be based on the following areas:

- Notification (failure to notify).
- Corrosion protection.

—Tanks and piping have appropriate corrosion protection.
—Documentation available including testing, inspections, and other records.

- Overfill prevention in place and operational.
- Spill prevention in place and operational.
- Tank and piping release detection.

—Appropriate method and appropriate equipment or procedures in place.
—Documentation of proper monitoring and testing.

- Reporting suspected releases.
- Records of tank and piping repairs.
- Secondary containment where required.
- Financial responsibility.
- Temporary closure.

If a state is reporting compliance based on a determination pursuant to requirements that are more stringent than subtitle I, the state should identify and may list its more stringent requirements.

2. The date of the last on-site inspection that was used to identify each noncompliance underground storage tank. Alternatively, for compliance monitoring activities that occurred prior to August 8, 2005, states may report the date for the last compliance monitoring activity as described in the June 8, 2006, EPA memorandum (see Appendix).

3. The actions that have been and will be taken to ensure the compliance of each noncompliant underground storage tank identified. Note: States are not expected to divulge enforcement confidential information in the report.

States may submit their reports in whatever format they deem appropriate.

What Definitions Are Used in These Guidelines?

On-site inspection is defined in these guidelines as an inspection that is:

- On-site;
- Conducted by a state, local (when contracted or delegated by a state), EPA, or certified third-party inspector; and
- Sufficient to determine compliance with federal underground storage tank requirements in Subtitle I or state requirements that are part of a state underground storage tank program EPA has approved under the SPA procedures in 40 CFR Part 281.

Local government shall have the meaning given this term by applicable state law. The term is generally intended to include: (1) Counties, municipalities, townships, separately chartered and operated special districts (including local government public transit systems and redevelopment authorities), and independent school districts authorized as governmental bodies by state charter or constitution; and (2) Special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.*Operator* is defined in 40 CFR 280.12 (*http://www.epa.gov/oust/fedlaws/280_a.pdf).Owner* is defined in 40 CFR 280.12 (*http://www.epa.gov/oust/fedlaws/280_a.pdf).Underground Storage Tank (UST)* has the same meaning as defined in 40 CFR 280.12, except it does not include those tanks identified in 40 CFR 280.10(b) and

[1] This provision, originally identified as 9003(i) in the Energy Policy Act, was changed to 9003(j) in Public Law 109–168, January 10, 2006.

[2] If a state is unable to separate violations on a tank-by-tank basis, the state may list all tanks at the facility.

[3] In order to provide each state agency adequate time to meet the August 8, 2007, reporting submittal deadline, each state should base its noncompliance determination cutoff on the date that its report was submitted for final review.

280.10(c) as excluded or deferred (*http://www.epa.gov/oust/fedlaws/280_a.pdf).*

When and Where Must a State Submit Its Compliance Report on Government Underground Storage Tanks?

Each state that receives Subtitle I funding must submit its government underground storage tanks compliance report to the EPA Administrator on or before August 8, 2007.

The state report should be sent to the U.S. EPA Administrator. The mailing address is: Administrator, Attn: State Government UST Compliance Report Submittal, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., MC 0001, Washington, DC 20460–0001. An electronic submittal can be e-mailed to *Johnson.Stephen@epa.gov* with the title ''Submittal of State Government UST Compliance Report'' in the subject field.

How Will States Demonstrate Compliance With These Guidelines?

After August 8, 2007, and before receiving future grant funding, each state must provide one of the following to its EPA Regional Office.

1. If a state has submitted its compliance report to the EPA administrator, nothing more needs to be submitted, or

2. For a state that has not yet submitted its compliance report, a document that describes the progress that the state has made so far, the plans for future efforts to complete the compliance report, and the date by which the state expects to meet the requirements.

How Must a State Ensure the Quality of Its Government Underground Storage Tanks Report Data?

To the maximum extent practicable, states must provide accurate and complete data to EPA. States must use quality assurance practices that will produce data of quality adequate to meet project objectives and minimize reporting of inaccurate data.

How Will EPA Enforce States' Compliance With the Requirements in these Guidelines?

As a matter of law, each state that receives funding under Subtitle I, which would include a Leaking Underground Storage Tank (LUST) Cooperative Agreement, must comply with certain underground storage tank requirements of Subtitle I. EPA anticipates State and Tribal Assistance Grants (STAG) funds will be available for inspection and other underground storage tank compliance activities. EPA will also condition STAG grants with compliance with these guidelines. Absent a compelling reason to the contrary, EPA expects to address noncompliance with these STAG grant conditions by utilizing EPA's grant enforcement authorities under 40 CFR Part 31.43, as necessary and appropriate.

For More Information on the Government Underground Storage Tanks Compliance Report Grant Guidelines

Visit the EPA Office of Underground Storage Tanks Web site at *www.epa.gov/oust* or call 703–603–9900.

Background About the Energy Policy Act of 2005

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act (titled the Underground Storage Tank Compliance Act) contains amendments to Subtitle I of the Solid Waste Disposal Act—the original legislation that created the underground storage tank (UST) program. These amendments significantly affect federal and state underground storage tank programs, will require major changes to the programs, and are aimed at reducing underground storage tank releases to our environment.

The amendments focus on preventing releases. Among other things, they expand eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund and include provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

Some of these provisions require implementation by August 2006; others will require implementation in subsequent years. To implement the new law, EPA and states will work closely with tribes, other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.

To see the full text of this new legislation and for more information about EPA's work to implement the underground storage tank provisions of the law, see: *http://www.epa.gov/oust/fedlaws/nrg05_01.htm.*

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Appendix

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 8 2006

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Inspection Requirements Of The Energy Policy Act: Determining Which Underground Storage Tanks Have Undergone An Inspection Since December 22, 1998

FROM: Cliff Rothenstein, Director
Office of Underground Storage Tanks

TO: EPA Regional UST Division Directors
State UST Program Managers

I am writing to share with you the Agency's determination on how to interpret a key provision of the Energy Policy Act, that is, the requirement to inspect all underground storage tanks (USTs) that have not undergone an inspection since December 22, 1998. To implement this provision, states that receive Solid Waste Disposal Act (SWDA) Subtitle I funding must determine which USTs have undergone an inspection in the relevant time frame. As described more fully below, USTs that have undergone a compliance monitoring activity since December 22, 1998, do not need to have an on-site inspection by August 8, 2007.

This document applies to USTs regulated under Subtitle I in operation on or before December 22, 1998. As used in this document, USTs means those tanks that satisfy the definition of "UST" in 40 C.F.R. § 280.12, except for those tanks identified in 40 C.F.R. §§ 280.10(b) and 280.10(c) as excluded or deferred USTs. This document does not apply to USTs installed after December 22, 1998, because such USTs are not subject to the two-year inspection requirement.

Energy Policy Act Inspection Requirements

The UST provisions in the Energy Policy Act of 2005 contain amendments to Subtitle I of SWDA. Section 1523 of the Energy Policy Act amends section 9005 of SWDA by requiring periodic on-site inspections for USTs. In particular, under section 9005(c)(1), USTs that have not been inspected since December 22, 1998 must have an on-site inspection by August 8, 2007.

Determining Which Underground Storage Tanks Have Undergone An Inspection Since December 22, 1998

In section 9005(c)(1), Congress uses the term "inspection" in connection with determining whether an UST had already undergone an inspection between December 22, 1998 and August 8, 2005. In contrast, however, further in section 9005(c)(1) and then in section 9005(c)(2), Congress uses the term "*on-site* inspection" (emphasis added) in connection with subsequent inspections that EPA or states must conduct within, respectively, a 2-year or 3-year timetable. When enacting section 9005(c)(1), Congress was aware that the states and EPA were using a variety of compliance monitoring activities to determine an owner/operator's compliance with Subtitle I and its implementing regulations or a requirement or standard of a state program developed under Subtitle I.[1] The use of the term "inspection" without the modifier "on-site" in section 9005(c)(1) reflects Congress' understanding of the variety of state and federal activities that had been used prior to the enactment of the Energy Policy Act to determine an owner/operator's compliance with the applicable UST regulations and is limited to the context of this provision in this legislation. By enacting section 9005(c)(2), Congress made a deliberate choice to alter both the frequency of inspections, as well as the variety of existing activities used to determine an owner/operator's compliance, by legislating that EPA or a state conduct on-site inspections of all USTs every three years.

Therefore, solely for purposes of implementing the requirements of section 9005(c)(1), USTs that have not undergone a compliance monitoring activity since December 22, 1998, have not undergone an inspection under section 9005(c)(1) and thus must have an on-site inspection by August 8, 2007. For the limited purpose of determining which USTs have undergone a compliance monitoring activity since December 22, 1998, the state agency responsible for implementing the UST regulatory program may count any of the activities that the state, or an entity on behalf of the state, was using from December 22, 1998, through August 8, 2005, to reasonably monitor, evaluate, or determine an owner/operator's compliance with the federal UST regulations or the regulations of a state approved under section 9004.[2] Any UST that had undergone such a state or federal activity from December 22, 1998, through August 8, 2005, is not required to have an on-site inspection by August 8, 2007, under section 9005(c)(1).

Next Steps

This summer OUST expects to publish draft inspection grant guidelines to implement section 9005(c) of SWDA Subtitle I as amended by the Energy Policy Act of 2005. These guidelines will incorporate the determination made in this memorandum, and detail what states must do to meet the on-site inspection requirements in 9005(c). If you have questions or comments about this memorandum or the inspection requirements contained in the Energy Policy Act, please contact Tim Smith of my office at smith.timr@epa.gov or 703-603-7158.

cc: EPA Regional UST Branch Chiefs
EPA Regional UST Program Managers
OUST Managers
OUST Regional Liaisons

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[1] For instance, the Government Accountability Office (GAO) issued a Report to Congress in May 2001 describing the breadth of UST inspection programs which included the use of tank owners' self-certification that their tanks were in compliance as one activity used to determine UST compliance. The Report also included inspections. EPA considers an inspection to be a visit to a facility or site for the purpose of gathering information, including direct observations, to determine compliance with a statutory requirement, regulation, or other legal obligation.

[2] While not all such state activities meet EPA's definition of an inspection, based upon information before Congress prior to enacting section 9005(c)(1), see n.1, above, such activities were described to Congress as ways in which some states determine an owner/operator's compliance with the applicable UST regulations.

Dated: May 2, 2007.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 07–2267 Filed 5–8–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2006-0936; FRL-8121-5]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

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

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2006-0936 and the pesticide petition number (PP) of interest, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to the assigned docket ID number and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP number	Docket ID number
PP 6F7160	EPA-HQ-OPP-2007-0104
PP 8F5000	EPA-HQ-OPP-2007-0146
PP 8F5025	EPA-HQ-OPP-2007-0146
PP 9F3776	EPA-HQ-OPP-2007-0146
PP 6F7105	EPA-HQ-OPP-2007-0214
PP 7F7185	EPA-HQ-OPP-2007-0221
PP 7F7180	EPA-HQ-OPP-2007-0226
PP 6E7046	EPA-HQ-OPP-2007-0145
PP OF2348	EPA-HQ-OPP-2007-0146
PP 3F4179	EPA-HQ-OPP-2007-0146
PP 6F7146	EPA-HQ-OPP-2007-0147
PP 6F7136	EPA-HQ-OPP-2007-0219

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

New Tolerance

1. *PP 6F7160*. (Docket ID number EPA–HQ–OPP–2007–0104). Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the insecticide cyfluthrin, cyano (4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate in or on food commodities beet, sugar, roots at 0.09 parts per million (ppm) and in beet, sugar, dried pulp at 11.0 ppm. Adequate analytical methodology using gas chromatography/electron microscopy (GC/EC) detection is available for enforcement purposes. Contact: Olga Odiott, telephone number: (703) 308-9369; e-mail address: *odiott.olga@epa.gov.*

2. *PP 8F5000*. (Docket ID number EPA–HQ–OPP–2007–0146). Monsanto Company, 1300 ''I'' St., NW., Suite 405 East, Washington, DC 20005, proposes to establish a tolerance for residues of the herbicide alachlor, [2-chloro-2',6'-diethyl-N-(methoxymethyl) acetanilide] and its metabolites which can be converted to 2,6-diethylaniline (DEA) or 2-ethyl-6-(1-hydroxyethyl)aniline (HEEA) upon basic hydrolysis, calculated as alachlor, in or on food commodities cotton, gin byproducts at 0.7 ppm; cotton, undelinted seed at 0.03 ppm; sunflower, seed at 2.5 ppm; and in the processed commodity sunflower, seed meal at 3.4 ppm. An adequate enforcement method for residues of alachlor in crops has been approved. Alachlor, and its metabolites are hydrolyzed to either DEA or HEEA which are determined by high performance liquid chromatography-oxidative coulometric electrochemical detector (HPLC-OCED) and expressed as alachlor. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov.*

3. *PP 8F5025*. (Docket ID number EPA–HQ–OPP–2007–0146). Monsanto Company, 1300 ''I'' St., NW., Suite 405 East, Washington, DC 20005, proposes to establish a tolerance for residues of the herbicide alachlor, [2-chloro-2',6'-diethyl-N-(methoxymethyl) acetanilide] and its metabolites which can be converted to DEA or HEEA upon basic hydrolysis, calculated as alachlor, in or on food commodities grain, cereal group 15, except corn, rice and sorghum at 0.05 ppm; grain, cereal, forage, fodder, and straw, group 16, except corn, rice and sorghum forage at 0.6 ppm; hay and straw at 0.8 ppm; and nongrass animal feed, crop group 18, forage at 1.4 ppm and hay at 1.2 ppm. An adequate enforcement method for residues of alachlor in crops has been approved. Alachlor, and its metabolites are hydrolyzed to either DEA or HEEA which are determined by HPLC-OCED and expressed as alachlor. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov.*

4. *PP 9F3776*. (Docket ID number EPA–HQ–OPP–2007–0146). Monsanto Company, 1300 ''I'' St., NW., Suite 405 East, Washington, DC 20005, proposes to establish a tolerance for residues of the herbicide alachlor, [2-chloro-2',6'-

diethyl-N-(methoxymethyl) acetanilide] and its metabolites which can be converted to DEA or HEEA upon basic hydrolysis, calculated as alachlor, in or on food commodity soybean at 1.0 ppm. An adequate enforcement method for residues of alachlor in crops has been approved. Alachlor, and its metabolites are hydrolyzed to either DEA or HEEA which are determined by HPLC-OCED and expressed as alachlor. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov.*

5. *PP 6F7105.* (Docket ID number EPA–HQ–OPP–2007–0214). BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the fungicide pyraclostrobin, carbamic acid [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its metabolite methyl-N-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate (BF 500-3); expressed as parent compound in or on food commodities oat, grain at 1.0 ppm; oat, hay at 17.0 ppm; oat, straw at 17.0 ppm; and oilseed, group at 0.4 ppm. In plants, the method of analysis is aqueous organic solvent extraction, column clean-up and quantitation by liquid chromatography with tandem mass spectrometry (LC/MS/MS). In animals, the method of analysis involves base hydrolysis, organic extraction, column clean-up and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by GC/MS. Contact: John Bazuin, telephone number: (703) 305-7381; e-mail address: *bazuin.john@epa.gov*.

6. *PP 7F7185.* (Docket ID number EPA–HQ–OPP–2007–0221). AGRIPHAR S.A., c/o CERES International LLC, 1087 Heartsease Dr., West Chester, PA 19382, proposes to establish a tolerance for residues of the fungicide dodine, (dodecylguanidine acetate) in or on food commodities banana at 0.5 ppm and peanut at 0.03 ppm. An adequate enforcement method using GC with mass selective detection ((MSD), Method 45137) is available for determining dodine residues in or on plant commodities. Concerning bananas and peanuts, a method using LC/MS/MS; METH 1595.02 after the samples were extracted with methanol, has been submitted to the EPA. The LOQ = 0.01 ppm was taken as the lowest level validated by this method. Contact: Mary Waller, telephone number: (703) 305-1825; e-mail address: *waller.mary@epa.gov*.

7. *PP 7F7180.* (Docket ID number EPA–HQ–OPP–2007–0226). Chemtura USA Corporation, 199 Benson Rd., Middlebury, CT 06749, proposes to establish a tolerance for residues of the fungicide ipconazole, (2-[(4-chlorophenyl)methyl]-5-(1-methylethyl)-1-(1H-1,2,4-triazole-1-ylmethyl)cyclopentanol) from the treatment of seed prior to planting in or on food commodities cereal grains (except rice), group 15; forage, fodder and straw of cereal grains (except rice), group 16; cotton; peanut; soybean; dry pea and bean (shelled) at 0.01 ppm. Analytical methods have been developed, validated (including radiovalidation), and independently validated for the determination of ipconazole, triazolylalanine, triazolylacetic acid, and triazolylpyruvate in wheat forage, hay, straw, and grain, and in corn forage, cobs and straw using LC/MS/MS. The LOQ of 0.01 ppm for each analyte in each matrix was determined as the lowest level validated. Analytical methods have also been validated and independently validated in peanut nutmeat for the determination of ipconazole, triazolylalanine, triazolylacetic acid, triazolylpyruvate, and triazole in peanut nutmeat using LC/MS/MS, with an LOQ of 0.01 ppm for ipconazole, and 0.025 ppm for its metabolites. Contact: Tawanda Spears, telephone number: (703) 308-8050; e-mail address: *spears.tawanda@epa.gov.*

Amendment to Existing Tolerance

1. *PP 6E7046.* (Docket ID number EPA–HQ–OPP–2007–0145). BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709, proposes to amend the tolerances in 40 CFR 180.573 for residues of the herbicide tepraloxydim, (2-[1-[[[(2E)-3-chloro-2-propenyl]oxy]imino]propyl]-3-hydroxy-5-(tetrahydro-2H-pyran-4-yl)-cyclohexene-1-one) and its metabolites converted to GP (3-(tetrahydropyran-4-yl)pentane-1,5-dioic acid) and OH-GP (3-hydroxy-3-(tetrahydropyran-4-yl)pentane-1,5-dioic acid), calculated as tepraloxydim in or on the imported raw food commodities dry pea, seed; flax, seed; and lentils at 0.1 ppm. The analytical method involves extraction, concentration, precipitation, centrifugation/filtration, oxidation, partition, and clean-up. Samples are then analyzed by GC-MS (selected ion monitoring). The LOQ is 0.05 ppm for each analyte, parent and metabolite. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

2. *PP 0F2348.* (Docket ID number EPA–HQ–OPP–2007–0146). Monsanto Company, 1300 ''I'' St., NW., Suite 405 East, Washington, DC 20005, as a requirement of the Alachlor Reregistration Eligibility Decision (RED), proposes to amend the 40 CFR 180.249 (a) by increasing the tolerances for the herbicide alachlor, [2-chloro-2',6'-diethyl-N-(methoxymethyl) acetanilide] and its metabolites which can be converted to DEA or HEEA upon basic hydrolysis, calculated as alachlor, in or on the food commodities corn, fodder, and corn, forage at 2.0 ppm. An adequate enforcement method for residues of alachlor in crops has been approved. Alachlor, and its metabolites are hydrolyzed to either DEA or HEEA which are determined by HPLC-OCED and expressed as alachlor. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

3. *PP 3F4179.* (Docket ID number EPA–HQ–OPP–2007–0146). Monsanto Company, 1300 ''I'' St., NW., Suite 405 East, Washington, DC 20005, proposes to amend the tolerances in 40 CFR 180.249 (a) for residues of the herbicide alachlor, [2-chloro-2',6'-diethyl-N-(methoxymethyl) acetanilide] and its metabolites which can be converted to DEA or HEEA upon basic hydrolysis, calculated as alachlor, in or on the food commodities beans, dry and beans, succulent lima at 0.1 ppm; cowpea, forage and cowpea, hay at 5.0 ppm. Current tolerances for bean, forage and bean, hay at 0.2 ppm are to be revoked as these are no longer significant animal feed commodities. An adequate enforcement method for residues of alachlor in crops has been approved. Alachlor, and its metabolites are hydrolyzed to either DEA or HEEA which are determined HPLC-OCED and expressed as alachlor. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

4. *PP 6F7146.* (Docket ID number EPA–HQ–OPP–2007–0147). E. I. du Pont de Nemours and Company, DuPont Crop Protection, Laurel Run Plaza, P.O. Box 80, Newark, DE 19714-0030, proposes to amend the tolerances in 40 CFR 180.364 for the combined residues of the herbicide glyphosate, [N-(phosphonomethyl)glycine] and its metabolite N-acetylglyphosate [N-acetyl-N-(phosphonomethyl)glycine resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, the ammonium salt of glyphosate, and the potassium salt of glyphosate to Optimum(tm) GAT(tm) soybeans in or on the food commodities cattle, kidney; cattle; liver; egg; goat, kidney; goat, liver; hog, kidney; hog, liver; horse, kidney; horse, liver; poultry, meat; poultry, meat byproducts; sheep, kidney, sheep, liver; soybean, seed; soybean, forage; soybean, hay, soybean,

hulls; and soybean aspirated grain fractions at levels already established for glyphosate alone. An analytical method is available for the determination of glyphosate and metabolite residues in transgenic crop and crop fraction matrices. N-acetylglyphosate is a metabolite associated with Optimum(tm)GAT(tm)soybean crops containing the glyphosate N-acetyltransferase (gat) enzyme. The method target LOQ in each matrix examined was 0.050 millogram/kilogram (mg/kg) ppm. The method was validated at 0.050 mg/kg and 0.50 mg/kg. Contact: Vickie Walters, telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

5. *PP 6F7136*. (Docket ID number EPA–HQ–OPP–2007–0219). E. I. du Pont de Nemours and Company, DuPont Crop Protection, Laurel Run Plaza, P.O. Box 30, Newark, DE 19714-0030, proposes to amend the tolerances in 40 CFR 180.303 for residues of the insecticide oxamyl (methyl N-N-dimethyl-N-[(methylcarbamyl)-oxy]-1-thiooxamimidate and its oxime metabolite methyl N,N-dimethyl-N-hydroxy-1-thiooxaminimidate in or on the food commodities beets, sugar, roots at 0.010 ppm; beets, sugar, tops at 0.20 ppm; and beets, sugar, molasses at 0.030 ppm. Adequate methods are available for data collection and tolerance enforcement for plant and animal commodities. The LOQ is approximately 0.02 ppm. The Pesticide Analytical Manual (PAM) volume II, lists a gas liquid chromatography (GLC) method with flame photometric detection (sulfur mode), Method I, for the enforcement of tolerances for plant and animal commodities. Contact: Thomas C. Harris, telephone number: (703) 308-9423; e-mail address: *harris.thomas@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 26, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–8945 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0936; FRL–8128–1]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

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

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the assigned docket ID number and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 6E7047 and 6E7048	EPA–HQ–OPP–2007–0189
PP 6E7148	EPA–HQ–OPP–2007–0310
PP 7E7196	EPA–HQ–OPP–2007–0313
PP 0E6209	EPA–HQ–OPP–2007–0325
PP 7E7182	EPA–HQ–OPP–2007–0330
PP 7E7195	EPA–HQ–OPP–2007–0331
PP 7E7194	EPA–HQ–OPP–2007–0335
PP 7F7200	EPA–HQ–OPP–2007–0337
PP 7F7191	EPA–HQ–OPP–2007–0349

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

New Tolerances

1. *PP 6E7047 and 6E7048.* (Docket ID number EPA–HQ–OPP–2007–0189). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540–6635, proposes to establish a tolerance for the combined residues of the herbicide propyzamide (pronamide) and its metabolite containing the 3,5-dichlorobenzoyl moiety and calculated as 3,5-dichloro-N-(1,1-dimethyl-2-propynyl) benzamide in or on food commodities in *PP 6E7047*: Chicory roots at 0.2 parts per million (ppm); chicory tops at 2.0 ppm; endive, Belgium at 2.0 ppm; and dandelion, leaves at 2.0 ppm; and in *PP 6E7048*: Berry group 13 at 0.05 ppm. Adequate enforcement methodology, gas chromatography using electron capture detection (GC/ECD), is available to enforce the tolerance expression. This method is published in the Pesticide Analytical Manual II (PAM II), as method I. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

2. *PP 6E7148.* (Docket ID number EPA–HQ–OPP–2007–0310). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the insecticide spinosad which is a fermentation product of *Saccharopolyspora spinosa*. The product consists of two related active ingredients: Spinosyn A (Factor A; CAS# 131929–60–7) and Spinosyn D (Factor D; CAS# 131929–63–0). Typically, the two factors are present at an 85:15 (A:D) ratio in or on food commodities: Spice crop subgroup 19B, except black pepper at 1.7 ppm; pineapple at 0.02 ppm; and pineapple process residue at 0.08 ppm. There is a practical method, liquid chromatography mass spectrometry accelerated climate prediction initiative (LC/MS/ACPI), for detecting and measuring levels of spinosad in or on food with a limit of detection (0.002 ppm) that allows monitoring of food with residues at or above the level set for these tolerances. The method has undergone successful EPA laboratory validation. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

3. *PP 7E7196.* (Docket ID number EPA–HQ–OPP–2007–0313). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540–6635, proposes to establish a tolerance for residues of the herbicide glufosinate-ammonium and its metabolites expressed as butanoic acid, 2-amino-4-(hydroxymethyl phosphinyl)-, monoammonium salt, 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid, expressed as glufosinate free acid equivalents in or on the food commodity pistachio at 0.1 ppm. The enforcement analytical method utilizes GC for detecting and measuring levels of glufosinate-ammonium and metabolites with a general limit of quantification of 0.05 ppm. This method allows detection of residues at or above the proposed tolerances. Contact: Barbara Madden,

telephone number: (703) 305-6463; e-mail address: *madden.barbara@epa.gov*.

4. *PP 0E6209*. (Docket ID number EPA–HQ–OPP–2007–0325). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540–6635, proposes to establish a tolerance for residues of the herbicide dicamba (3,6-dichloro-o-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-o-anisic in or on food commodities: Corn, sweet, kernel plus cob with husks removed at 0.04 ppm; Corn, sweet, forage at 0.50 ppm; and Corn, sweet stover at 0.50 ppm. BASF Corporation has provided suitable independently validated analytical methods for detecting and measuring levels of dicamba and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels described in these and the existing tolerances. Adequate methods are available in the PAM II for enforcement purposes. The analytical method involves extraction, partition, clean-up and detection of residues by GC/ECD. Contact: Barbara Madden, telephone number: (703) 305–6463; e-mail address: *madden.barbara@epa.gov*.

5. *PP 7E7182*. (Docket ID number EPA–HQ–OPP–2007–0330). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the insecticide/miticide hexythiazox (trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide) and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety in or on food commodity potato at 0.02 ppm. A practical analytical method, high performance liquid chromatography (HPLC) with an ultraviolet detector, which detects and measures residues of hexythiazox and its metabolites as a common moiety, is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. Contact: Shaja R. Brothers, telephone number: (703) 308–3194; e-mail address: *brothers.shaja@epa.gov*.

6. *PP 7E7195*. (Docket ID number EPA–HQ–OPP–2007–0331). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the insecticide/miticide spiromesifen; butanoic acid, 3,3-dimethyl-, 2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro [4,4] non-3-en-4-yl ester, and its enol metabolite; 4-hydroxyl-3-(2,4,6-trimethylphenyl)-1-oxaspiro [4,4] non-3-en-2-one, calculated as parent compound equivalents in or on food commodities: Bean, edible, podded at 1.4 ppm; bean, succulent at 0.10 ppm; bean, dry at 0.02 ppm; and cowpea, forage at 35 ppm. Adequate analytical methodology using liquid chromatography tandem mass spectrometry (LC/MS/MS) detection is available for enforcement purposes. Contact: Shaja R. Brothers, telephone number: (703) 308–3194; e-mail address: *brothers.shaja@epa.gov*.

7. *PP 7F7200*. (Docket ID number EPA–HQ–OPP–2007–0337). Bayer CropScience, 2 T.W. Alexander Drive, P.O. 12014, Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the insecticide cyfluthrin; cyano (4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate in or on food commodities: Grain, cereal group 15 (except rice) at 4.0 ppm; and grain, cereal, (forage, fodder, and straw), group 16 (except rice) at 7.0 ppm. Adequate analytical methodology using GC/EC detection is available for enforcement purposes. Contact: Olga Odiott, telephone number: (703) 308–9369; e-mail address: *odiott.olga@epa.gov*.

8. *PP 7F7191*. (Docket ID number EPA–HQ–OPP–2007–0349). Dow AgroSciences LLC, 9330 Zionsville Rd., Indianapolis, IN 46268-1053, proposes to establish a tolerance for residues of the insecticide spinosad in or on food commodities: Fish, shellfish, mollusks, and crustaceans at 4.0 ppm. There is a practical method LC/MS/ACPI for detecting and measuring levels of spinosad in or on food with a limit of detection (0.002 ppm) that allows monitoring of food with residues at or above the level set for these tolerances. The method had undergone successful EPA laboratory validation. Contact: Bonaventure Akinlosotu, telephone number: (703) 605–0653; e-mail address: *akinlosotu.bonaventure@epa.gov*.

Amendment to Existing Tolerances

1. *PP 7E7195*. (Docket ID number EPA–HQ–OPP–2007–0331). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to amend the tolerances in 40 CFR 180.607 by increasing the residues of the insecticide/miticide spiromesifen; butanoic acid, 3,3-dimethyl-, 2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4,4]non-3-en-4-yl ester, and its metabolites containing the enol; 4-hydroxyl-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4,4]non-3-en-2-one; and 4-hydroxymethyl; 4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4,4] non-3-en-2-one moieties, calculated as parent compound equivalents in or on the livestock commodities: Cattle, fat at 0.20 ppm; cattle, meat at 0.01 ppm; cattle, meat byproducts at 0.30 ppm; goat, fat at 0.20 ppm; goat, meat at 0.01 ppm; goat, meat byproducts at 0.30 ppm; hog, fat at 0.20 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.30 ppm; horse, fat at 0.20 ppm; horse, meat at 0.01 ppm; horse, meat byproducts at 0.30 ppm; sheep, fat at 0.20 ppm; sheep, meat at 0.01 ppm; sheep, meat byproducts at 0.30 ppm; and milk at 0.01 ppm. Adequate analytical methodology using LC/MS/MS detection is available for enforcement purposes. Contact: Shaja R. Brothers, telephone number: (703) 308-3194; e-mail address: *brothers.shaja@epa.gov*.

2. *PP 7E7194*. (Docket ID number EPA–HQ–OPP–2007–0335). Dow AgroSciences LLC, 9330 Zionsville Rd., Indianapolis, IN 46268–1053, proposes to amend the tolerances in 40 CFR 180.560 by amending the tolerance expression to establish the combined residues of cloquintocet-mexyl (acetic acid, [(5-chloro-8-quniolinyl)oxy]-,1-methylhexyl ester)(CAS # 99607–70–2) and its acid metabolite (5-chloro-8-quinlinoxyacetic acid) when used as an inert ingredient safener in pesticide formulations containing either the herbicide clodinafop-propargyl or pinoxaden in a 1:4 ratio of safener to active ingredient or as a safener in combination with the new active ingredient pyroxsulam in or on the food commodities: Wheat, grain at 0.1 ppm; wheat, forage at 0.1 ppm; wheat, hay at 0.1 ppm; and wheat, straw at 0.1 ppm. Dow AgroSciences LLC has submitted practical analytical methodology for detecting and measuring combined levels of cloquintocet-methyl and its acid metabolite (5-chloro-8-quinlinoxyacetic acid). The method is based upon acid hydrolysis extraction, which converts the parent and all conjugates to the acid metabolite. The acid metabolite is subject to commodity specific cleanup procedures and HPLC determination with triple stage quadruple mass spectrometry LC/MS/MS. The limit of quantitation (LOQ), as demonstrated by the lowest acceptable recovery samples, is 0.01 ppm for wheat, grain, forage, hay and straw. Contact: Tracy H. Ward, telephone number: (703) 308–9361; e-mail address: *ward.tracyh@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 2, 2007.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–8953 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0332; FRL–8128–4]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 12, 2007 to March 23, 2007, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before June 8, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) no. EPA–HQ–OPPT–2007–0332, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO, EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2007–0332. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. 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 number EPA–HQ–OPPT–2007–0332. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC PublicReading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at the estimate.

vi. Provide specific examples to illustrate your concerns, and suggested alternatives.

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

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

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 12, 2007 to March 23, 2007, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 109 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/07 TO 03/23/07

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–07–0233	02/09/07	05/09/07	CBI	(G) (open non dispersive) Adhesion promoter	(G) Polyurethane acrylate resin
P–07–0234	02/12/07	05/12/07	CBI	(G) Inks, coatings adhesives and printing plates	(G) Acrylic esters
P–07–0235	02/12/07	05/12/07	CBI	(G) Textile colorant	(G) Tri-(substituted azo benzenesulfonic acid)-m-phelylenediamine, sodium salts
P–07–0236	02/12/07	05/12/07	Symrise Inc.	(S) Ingredient in fragrance products	(S) Cyclohexane, 2-methoxy-4-methyl-1-(1-methylethyl)-, (1s,2r,4r)-
P–07–0237	02/12/07	05/12/07	DIC International (USA) LLC	(G) Acrylic resin for coatings	(G) Hydroxy alkyl methacrylate, polymer with branched benzene and alkyl fumarate
P–07–0238	02/12/07	05/12/07	CBI	(G) Industrial wood applications	(G) Polyester acrylate
P–07–0239	02/12/07	05/12/07	Genesee Polymers Corporation	(S) Wetting agent for coatings and additives.	(S) Siloxanes and silicones, di-me, 3-hydroxypropyl me, ethers with polyethylene glycol mono-me ether and polyethylene-polypropylene glycol mono-bu ether
P–07–0240	02/12/07	05/12/07	CBI	(S) Packaging adhesive	(G) Aromatic polyether polyester polyurethane, isocyanate-terminated
P–07–0241	02/12/07	05/12/07	The Dow Chemical Company	(G) Coating	(G) Acrylate siline adduct
P–07–0242	02/12/07	05/12/07	The Dow Chemical Company	(G) Coating	(G) Acrylate siline adduct
P–07–0243	02/13/07	05/13/07	CBI	(G) Industrial wood applications	(G) Polyester acrylate
P–07–0244	02/14/07	05/14/07	CBI	(G) Byproduct feedstock	(G) Carboxylic acid ester
P–07–0245	02/14/07	05/14/07	CBI	(G) 1. Colorant for fiber board; 2. Spray pattern indicator	(G) Polyalkoxylated aromatic colorant
P–07–0246	02/14/07	05/14/07	CBI	(G) 1. Colorant for fiber board; 2. Spray pattern indicator	(G) Polyalkoxylated aromatic colorant
P–07–0247	02/12/07	05/12/07	CBI	(S) Polyester grind resin for pigment dispersion	(G) Fatty acid modified polyester resin
P–07–0248	02/12/07	05/12/07	CBI	(S) Polyester grind resin for pigment dispersion	(G) Fatty acid modified polyester resin
P–07–0249	02/12/07	05/12/07	CBI	(S) Polyester grind resin for pigment dispersion	(G) Fatty acid modified polyester resin
P–07–0250	02/12/07	05/12/07	CBI	(S) Polyester grind resin for pigment dispersion	(G) Fatty acid modified polyester resin
P–07–0251	02/12/07	05/12/07	CBI	(S) Polyester grind resin for pigment dispersion	(G) Fatty acid modified polyester resin
P–07–0252	02/12/07	05/12/07	CBI	(S) Polyester grind resin for pigment dispersion	(G) Fatty acid modified polyester resin

I. 109 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/07 TO 03/23/07—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–07–0253	02/13/07	05/13/07	CIBA Specialty Chemicals Corporation	(S) Defoamer in waterborne inks and resin-free pigment concentrates for printing applications	(G) Polyether-modified siloxane
P–07–0254	02/14/07	05/14/07	CBI	(G) Additive	(G) Octanosilane derivative
P–07–0255	02/15/07	05/15/07	Ineos Melamines, a Division of Ineos Americas LLC	(S) Internal release agent for aqueous, heat curing aminoplast resins	(G) Phosphoric acid, alkylester, compound with morpholine
P–07–0256	02/16/07	05/16/07	The Dow Chemical Company	(G) Prepolymer for isocyanate polyurethane	(G) Mono-me ether blocked methylenephenyl diisocyanate polyurethane polymer
P–07–0257	02/20/07	05/20/07	CBI	(S) A protective coating for wood flooring; a fire retardant coating for textiles; a fire retardant coating for architectural applications	(G) Aqueous, aliphatic polyether polyurethane dispersion polymer
P–07–0258	02/20/07	05/20/07	CBI	(G) Coating	(G) Acrylic acid polymer with vinylphosphonic acid and ethylene glycol acrylate
P–07–0259	02/21/07	05/21/07	CBI	(G) Polyurethane surfactant	(G) Silicone polyether copolymer
P–07–0260	02/21/07	05/21/07	CBI	(S) Solder mask for printed circuit board preparation	(G) 2-propenoic acid, 2-methyl, methyl ester, polymer with modified alkenyl ester and an aromatic alkenyl ester, 2-propenoate
P–07–0261	02/21/07	05/21/07	CBI	(G) Open non dispersive (binder)	(G) Urethane acrylate resin
P–07–0262	02/12/07	05/12/07	Symrise Inc.	(S) Ingredient in fragrance products	(S) Alkenes, C_{12}-C_{14}, hydroformylation products, distn. lights
P–07–0263	02/20/07	05/20/07	CBI	(G) Pigment additive used in various plastics applications	(G) Bis[(substituted)phenyl]-dihydropyrrolo[substituted]pyrrole-dione
P–07–0264	02/21/07	05/21/07	CBI	(G) Resin	(G) Isocyanic acid, polymethylenepolyphenylene ester, polymer with (chloromethyl)oxirane, 4,4′-(1-methylethylidene)bis[phenol] and .alpha.,.alpha.′-[(1-methylethylidene)di-4,1-phenylene]bis[.omega.-hydropoly(oxy-1,2-ethanediyl)], 2-ethylhexanoate, reaction products substituted ethanol and diethylenetriamine
P–07–0265	02/20/07	05/20/07	CBI	(S) Reactive dye for textile	(G) Substituted naphthalene disulfonic acid, alkali salt
P–07–0266	02/22/07	05/22/07	CBI	(G) Contained use in energy production.	(G) Amine phosphonate salt
P–07–0267	02/22/07	05/22/07	Boulder Scientific Company	(S) Raw material	(S) 2-propanol, 2-methyl-, sodium salt
P–07–0268	02/23/07	05/23/07	Eastman Kodak Company	(S) Dye used in imaging media/products; export	(G) Substituted benzoxazolium salt
P–07–0269	02/28/07	05/28/07	Nagase America Corp., New York Headquarters	(G) Category of use: Flame resisting material used in cars degree of containment: open, non-dispersive use	(G) Phosphoramidic acid, carbomonocyclic-,diphenylester
P–07–0270	02/28/07	05/28/07	Hi-tech Color, Inc.	(S) Thermal-transfer sheet (back coating agent)	(G) polyesterurethane
P–07–0271	02/28/07	05/28/07	Hi-tech Color, Inc.	(S) Thermal-transfer sheet (back coating agent)	(S) Siloxanes and silicones, di-me, 3-(2-hydroxyethoxy)propyl group-terminated, diesters with 2-oxepanone homopolymer, polymers with 1,3-butanediol and 1,1′-methylenebis[isocyanatobenzene]
P–07–0272	02/28/07	05/28/07	CBI	(G) Intermediate	(G) Alkyl salicylate, metal salt
P–07–0273	02/28/07	05/28/07	CBI	(G) Intermediate	(G) Alkyl salicylate, metal salt
P–07–0274	02/28/07	05/28/07	CBI	(G) Intermediate	(G) Alkyl salicylic acid
P–07–0275	02/28/07	05/28/07	CBI	(G) Intermediate	(G) Alkyl salicylic acid
P–07–0276	02/28/07	05/28/07	CBI	(G) Lubricant additive	(G) Alkyl salicylate, metal salt
P–07–0277	02/28/07	05/28/07	CBI	(G) Lubricant additive	(G) Alkyl salicylate, metal salt
P–07–0278	03/01/07	05/29/07	Huntsman International, LLC	(S) Dyeing of cotton fabric	(G) Substituted triphenyldioxazinesulfonic acid reaction product with substituted naphthalenesulfonic acid amino triazine compound

I. 109 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/07 TO 03/23/07—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–07–0279	03/02/07	05/30/07	CBI	(S) Automotive coatings; fiberglass reinforced plastic; industrial adhesives; industrial coatings; automotive adhesives	(G) Acrylonitrile methacrylonitrile copolymer
P–07–0280	03/02/07	05/30/07	Plextronics, Inc.	(S) Reactive intermediate monomer for use in manufacturing a p-type organic semiconductor polymer. The polymer will be used in printed organic electronics applications	(S) Thiophene, 3-hexyl-
P–07–0281	03/05/07	06/02/07	Grain Processing Corporation	(G) highly dispersive use	(G) Corn by product
P–07–0282	03/02/07	05/30/07	Plextronics, Inc.	(S) P-type organic semiconductive polymer for use in printed organic electronics applications	(S) Thiophene, 2,5-dibromo-3-hexyl-, homopolymer
P–07–0283	03/02/07	05/30/07	Plextronics, Inc.	(S) Reactive intermediate monomer for use in manufacturing a p-type organic semiconductor polymer. The polymer will be used in printed organic electronics applications	(S) Thiophene, 2,5-dibromo-3-hexyl-
P–07–0284	03/05/07	06/02/07	Shin-etsu Silicones of America, Inc.	(S) Additive for textile treating agent	(G) Alkyl silicone resin
P–07–0285	03/05/07	06/02/07	CBI	(G) Ink drying aid	(G) Polyurethane derivative
P–07–0286	03/06/07	06/03/07	CBI	(G) Chemical intermediate reactive additive for thermoset resins	(G) Phenol, 4,4′-(1-methylethylidene)bis[disubstituted-, polymer with disubstituted phenol
P–07–0287	03/06/07	06/03/07	CBI	(G) Reactive additive for thermoset resins	(G) Phenol, 4,4′-(1-methylethylidene)bis[disubstituted-, polymer with disubstituted phenol, substituted propenoate
P–07–0288	03/07/07	06/04/07	CBI	(G) Polyurethane foam stabilizer	(G) Glycol phosphite
P–07–0289	03/08/07	06/05/07	CBI	(S) Laminating adhesive	(G) Isocyanate-terminated polyether polyester polyurethane
P–07–0290	03/08/07	06/05/07	Green Millennium Inc.	(S) Self cleaning coating (interior and exterior coating) for building; self cleaning surface treatment for window glass	(S) Ammonium hydroxide reaction with hydrogen peroxide and titanium tetrachloride
P–07–0291	03/09/07	06/06/07	BASF Corporation	(G) Catalyst	(G) Cobalt zinc complex derivative
P–07–0292	03/09/07	06/06/07	BASF Corporation	(G) Catalyst	(G) Cobalt zinc complex derivative
P–07–0293	03/12/07	06/09/07	Croda Inc.	(S) Solubilizer for semi-polar compounds into non-polar fluids.; glossing agent for inanimate surfaces (wood, metal, plastic, rubber, et al.); shine enhancer for pet shampoo	(G) Ppg-3 benzyl ether myristate
P–07–0294	03/12/07	06/09/07	Septon Company of America	(S) Compounds; adhesives	(S) Benzene, (1-methylethenyl)-, polymer with 1,3-butadiene, hydrogenated
P–07–0295	03/12/07	06/09/07	CBI	(G) Component of foam	(G) Fatty acid polymer with aliphatic diol and aromatic diacid
P–07–0296	03/12/07	06/09/07	CBI	(G) Component of foam	(G) Fatty acid polymer with aliphatic diol and aromatic diacid
P–07–0297	03/12/07	06/09/07	CBI	(G) Component of foam	(G) Fatty acid polymer with aliphatic diol and aromatic diacid
P–07–0298	03/12/07	06/09/07	CBI	(G) Coating material	(G) Ethyl methacrylate based polymer
P–07–0299	03/12/07	06/09/07	CBI	(G) Coating material	(G) Unsaturated polyurethane
P–07–0300	03/12/07	06/09/07	CBI	(G) Oil recovery	(G) Acrylic polymer on the basis of isobutyl methacrylate
P–07–0301	03/13/07	06/10/07	CBI	(S) Ingredient in fragrance compound	(G) Thioketone
P–07–0302	03/14/07	06/11/07	CBI	(G) Open, non-dispersive use	(G) Polyester resin
P–07–0303	03/16/07	06/13/07	CBI	(S) A component of ultraviolet light/electron beam formulations	(G) 2-propenoic acid, 1,1′-[2,2-bis(hydroxymethyl)-1,3-propanediyl] ester, polymer with multifunctional isocyanate, pentaerythritol triacrylate-blocked
P–07–0304	03/16/07	06/13/07	CBI	(S) Ultraviolet absorber for plastic articles	(G) 2-(substituted 1,3,5-triazin-2-yl)-5-substituted phenol
P–07–0305	03/16/07	06/13/07	CBI	(G) Anti-static agent for thermoplastic resin	(G) Dicarboxylic acid, aminoalkanoic acid and polyether copolymer

I. 109 PREMANUFACTURE NOTICES RECEIVED FROM: 02/12/07 TO 03/23/07—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–07–0306	03/16/07	06/13/07	Hi-Tech Color, Inc.	(S) Thermal-transfer sheet (back coating agent)	(S) Siloxanes and silicones, di-me, 3-(2-hydroxyethoxy)propyl group-terminated, polymers with 1,4-butanediol, 1,4-cyclohexanedimethanol, 1,3-dioxolan-2-one, 1,6-hexanediol and 1,1′-methylenebis[isocyanatobenzene]
P–07–0307	03/16/07	06/13/07	CBI	(G) Open non dispersive (coatings)	(G) Polyurethane elastomer
P–07–0308	03/16/07	06/13/07	CBI	(G) Solvent for monomer production	(G) Glycol ether
P–07–0309	03/16/07	06/13/07	CBI	(G)colorant for textile	(G) b-a-alanine, n-(subsituted)-substituted oxoethyl phenylester
P–07–0310	03/19/07	06/16/07	CIBA Specialty Chemicals Corporation	(S) Pigment for coatings	(G) Halogenated diketopyrrolopyrrol derivative
P–07–0311	03/20/07	06/17/07	CBI	(G) Industrial coating	(G) Polyester acrylate
P–07–0312	03/20/07	06/17/07	Sakai Trading New York Inc.	(S) Paint element as curing agent; adhesive element as curing agent; advanced composite material as curing agent; insulating material for electric and electronic parts, such as ic chips as curing agent	(G) Hexahydrophthalic anhydride, bisphenol-a, and hydrogenated bisphenol-a, polymer with chloromethyl oxirane
P–07–0313	03/20/07	06/17/07	CBI	(G) Polyimide precursor	(G) Polyamic acid alkyl ester derivatives
P–07–0314	03/22/07	06/19/07	Henkel Corporation	(S) A polymerizable component in adhesive and sealant formulations	(G) Trialkenyl substituted cyclic alkane
P–07–0316	03/21/07	06/18/07	CBI	(G) Paper additive	(G) Alkylaminoalkyl amide
P–07–0317	03/21/07	06/18/07	CBI	(G) Paper additive	(G) Alkylaminoalkyl diamide
P–07–0318	03/21/07	06/18/07	CBI	(G) Thickener in lubricants	(G) Organic lithium compound
P–07–0320	03/23/07	06/20/07	CBI	(G) Inhibitor for oil field applications	(G) Quaternary ammonium salt
P–07–0321	03/23/07	06/23/07	CBI	(G) Inhibitor for oil field applications	(G) Quaternary ammonium salt
P–07–0322	03/23/07	06/23/07	CBI	(G) Inhibitor for oil field applications	(G) Quaternary ammonium salt
P–07–0323	03/23/07	06/23/07	CBI	(G) Inhibitor for oil field applications	(G) Quaternary ammonium salt
P–07–0324	03/23/07	06/23/07	CBI	(G) Inhibitor for oil field applications	(G) Quaternary ammonium salt
P–07–0325	03/23/07	06/20/07	Mitsubishi International Corporation	(G) Catalyst	(G) Dicycloalkyldialkoxysilane

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TME received:

II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 12/12/07 TO 03/23/07

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–07–0011	02/23/07	04/08/07	Forbo Adhesives, LLC	(G) Hot melt polyurethane adhesive	(G) Isocyanate functional polyester polyether urethane polymer

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 45 NOTICES OF COMMENCEMENT FROM: 02/12/07 TO 03/23/07

Case No.	Received Date	Commencement Notice End Date	Chemical
P–02–0590	02/26/07	02/19/07	(G) Polyester isocyanate
P–02–0941	02/16/07	02/07/07	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine and polyoxyalkyleneamines
P–03–0326	03/15/07	03/08/07	(S) 2-propenoic acid, 2-methyl-, butyl ester, polymer with butyl 2-propenoate, ethenylbenzene and 2,5-furandione
P–04–0386	03/09/07	02/13/07	(G) Multifuctional acrylate oligomer resin

III. 45 NOTICES OF COMMENCEMENT FROM: 02/12/07 TO 03/23/07—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–05–0583	03/21/07	02/12/07	(G) Acrylic modified polyester
P–05–0639	03/14/07	02/19/07	(S) 2-propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, ethenylbenzene, methyl 2-methyl-2-propenoate, 2-methylpropyl 2-methyl-2-propenoate and 1,2-propanediol mono(2-methyl-2-propenoate), tert-bu benzenecarboperoxoate-initiated
P–06–0020	03/02/07	02/20/07	(G) Oxazolidinone
P–06–0153	02/20/07	01/31/07	(G) Iso-tridecanol
P–06–0154	02/26/07	02/20/07	(G) Silicone-polyol
P–06–0155	03/05/07	02/14/07	(G) Aromatic tetracarbonyl compound polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl cyclohexane, 2-hydroxyethyl acrylate- and 2-oxepanone homopolymer 2-[(1-oxo-2-propenyl)oxy]ethyl ester-blocked
P–06–0168	02/23/07	02/19/07	(G) Copolymer of alkylacrylate and modified methylacrylate
P–06–0170	03/05/07	02/26/07	(G) Dicarboxylic acid ester, polymer with styrene, maleic anhydride and methyacrylate, compound with amine
P–06–0171	03/05/07	02/26/07	(G) Styrene-maleic acid copolymer, amine salt
P–06–0221	02/12/07	02/05/07	(G) Phenol-(methylethylidene)bis-, polymer with *N*-aminoethyl-*N'*-[(phenylmethyl)amino]ethyl]-ethanediamine, *N*-(aminoethyl)-*N'*-(phenylmethyl)-ethanediamine, *N,N'*-bis[(phenylmethyl)amino]ethyl]-ethanediamine, (chloromethyl)oxirane, .alpha.-hydro-.omega.-hydroxypoly(oxy-ethanediyl) and *N*-(phenylmethyl)-*N'*-[(phenylmethyl)amino] ethyl]-ethanediamine
P–06–0311	02/16/07	02/11/07	(G) Alkanoic acid, polymer with alkoxylated polyol, reaction products with alkylamine
P–06–0319	02/12/07	01/11/07	(G) Pyridyl ethyl thioacetate
P–06–0347	03/14/07	03/12/07	(G) Polyether modified polyamide
P–06–0376	03/09/07	03/01/07	(G) Acrylic resin
P–06–0395	02/26/07	01/31/07	(G) Epoxy acrylate oligomer
P–06–0531	03/09/07	03/01/07	(S) Fatty acids, coco, 2,2-dimethyl-1,3-propanediyl esters
P–06–0532	02/23/07	01/26/07	(G) Substituted styrene acrylate copolymer
P–06–0537	02/16/07	02/02/07	(G) Ester of fatty acid with bisphenol a ethoxylate
P–06–0551	02/26/07	02/08/07	(G) Substituted trihalomethylpyridine sulfonyl chloride
P–06–0553	02/26/07	01/27/07	(G) Substituted trihalomethylpyridinethiolate
P–06–0597	02/23/07	02/07/07	(G) Neutralized salt of functionalized acrylate polymer
P–06–0632	03/05/07	02/14/07	(S) Phospholipase c
P–06–0680	02/23/07	02/13/07	(G) Polyurethane polymer
P–06–0685	03/16/07	02/14/07	(S) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, hexamethylenediamine and tetradecanedioic acid
P–06–0701	03/16/07	02/15/07	(G) Lithium salt of ethylene acrylic acid copolymer
P–06–0703	03/14/07	02/19/07	(G) Amine containing polyalkylene oxides
P–06–0705	02/23/07	02/19/07	(G) Polyamine modified polyamide
P–06–0727	02/22/07	02/08/07	(G) Substituted benzenemethanaminium chloride/acrylamide/acrylic acid polymer
P–06–0743	03/15/07	02/23/07	(G) Alkylamino hafnium salt
P–06–0779	02/12/07	02/01/07	(G) Substituted cyanoguanidine polymer
P–06–0780	02/12/07	02/01/07	(G) Substituted polyamine
P–06–0787	02/14/07	01/25/07	(G) Modified tall-oil
P–06–0788	02/14/07	02/08/07	(G) Modified tall-oil fatty acids
P–06–0790	02/21/07	01/28/07	(G) Siloxanes and silicones, di-alkyl, alkyl 2-[(1-oxo-2-propenyl)oxy]alkoxy
P–06–0795	02/12/07	01/28/07	(G) Isocetyl palmitate
P–06–0808	02/15/07	01/30/07	(G) Polyamide resin
P–06–0839	03/01/07	02/07/07	(G) Phenoxyphosphazene oligomer
P–07–0012	02/20/07	01/16/07	(G) Ethanol capped polyether polyurethane
P–07–0057	02/21/07	02/08/07	(G) Alkyl substituted tetrahydro pyran
P–07–0066	03/21/07	03/09/07	(G) Trimellitic anhydride, polymer with alkanediol, dihydroxyalkane diglycidyl ether di-3,5,5-trimethylhexanoate homopolymer, ethoxylated bis(hydroxysubstituted) alkane and heteromonocycledione, compound with 2-(dimethylamino) ethanol
P–07–0076	03/20/07	03/09/07	(G) Benzene, 1,1′-[1,2-ethanediylbis(oxy)]bis[polymethyl-
P–07–0085	03/13/07	03/07/07	(G) Acrylated aliphatic polyurethane
P–07–0086	03/14/07	03/08/07	(G) Water dispersible polyurethane
P–07–0091	02/26/07	02/21/07	(G) Acrylate copolymer

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: April 30, 2007.

Geraldine Hilton,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E7–8785 Filed 5–8–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0217; FRL–8129–1]

Approval of Test Marketing Exemptions for Certain New Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TMEs–07–1; 3; 5; 6; 7; 8; 9; and 10. The test marketing conditions are described in each TME application and in this notice.

DATES: Approval of these TMEs is effective May 2, 2007.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Adella Underdown, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9364; e-mail address: *underdown.adella@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TMEs to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket ID number EPA–HQ–OPPT–2007–0217. All documents in the docket are listed in the docket's index at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

III. What Action is the Agency Taking?

EPA has approved TMEs–07–1; 3; 5; 6; 7; 8; 9; and 10. EPA has determined that test marketing these new chemical substances, under the conditions set out in each TME application and in this notice, will not present any unreasonable risk of injury to health or the environment.

IV. What Restrictions Apply to these TMEs?

The test market time period, production volume, number of customers, and use must not exceed specifications in the applications and this notice. All other conditions and restrictions described in the applications and in this notice must also be met.

TME–07–0001.
Date of Receipt: November 9, 2006.
Notice of Receipt: December 15, 2006 (71 FR 75546) (8106–7).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Acrylated aliphatic polyurethane.
Use: (G) Coatings resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–07–0003.
Date of Receipt: November 20, 2006.
Notice of Receipt: January 19, 2007 (72 FR 2513) (8111–5).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Substituted carbopolycycle, polymer with substituted alkane and trialkylene glycol, substituted epoxy alkyl ester.
Use: (G) Intermediate polymer for coatings.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–07–0005.
Date of Receipt: December 4, 2006.
Notice of Receipt: January 19, 2007 (72 FR 2513) (8111–5).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Acrylated aliphatic polyurethane.
Use: (G) Coatings Resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–07–0006.
Date of Receipt: January 10, 2007.
Notice of Receipt: March 9, 2007 (72 FR 10754) (8118–6).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Polester acrylate resin.
Use: (G) Coatings resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.
TME–07–0007.
Date of Receipt: January 10, 2007.
Notice of Receipt: March 9, 2007 (72 FR 10754) (8118–6).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Substituted carbomonocycles, polymer with substituted glycols and alkyldioic acid.
Use: (G) Resin for paints and coatings.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.
TME–07–0008.
Date of Receipt: January 10, 2007.
Notice of Receipt: March 9, 2007 (72 FR 10754) (8118–6).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Heterocyclic homopolymer, polycyclic substituted ester.
Use: CBI.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.
TME–07–0009.
Date of Receipt: January 19, 2007.
Notice of Receipt: March 9, 2007 (72 FR 10754) (8118–6).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Formaldehyde, polymer with substituted carbomonocycles, alkyl ether.
Use: CBI.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.
TME–07–0010.
Date of Receipt: January 22, 2007.
Notice of Receipt: March 9, 2007 (72 FR 10754) (8118–6).
Applicant: Cytec Surface Specialties Inc.
Chemical: (G) Alkenoic acid alkyl esters, polymer with substituted carbomonocycle, substituted epoxy alkyl ester compound. With substituted amine.
Use: CBI.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

The following additional restrictions apply to these TMEs. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

V. What was EPA's Risk Assessment for these TMEs?

EPA identified no significant health or environmental concerns for these test market substances based on the low toxicity of each substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment. (These TMEs were submitted per the TSCA New Chemicals Sustainable Futures Voluntary Pilot Project; see the *Federal Register* of Dec. 11, 2002 (67 FR 76282) (FRL–7198–6)).

VI. Can EPA Change Its Decision on these TMEs in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: May 2, 2007.

Kenneth Moss,

Acting Chief, New Chemicals Prenotice Management Branch, Office of Pollution Prevention and Toxics.

[FR Doc. E7–8773 Filed 5–8–07 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

May 3, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 8, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 and Jasmeet Seehra, OMB Desk Officer, Office of Management and Budget (OMB), Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax at (202) 395–5167. If you would like to obtain or view a copy of this information collection, you may do so

by visiting the FCC's PRAWeb page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0849.

Title: Commercial Availability of Navigation Devices.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 958.

Estimated Time per Response: 10 seconds—40 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Quarterly and semi-annual reporting requirements; Third party disclosure requirement.

Total Annual Burden: 102,881 hours.

Total Annual Cost: $131,250.

Nature of Response: Required to obtain or retain benefits.

Privacy Impact Assessment: No impact(s).

Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: With this revision, the Commission is consolidating information collection OMB Control Number 3060–1032 (Commercial Availability of Navigation Devices and Compatibility between Cable Systems and Consumer Electronic Equipment, CS Docket 97–80 and PP Docket No. 00–67) into OMB Control Number 3060–0849 (Commercial Availability of Navigation Devices). On March 17, 2005 the FCC released a *Second Report and Order,* In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, CS Docket No. 97–80, FCC 05–76. In this *Second Report and Order,* the Commission extends by twelve months the existing 2006 deadline in Section 76.1204(a)(1) prohibiting the deployment of integrated navigation devices by multichannel video programming distributors in order to promote the retail sale of non-integrated navigation devices. This extension is intended to afford cable operators additional time to investigate and develop a downloadable security solution that will allow common reliance by cable operators and consumer electronics manufacturers on an identical security function without the additional costs of physical separation inherent in the point-of-deployment module, or CableCARD, solution.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–8902 Filed 5–8–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2007–N–08]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) has submitted the information collection entitled ''Members of the Banks'' to the Office of Management and Budget (OMB) for review and approval of a 3 year extension of the OMB control number, 3069–0004, which is due to expire on May 31, 2007.

DATES: Interested persons may submit comments on or before June 8, 2007.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Board, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Senior Financial Analyst, Regulations & Research Division, Office of Supervision, by e-mail at *curtisj@fhfb.gov*, by telephone at 202–408–2866, or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of the Information Collection

Section 4 of the Federal Home Loan Bank Act (Bank Act) establishes the eligibility requirements an institution must meet in order to become a member of a Federal Home Loan Bank (Bank). See 12 U.S.C. 1424. Part 925 of the Finance Board regulations—the membership rule—implements section 4 of the Bank Act. See 12 CFR part 925. The membership rule provides uniform requirements an applicant for Bank membership must meet and review criteria a Bank must apply to determine if an applicant satisfies the statutory and regulatory membership eligibility requirements.

More specifically, the membership rule implements the statutory eligibility requirements and provides guidance to an applicant on how it may satisfy such requirements. The rule authorizes a Bank to approve or deny each membership application subject to the statutory and regulatory requirements and permits an applicant to appeal to the Finance Board a Bank's decision to deny certification as a Bank member. The rule also imposes a continuing obligation on a current Bank member to provide information necessary to determine if it remains in compliance with applicable statutory and regulatory eligibility requirements.

The information collection is contained in sections 925.2 through 925.31 of the membership rule, 12 CFR 925.2–925.31, and chapter 2 of the Data Reporting Manual, which contains instructions addressing data definitions as well as requirements concerning data elements, reporting format, reporting method (e.g., electronic or paper), record retention, timeliness, reporting frequency, and certification.[1] This information collection is necessary to enable a Bank to determine if a respondent satisfies the statutory and regulatory requirements to be certified initially and maintain its status as a member eligible to obtain Bank advances. The Finance Board requires and uses the information collection to determine whether to uphold or overrule a Bank's decision to deny member certification to an applicant.

The OMB control number for the information collection is 3069–0004, which is due to expire on May 31, 2007. The likely respondents are institutions that want to be certified as or are members of a Bank.

B. Burden Estimate

The Finance Board has analyzed the cost and hour burden for the four facets of the information collection: Membership application process, minimum capital stock calculation for applicants, membership withdrawals, and transfer of membership to another Bank district. The first notice inadvertently omitted the burden estimates for the last two of these four facets of the information collection. The estimate for the total annual hour burden for all applicant/member respondents is 4,770 hours. The estimate for the total annual cost burden is $789,285. These estimates are based on the following calculations:

[1] The Data Reporting Manual is available electronically on the Finance Board Web site: *http://www.fhfb.gov/Default.aspx?Page=101.*

Membership Application Process

The Finance Board estimates the total annual average number of applicants at 240, with 1 response per applicant. Of these 240 applicants, the Finance Board estimates that 1 applicant will appeal a Bank's membership determination to the Finance Board. The estimate for the average hours per application is 19.5 hours. The estimate for the average hours per appeal is 10 hours. The estimate for the annual hour burden for applicants is 4,690 hours (240 applicants × 1 response per applicant × 19.5 hours per response + 1 appellant × 1 appeal × 10 hours). The estimate for the total annual cost burden to applicants of the membership application process is $778,830.

Minimum Capital Stock Calculation for Applicants

The Finance Board has excluded minimum capital stock calculations for current Bank members from this information collection because the data already is compiled and accounted for in the information collection titled ''Capital Requirements for the Federal Home Loan Banks.'' See 72 FR 7036 (Feb. 14, 2007) and 72 FR 18479 (April 12, 2007). The Finance Board estimates the total annual average number of applicants at 240, with 1 response per applicant. The estimate for the average hours per capital stock calculation is 0.1 hours. The estimate for the annual hour burden for applicants is 24 hours (240 applicants × 1 response per applicant × 0.1 hours per response). The estimate for the total annual cost burden to applicants of the minimum capital stock calculation is $3,168.

Membership Withdrawals

The Finance Board estimates the total annual average number of members that will file to withdraw from Bank membership at 14, with 1 filing per member. The estimate for the average hours per filing is 3.5 hours. The estimate for the total annual hour burden for membership withdrawals is 49 hours (14 members × 1 filing × 3.5 hours). The estimate for the total annual cost burden to members of the withdrawal from membership process is $6,468.

Transfer of Membership to Another Bank District

The Finance Board estimates the total annual average number of members that may file to transfer membership to another Bank district at 2, with 1 filing per member. The estimate for the average hours per filing is 3.5 hours. The estimate for the total annual hour burden for membership transfers 7 hours (2 members × 1 filing × 3.5 hours). The estimate for the total annual cost burden to applicants of the transfer of membership process is $819.

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding this information collection in the **Federal Register** on February 14, 2007. See 72 FR 7036 (Feb. 14, 2007). The 60-day comment period closed on April 16, 2007. The Finance Board received no public comments.

Written comments are requested on: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments may be submitted to OMB in writing at the address listed above.

Dated: May 3, 2007.

By the Federal Housing Finance Board.

Neil R. Crowley,

Acting General Counsel.

[FR Doc. E7–8833 Filed 5–8–07; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 010982–041.

Title: Florida-Bahamas Shipowners and Operators Association.

Parties: Atlantic Caribbean Line, Inc.; Crowley Liner Services, Inc.; Nina (Bermuda) Ltd.; Pioneer Shipping Ltd.; Seaboard Marine, Ltd.; and Tropical Shipping and Construction Co., Ltd.

Filing Party: Joe Espinosa; Florida Shipowners Group Inc.; 101 N.E. Third Avenue; Suite 1500; Fort Lauderdale, FL 33301–1181.

Synopsis: The amendment would add SeaFreight Line, Ltd. as a party to the agreement.

Agreement No.: 011941–001.

Title: CMA CGM/ELJSA/GSL Amerigo Express 2 MUS Cross Space Charter, Sailing and Cooperative Working Agreement.

Parties: CMA CGM, S.A.; Italia Marittima S.P.A. (''Italia''); and Gold Star Line Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment would replace Italia with the Evergreen Line Joint Service Agreement. The parties have requested expedited review.

Agreement No.: 011955–001.

Title: CMA CGM/CSCL/ELJSA Cross Space Charter, Sailing and Cooperative Working Agreement—North Europe/USEC and U.S. Gulf and Mexico Loop.

Parties: CMA CGM S.A.; China Shipping Container Lines Co., Ltd./China Shipping Container Lines (Hong Kong) Co., Ltd.; and Evergreen Line Joint Service Agreement (''ELJSA'').

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment replaces Hatsu Marine, Ltd. with ELJSA.

Agreement No.: 011997.

Title: Dole Ocean Cargo Express Inc.—South Pacific Shipping Company Ltd. Space Charter Agreement.

Parties: Dole Ocean Cargo Express Inc. and Ecuadorian Line, a Service of South Pacific Shipping Company, Ltd.

Filing Party: Michael G. Roberts, Esq.; Venable, LLP; 575 7th Street, NW; Washington, DC 20004.

Synopsis: The agreement authorizes the parties to share vessel space between the Pacific Coast of Costa Rica and the U.S. Pacific Coast.

Agreement No.: 011998.

Title: CSAV/EUKOR Venezuela Space Charter Agreement.

Parties: EUKOR Car Carriers, Inc. (''EUKOR'') and Compania Sud Americana de Vapores (''CSAV'').

Filing Party: Walter H. Lion, Esq.; McLaughlin & Stern, LLP; 260 Madison Ave; New York, NY 10016.

Synopsis: The agreement authorizes EUKOR to charter space to CSAV for the carriage of vehicles and other cargo between the U.S. Atlantic Coast and Venezuela.

Dated: May 4, 2007.

By order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7–8884 Filed 5–8–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Jordan River Moving & Storage, Inc., 11801 NE., 116th Street, Ste. A, Kirkland, WA 98034, *Officers:* Jack Bracha, President, (Qualifying Individual), Jack Yerushalmian, Vice President.

Jury Trans, Inc., 8244 NW., 14 Street, Miami, FL 33126, *Officer:* Nabil Enrique Jury, President, (Qualifying Individual).

ABC Service Network, Inc., 388 E. Valley Blvd., Suite 225, Alhambra, CA 91801, *Officers:* Alan Z. Zhang, President, (Qualifying Individual), Becky Zhang, Controller.

Stellar Shipping Inc., 80 Broad Street, 13th Floor, Suite 1301, New York, NY 10004, *Officers:* Efstratios Soufalos, President, (Qualifying Individual), John C. Mamoulakis, Vice President.

New Victory International Logistics, Inc., 17595 Almahurst Road, Suite 205A, Industry, CA 91748, *Officers:* Brian Wong, President, (Qualifying Individual), Zheng Bo, Director.

Smart Freight Corp., 51 Sunrise Highway, Suite #102, Lynbrook, NY 11563, *Officers:* Andrew Foo, CEO, (Qualifying Individual), Fina Chang, Secretary.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Pacific Export Cargo Corp., 2896 Norton Avenue, Lynwood, CA 90262, *Officers:* Kevork Odabachian, President, (Qualifying Individual), Haroution Bahlounian, Vice President.

SOSA SVCES Corporation Inc., 8310 NW 56 Street, Miami, FL 33166, *Officers:* Ana Sosa, Vice President, (Qualifying Individual), Miguel A. Sosa, President.

Air Trans Marine Inc., 4462 NW 74 Avenue, Miami, FL 33166, *Officer:* Carmen V. Toral, General Manager, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Global Shipping Company LLC, 3900 Kellogg Avenue, Cincinnati, OH 456226, *Officer:* Danny McKee, President, (Qualifying Individual).

A.C. International Holdings, Inc., 2030 NW 94th Avenue, Miami, FL 33172, *Officer:* Zunilda Caunedo, President, (Qualifying Individual).

Phoenix Freight Inc. dba Door to Door Services, 24 Cokesbury Road, Unit 19, Lebanon, NJ 08833, *Officer:* Brigitte Boyea, President, (Qualifying Individual).

Shockwavecargo LLC dba Shockwavecargo, 1 Slater Drive, Elizabeth, NJ 07206, *Officer:* Lori Nevins, Member, (Qualifying Individual).

Dated: May 4, 2007.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7–8887 Filed 5–8–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor Management Cooperation Act of 1978 (Pub. L. 95–524)

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final Fiscal Year 2007, Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing a final Fiscal Year 2007 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This solicitation contains a change in the deadline for accepting applications.

Comments: There were no comments received on the draft Fiscal Year 2007 Program Guidelines/Application Solicitation.

DATES: Fiscal Year 2007—we will accept applications beginning May 1, 2007. Please consult the FMCS Web site (*http://www.fmcs.gov*) to download all forms and information

ADDRESSES: Michael Bartlett Federal Register Liaison, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427. Telephone number (202) 606–3737 or (email) to *mbartlett@fmcs.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Stubbs, Grants Management Specialist, FMCS 2100 K Street, NW., Washington, DC 20427. Telephone number 202–606–8181, email to *lstubbs@fmcs.gov* or fax at (202) 606–3434.

Labor-Management Cooperation Program—Application Solicitation for Labor-Management Committees FY2007

A. Introduction

The following is the final Solicitation for the Fiscal Year (FY) 2007 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978, which was initially implemented in FY1981. The Act authorizes FMCS to provide assistance in the establishment and operation of company/plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that company/plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their working lives, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a company/plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978,

included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the company/plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at the plant (company), area, industry, or public sector levels.

A plant or company committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon a particular city, county, contiguous multicounty, or statewide jurisdiction.

An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY2007, competition will be open to company/plant, area, private industry, and public sector committees. Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.)

Required Program Elements

1. *Problem Statement*—The application should have numbered pages and discuss in detail what specific problem(s) face the company/plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the company/plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses why the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail what the labor-management committee will accomplish during the life of the grant. Applications that promise to objectives after a grant is awarded will receive little or no credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in specific and measurable terms. Applicants should focus on the outcome, impacts or changes that the committee's efforts will have. Existing committees should focus on expansion efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts of the grantee, as well as the FMCS grants program.

3. *Approach*—This section of the application specifies how the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or company/plant workforce);

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board; noting, that grant funds may not be used to pay for existing employees; an assurance that grant funds will not be used to pay for existing employees;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet (we require meetings at least every other month) as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees, a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for when they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using ''month one'' as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

Applicants must prepare their budget narrative and milestone chart using a start date of ''month one'' and an end date of ''month twelve'' or ''month eighteen'', as appropriate. Thus, if applicant is seeking a twelve month grant, use figures reflecting month one through twelve. If applicant is seeking an eighteen month grant, use figures reflecting month one through eighteen. If the grant application is funded; FMCS

will identify the start and end date of the grant on the Application for Federal Assistance (SF–424) form.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws (if any), a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative that clearly identifies each line item and the estimated cost (a complete breakdown of each line item) based on policies and procedures contained in the FMCS Financial andAdministrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements;

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS; and

(f) An assurance that the maximum rate for an individual consultant paid from grant project can be no more than $950 for an eight-hour-day. The day includes preparation, evaluation and travel time. Also, time and effort records must be maintained.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the applicant.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third-party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities that can document that a major purpose or function of their organization is the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third-parties failing to meet the above criteria.

Successful grantees *will* be bound by OMB Circular 110 i.e. ''contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for proposals shall be *excluded* (emphasis added from competing for such procurements).

Applicants who received funding under this program in the last 6 years for committee operations are not eligible to re-apply. The only exception will be made for grantees that seek funds on behalf of an entirely different committee whose efforts are totally outside of the scope of the original grant.

D. Allocations

The FY2007 appropriation for this program is $396,000. The Grant Review Board will review submissions and make recommendations for awards based on merit without regard to category.

In addition, to the competitive process identified in the preceding paragraph, FMCS will subject to funds availability, set aside a sum not to exceed thirty percent of its non-reserved appropriation to be awarded on a non-competitive basis. These funds will be used only to support applications that have been solicited by the Director of the Service and are not subject to the dollar range noted in Section E. All funds returned to FMCS from a competitive grant award may be awarded on a non-competitive basis in accordance with budgetary requirements.

E. Dollar Range and Length of Grants

Awards to expand existing or establish new labor-management committees will be for a period of up to 18 months. If successful progress is made during this initial budget period and all grant funds are not obligated within the specified period, these grants may, at the discretion of FMCS, be extended for up to six months.

The dollar range of awards is as follows:

—Up to $65,000 over a period of up to 18 months for company/plant

committees or single department public sector applicants;

—Up to $125,000 per 18-month period for area, industry, and multi-department public sector committee applicants.

Additionally, FMCS reserves the right under special conditions to award supplemental (continuation) grants subject to funds availability. If awarded the additional amount is added to the current grant amount.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources. Applicants are also strongly encouraged to consult with their local or regional FMCS field office to determine what kinds of training may be available at no cost before budgeting for such training in their applications. A list of our field leadership team and their phone numbers may be obtained from the FMCS Web site (*http://www.fmcs.gov*) under ''Who We Are''.

F. Cash Match Requirements and Cost Allowability

All applicants must provide at least 10 percent of the total allowable project costs in cash. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It is the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for committee purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for time spent at committee meetings or time spent in committee training sessions. Applicants generally will not be allowed to claim all or a portion of existing full-time staff as an expense or match contribution. For a more complete discussion of cost allowability, applicants are encouraged to consult the FY2007 FMCS Financial and Administrative Grants Manual, which will be included in the application kit.

G. Application Submission and Review Process

The Application for Federal Assistance (SF–424) form must be signed by both a labor and management representative. In lieu of signing the SF–424 form, representatives may type their name, title, and organization on plain bond paper with a signature line signed and dated, in accordance with block 18 of the SF–424 form. The individual listed as contact person in block 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process. Please be sure that person is available once the application has been submitted. Additionally, it is the applicant's responsibility to notify FMCS in writing of any changes (e.g. if the address or contact person has changed).

We will accept applications beginning May 1, 2007, and continue to do so until July 31, 2008, or until all FY2007 grant funds are obligated. Awards will be made by September 30, 2008. Proposals may be accepted at any time between April 1, 2007 and July 31, 2008, but proposals received late in the cycle have a greater risk of not being funded due to unavailability of funds. Once your application has been received and acknowledged by FMCS, no applications or supplementary materials will be accepted thereafter. Applicants are highly advised to contact the FMCS Grants Program prior to committing any resources to the preparation of a proposal.

An original application containing numbered pages, plus three copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, D.C. 20427. FMCS will not consider videotaped submissions or video attachments to submissions. FMCS will confirm receipt of all applications within 10 days thereof.

All eligible applications will be reviewed and scored by a Grant Review Board. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director or his/her designee will finalize the scoring and selection process. All FY2007 grant applicants will be notified of results and all grant awards will be made by September 30, 2008. Applications that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director or his/her designee.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS web site (*http://www.fmcs.gov*) to download forms and information. These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427, Linda Stubbs at (202) 606–8181 (*lstubbs@fmcs.gov*).

Additionally, we are currently accepting applications for FY2006 grant cycle and will do so until July 31, 2007 or until all FY2006 funding has been obligated. Please consult the FMCS web site (*http://www.fmcs.gov*) to download forms and information.

Fran Leonard,

Director, Budget and Finance, Federal Mediation and Conciliation Service.

[FR Doc. E7–8996 Filed 5–8–07; 8:45 am]

BILLING CODE 6732–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank

holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 4, 2007.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Midwest Banc Holdings, Inc., Melrose Park, Illinois; to merge with Northwest Suburban Bancorp, Inc., Mount Prospect, Illinois, and thereby indirectly acquire Mount Prospect National Bank, Mount Prospect, Illinois.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Southwest Bancorp, Inc., Stillwater, Oklahoma; to acquire up to 100 percent of the voting shares of Hart Food Stores, Inc., Hutchinson, Kansas, and thereby indirectly acquire voting shares of Bank of Kansas, South Hutchinson, Kansas.

Board of Governors of the Federal Reserve System, May 3, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–8803 Filed 5–8–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Personalized Healthcare Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the sixth meeting of the American Health Information Community Personalized Healthcare Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: June 7, 2007, from 2 p.m. to 5 p.m. [Eastern Daylight Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthcare/*

SUPPLEMENTARY INFORMATION: The Workgroup will discuss possible common data standards to incorporate interoperable, clinically useful genetic laboratory test data, family history information, and analytical tools into Electronic Health Records (EHR) to support clinical decision-making for the health care provider and patient.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/healthcare/phc_instruct.html.*

Dated: April 31, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordination for Health Information Technology.

[FR Doc. 07–2274 Filed 5–8–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Chronic Care Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 16th meeting of the American Health Information Community Chronic Care Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: June 5, 2007, from 1 p.m. to 4 p.m. Eastern Daylight Time.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW, Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/chroniccare/*

SUPPLEMENTARY INFORMATION: The Workgroup will discuss barriers to availability of care in the virtual setting. The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/chroniccare/cc_instruct.html*

Dated: April 30, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–2275 Filed 5–8–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 17th meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: June 13, 2007, from 1 p.m. to 4 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION: *http://www.hhs.gov/healthit/ahic/consumer/*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to encourage the widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/consumer/ce_instruct.html.*

Dated: April 30, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–2276 Filed 5–8–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Confidentiality, Privacy, and Security Workgroup; Meeting

ACTION: Announces of meeting.

SUMMARY: This notice announces the 11th meeting of the American Health Information Community Confidentiality, Privacy, and Security Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.)

DATES: June 22, 2007, from 10 a.m. to 4:30 p.m.[Eastern].

ADDRESSES: Hubert H. Humprey Building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 505A (please bring photo ID for entry into a Federal building).

FOR FURTHER INFORMATION: *http://www.hhs.gov/health/ahic/confidentiality/ Purpose:* The Workgroup Members will continue discussing the working hypothesis and evaluate the confidentiality, privacy, and security protections for participants in an electronic information exchange network at a local, state, regional, and nationwide level. The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/cps_instruct.html.*

SUPPLEMENTARY INFORMATION: The American Health Information Community Confidentiality, Privacy, and Security (CPS) workgroup is seeking public feedback on its working hypothesis. To submit comments via e-mail (preferred), please send them to *cps-wkg@hsrnet.com* (to ensure that your e-mail is received and appropriately filed, we ask that you put ''*CPS June 2007 Public Comment*'' in the subject line of your e-mail) or mail your comments to Steven Posnack, Office of the National Coordinator (ONC), 330 C Street, SW., Suite 4090, Washington, DC 20201. Written testimony submitted by the public is not required to address all of the questions listed below, and answers to any or all of the questions will be accepted so long as they comply with the following guidelines. *Comments should be double-spaced and submitted via e-mail or mail by 5 p.m. Eastern Daylight Time and June 4, 2007, in order to receive consideration by the CPS workgroup.*

For the past several months, the CPS workgroup has been refining the following ''working hypothesis'' as an approach to gather information and develop recommendations regarding the protections that should apply to certain persons and entities in a nationwide health information exchange environment. The main tenet of the ''working hypothesis'' is as follows:

All persons and entities excluding consumers that participate in an electronic health information exchange network at a local, state, regional or nationwide level, through which individually identifiable electronic health information is stored, compiled, transmitted, or accessed, should be required to meet privacy and security criteria at least equivalent to relevant Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rate requirements In this case, HIPAA is used to help establish a common understanding of what federal health information privacy and security requirements apply to whom and for what. Its inclusion in the ''working hypothesis'' should not be misinterpreted to mean the CPS workgroup is only considering HIPAA-focused recommendations. Rather, the CPS workgroup intends to evaluate, in the future, whether the overall, baseline standard for participating in these networks should be changed to a standard that is different from or exceeds the current HIPAA privacy and security rules.

THe CPS workgroup is interested to hear from any party that may be affected by its ''working hypothesis.'' Responses should address the following questions in the sections below. Please reference the section with which your comment is associated when making a comment.

1. Enforceable Mechanisms

The CPS workgroup understands that there may be one or more appropriate mechanisms to properly enforce and ensure that confidentiality, privacy, and security requirements are met in an electronic health information exchange environment Therefore, the workgroup is interested in comments on appropriate, effective, and feasible ways to enforce confidentiality, privacy, and security protections in this new environment. Comments will be considered by the workgroup for the purposes of developing one or more recommendations associated with the ''working hypothesis'' above.

2. Relevant Requirements

For a given participant's characteristics and role in an electronic health information environment, certain confidentiality, privacy, and security requirements may be more relevant than others. The CPS workgroup requests comment as to whether particular confidentiality, privacy, and security requirements equivalent to those in the HIPAA Privacy and Security Rules should or should not apply to a particular type of person or entity and why. Please identify specific section(s) of the HIPAA Privacy and Security Rules. The following examples have been developed to identify the level of detail and specificity the workgroup is seeking in a response:

Example 1: Similar to the treatment of health care clearinghouses under the HIPAA Privacy Rule it may not be appropriate for a health information exchange organization to provide privacy notices (Section 164.500(b)).

Example 2: With respect to Section 164.510 of the HIPAA Privacy Rule, a health information exchange organization may not have a function analogous to a ''facility directory'' and therefore compliance with that type of requirement may not be appropriate.

3. Business Associates

The CPS workgroup is concerned that an electronic health information exchange environment may lead to an unwieldy amount of contractual relationships in the form of business associate agreements each with their own specific confidentiality, privacy, and security nuances—with limited direct enforcement. The workgroup is seeking comments on the pros and cons of having business associates directly responsible for HIPAA requirements—not through contractual arrangements. If you are a business associate please answer the following questions:

(A) How does your organization ensure compliance with the privacy and security policies of covered entities with whom it contracts, particularly when there are numerous contracts?

(B) How do you handle business associate contracts with large numbers of covered entities including compliance with each covered entity's privacy policies?

(C) How are business associate agreements negotiated? Do you have a standard contract?

(D) How is the data protection compliance of subcontractors ensured and/or assessed?

(E) Do you have subcontractors and how do you handle those agreements?

(F) How would direct accountability for meeting relevant HIPAA requirements impact your business?

4. General Questions

The CPS workgroup is seeking comment on any of the following additional questions.

(A) What are the implications of having some entities performing similar services covered by federal law (e.g., HIPAA) and others not? For example, a personal health record (PHR) could be offered by a health plan (covered entity) and an independent PHR service provider (non-covered entity).

i. How does this impact your competitiveness?

ii How doe this impact your ability to exchange information with others?

iii. Does contracting with non-covered entities create different levels of accountability and/or enforceability in the exchange of health information?

(B) Assuming you are not a covered entity, what would be the implications of complying with enforceable confidentiality, privacy, and security requirements at least equivalent to relevant HIPAA principles?

(C) Is there a minimum set of confidentiality, privacy, and security protections that you think everyone should follow, if not HIPAA, what?

The meeting will be available via Web cast. For additional information, go to *http://www.hhs.gov/healthit/ahic/cps_instruct.html*.

Dated: May 2, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–2277 Filed 5–8–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Report on Carcinogens; Request for Nominations of Scientific Experts for Review of Candidate Substances for the 12th Report on Carcinogens

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for nominations of scientific experts.

SUMMARY: On April 16, 2007, NTP released the final review process for preparation of the 12th Report on Carcinogens (RoC, 72FR18999, available at *http://ntp.niehs.nih.gov/go/9732*). This notice invites the public to nominate scientists to serve on expert panels. These scientists should have expertise and/or knowledge relevant to evaluation of the potential carcinogenic hazard of the candidate substances that will undergo review for the 12th RoC.

DATES: Nominations of scientific experts received by June 8, 2007.

ADDRESSES: Nominations should be sent to Dr. C. W. Jameson, Report on Carcinogens (NIEHS, P.O Box 12233, MD EC–17, Research Triangle Park, NC 27709; *fax:* (919) 541–0144, e-mail: *jameson@niehs.nih.gov*. Courier address: Report on Carcinogens, NIEHS, 79 Alexander Drive, Building 4401, Room 3118, Research Triangle Park, NC 27709).

FOR FURTHER INFORMATION CONTACT: Dr. C. W. Jameson, telephone: (919) 541–4096 or *jameson@niehs.nih.gov*.

SUPPLEMENTARY INFORMATION:

Request for Nominations of Scientific Experts

The review process for preparation of the 12th RoC is available on the NTP RoC Web site (*http://ntp.niehs.nih.gov/go/15208*). The process includes development of a draft background document for each candidate substance undergoing review for the 12th RoC. The NTP will convene an *ad hoc* expert panel to peer review the draft background document at a public meeting and make a recommendation to the NTP on the candidate substance's listing status for the RoC. The NTP invites the public to nominate scientists to serve on the expert panels who have expertise and/or knowledge relevant to the evaluation of carcinogenicity for the candidate substances (listed below). Relevant areas of expertise and/or knowledge include, for example, biostatistics, carcinogenesis, chemistry, epidemiology, exposure assessment, molecular biology, pathology, toxicokinetics, and toxicology. Scientists nominated in response to a previous notice (70FR60548), which sought names of scientists to write and/or review background documents, will also be considered as potential candidates for the expert panels.

Each nomination should include contact information for the nominee [name, affiliation (if any), address, telephone, fax, and e-mail], the candidate substance(s) for which they have relevant expertise and/or knowledge, and a complete curriculum vitae. Final selection of individuals to serve on these panels will be made in accordance with the Federal Advisory Committee Act and Department of Health and Human Services implementing regulations. Previously, NTP sought input on substances nominated for possible review for the 12th RoC (69FR28940, 69FR62276, and 70FR60548). The 14 candidate substances selected for review for the 12th RoC are listed below. Information on these candidate substances is available on the NTP Web site for the 12th RoC (*http://ntp.niehs.nih.gov/go/10091*) or by contacting Dr. C. W. Jameson (see ''**FOR FURTHER INFORMATION CONTACT**'' above).

The candidate substances for the 12th RoC are:

- Aristolochic acid-related exposures:
  (1) Botanical products containing aristolochic acid
  (2) Aristolochic acid
- Captafol
- Cobalt-tungsten carbide powders and hard metals
- Di (2-ethylhexyl) phthalate
- Selected DNA topoisomerase II inhibitors:
  (1) Etoposide
  (2) Etoposide in combination with cisplatin and bleomycin
  (3) Teniposide
- Formaldehyde
- Glass wool fibers (certain)
- Metalworking fluids
- *ortho*-Nitrotoluene
- Riddelliine
- Styrene

Background Information on the Report on Carcinogens

The RoC is a congressionally mandated document [Section 301(b)(4) of the Public Health Services Act, 42 U.S.C. 241(b)(4)], approved by the Secretary of Health and Human Services (HHS), that identifies agents, substances, mixtures, or exposure circumstances (collectively referred to as ''substances'') that may pose a carcinogenic hazard to human health. The Secretary, HHS, delegated responsibility for preparing the report to the NTP. Substances are listed in the RoC as either *known to be human carcinogens or reasonably anticipated to be human carcinogens*. Publication of the RoC is the end result of an extensive scientific review and assessment process with multiple opportunities for public comment

The NTP solicits and encourages the broadest participation from interested individuals or parties in nominating agents, substances, mixtures, or exposure circumstances for review for future RoCs. Nominations should contain a rationale for review. Appropriate background information and relevant data [*e.g.*, journal articles, NTP Technical Reports, International Agency for Research on Cancer (IARC) listings, exposure surveys, release inventories, *etc.*] that support a nomination should be provided or referenced when possible. Contact information for the nominator should also be included [name, affiliation (if any), address, telephone, fax, and e-mail].

Dated: April 30, 2007.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E7–8899 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP), NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Peer Review Panel Report on Five In Vitro Pyrogen Test Methods: Availability and Request for Public Comments

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for comments.

SUMMARY: NICEATM in collaboration with the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) convened an independent scientific peer review panel meeting on February 6, 2007, to evaluate the validation status of five in vitro pyrogen test methods proposed as replacements for the Rabbit Pyrogen Test (RPT). The peer review panel (''the Panel'') report from this meeting is now available. The report contains (1) the Panel's evaluation of the validation status of the methods and (2) the Panel's comments and conclusions on draft ICCVAM test method recommendations. NICEATM invites public comment on the Panel's report. The report is available on the NICEATM/ICCVAM Web site at (*http://iccvam.niehs.nih.gov/methods/pyrogen/pyrogen.htm*) or by contacting NICEATM (see **FOR FURTHER INFORMATION CONTACT** below).

DATES: Written comments on the Panel report should be received by June 25, 2007.

ADDRESSES: Comments should preferably be submitted electronically via the NICEATM/ICCVAM Web site: *http://iccvam.niehs.nih.gov/contact/FR_pubcomment.htm*. Comments can also be submitted by e-mail to *niceatm@niehs.nih.gov*. Written comments can be sent by mail or fax to Dr. William S. Stokes, NICEATM Director, NIH/NIEHS, P.O. Box 12233, MD EC–17, Research Triangle Park, NC 27709, (fax) 919–541–0947, (e-mail) *niceatm@niehs.nih.gov*. Courier address: NICEATM, 79 T.W. Alexander Drive, Building 4401, Room 3128, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Other correspondence should be directed to Dr. William S. Stokes, NICEATM Director (919–541–2384 or *niceatm@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION

Background

The European Centre for the Validation of Alternative Methods (ECVAM) submitted five *in vitro* pyrogen test methods to ICCVAM for evaluation in 2006. The proposed test methods include:

1. The Human Whole Blood (WB)/IL–1 *In Vitro* Pyrogen Test: Application of Cryopreserved Human WB
2. The Monocytoid Cell Line Mono Mac 6 (MM6)/IL–6 *In Vitro* Pyrogen Test
3. The Human PBMC/IL–6 *In Vitro* Pyrogen Test
4. The Human WB/IL–1 *In Vitro* Pyrogen Test
5. The Human WB/IL–6 *In Vitro* Pyrogen Test

These test methods are based on the measurement of proinflammatory cytokines released from either fresh or cryopreserved human blood cells or a human monocytoid line in response to the presence of Gram-negative endotoxin in parenteral pharmaceuticals. NICEATM and ICCVAM prepared a comprehensive background review document (BRD) that included the available data for the five test methods and a separate document containing ICCVAM test method recommendations. At the peer review meeting, the Panel reviewed the BRD and evaluated the extent to which the ICCVAM criteria for validation and acceptance had been adequately addressed for the intended purpose of these test methods. The Panel also provided comments on the ICCVAM draft test method recommendations regarding the proposed usefulness and limitations, standardized protocols, performance standards, and future studies. The Panel's conclusions and recommendations on the five in vitro pyrogen test methods are described in the *Peer Review Panel Final Report: Five In Vitro Pyrogen Test Methods* (available at: *http://iccvam.niehs.nih.gov/methods/pyrogen/pyrogen.htm*). The draft BRD and the draft test method recommendations are available at *http://iccvam.niehs.nih.gov/methods/pyrogen/pyrogen.htm*.

Request for Comments

NICEATM invites the submission of written comments on the Panel's report. When submitting written comments please refer to this **Federal Register** notice and include appropriate contact information (name, affiliation, mailing address, phone, fax, email, and sponsoring organization, if applicable). All comments received by the deadline listed above will be placed on the NICEATM/ICCVAM Web site (*http://ntp-apps.niehs.nih.gov/iccvampb/searchPubCom.cfm*) and made available to ICCVAM. In addition, there will be an opportunity for oral public comments on the Panel's report during a meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM) scheduled for June 12, 2007. Information concerning the SACATM meeting will be published in a separate **Federal Register** notice and available on the SACATM website: (*http://ntp.niehs.nih.gov/go/7441*). Any written comments on the Panel report received prior to June 7, 2007, will be distributed to SACATM.

ICCVAM will consider the Panel report along with the SACATM and public comments as it finalizes recommendations for the five *in vitro* pyrogen test methods. An ICCVAM test method evaluation report, which includes the ICCVAM final recommendations, will be forwarded to appropriate federal agencies for their consideration. This report will also be available to the public on the NICEATM/ICCVAM Web site and by request from NICEATM.

Background Information on ICCVAM, NICEATM, and SACATM

ICCVAM is an interagency committee composed of representatives from 15 federal regulatory and research agencies that use, generate, or disseminate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability and promotes scientific validation and regulatory acceptance of toxicological test methods that more accurately assess safety and hazards of chemicals and products and that refine, reduce, and replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285l–3, available at *http://iccvam.niehs.nih.gov/docs/about_docs/PL106545.pdf*) establishes ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM and provides scientific and operational support for ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the ICCVAM/NICEATM Web site (*http://iccvam.niehs.nih.gov*).

Additional information about SACATM, including the charter, roster, and records of past meetings, can be found at *http://ntp.niehs.nih.gov/go/167*.

Dated: April 30, 2007.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E7–8896 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP), NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Request for Data on the Use of Topical Anesthetics and Systemic Analgesics for In Vivo Eye Irritation Testing

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for data on the use of topical anesthetics and systemic analgesics for in vivo ocular irritation testing.

SUMMARY: The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and NICEATM request the submission of data and information on the use of topical anesthetics and systemic analgesics for alleviating pain and distress in rabbits during eye irritation testing. They also request the submission of information about other procedures and strategies that may reduce or eliminate pain and distress associated with *in vivo* eye irritation methods.

DATES: Data should be received by June 25, 2007.

ADDRESSES: Data should be sent by mail, fax, or e-mail to Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, MD EC–17, Research Triangle Park, NC, 27709, (fax) 919–541–0947, (e-mail) *niceatm@niehs.nih.gov. Courier address:* NICEATM, 79 T.W. Alexander Drive, Building 4401, Room 3128, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, NICEATM Director, (phone) 919–541–2384 or *niceatm@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION

Background

The U.S. Environmental Protection Agency (EPA) nominated to ICCVAM several activities relevant to reducing, replacing, or refining the use of rabbits in the current *in vivo* eye irritation test method (**Federal Register** Vol. 69, No. 57, pages 13859–13861, March 24, 2004). One activity is to review ways to alleviate pain and suffering that might arise from current *in vivo* eye irritation testing. ICCVAM endorsed this activity with a high priority and recommended that NICEATM review the data currently available on the use of topical anesthetics and/or systemic analgesics to reduce animal pain and distress.

As part of this review, NICEATM requests the submission of data from completed studies on the use of topical anesthetics and/or systemic analgesics for *in vivo* ocular irritancy testing. These data will be used to evaluate the validation status of the use of topical anesthetics and/or analgesics to reduce pain and distress for *in vivo* testing situations. ICCVAM and NICEATM also request the submission of information and data from *in vivo* methods, procedures, and/or strategies that may reduce or eliminate the pain and suffering associated with current *in vivo* eye irritation methods.

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 federal regulatory and research agencies that use or generate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological test methods that more accurately assess the safety and hazards of chemicals and products and that refine, reduce, or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers the ICCVAM and provides scientific and operational support for ICCVAM-related activities. Additional information about NICEATM and ICCVAM can be found at the following Web site: *http://iccvam.niehs.nih.gov.*

Dated: April 30, 2007.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E7–8898 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Purpose of Notice: Availability of Funding Opportunity Announcement

Funding Opportunity Title/Program Name: Aging and Disability Resource Center Initiative: Integrating Access to Long-Term Care.

Announcement Type: Initial.

Funding Opportunity Number: HHS–2007–AoA–DR–0707.

Statutory Authority: The Older Americans Act of 2006, Public Law 109–365.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.048, Title IV and Title II, Discretionary Projects.

Dates: The deadline date for the submission of applications is June 29, 2007.

I. Funding Opportunity Description

In FY 2003, the Administration on Aging (AoA) and the Centers for Medicare & Medicaid Services (CMS) formed a historic partnership to launch the Aging and Disability Resource Center (ADRC) demonstration grant initiative. The goal of the ADRC program is to empower individuals to make informed choices and to streamline access to long term support services. AoA and CMS share a vision to have Resource Centers in every community serving as highly visible and trusted places where people of all ages can turn for information on the full range of long term support options and a single point of entry to public long term support programs and benefits. ADRCs are a resource for both public and private-pay individuals. They serve older adults, younger individuals with disabilities, family caregivers, as well as persons planning for future long term support needs. ADRCs are also a resource for health and long term support professionals and others who provide services to older adults and to people with disabilities. Since FY 2003, 43 states have received three year grants from AoA and CMS to design and implement ADRC demonstrations serving the elderly and at least one other target population of adults with disabilities in at least one community. An ADRC Program Announcement published in FY 2003 resulted in the funding of twelve states that year with an additional twelve states funded to develop ADRC programs in FY 2004. Nineteen additional states were funded to develop ADRC programs based on a Program Announcement published in

FY 2005. To view the Program Announcements published in FY 2003 and FY 2005 please visit *www.aoa.gov/prof/aging_dis/background.asp.* For more information on the 43 funded ADRC projects please visit *www.adrc-tae.org.*

This announcement seeks proposals for competitive grants to assist states funded to develop ADRCs in FY 2004 to significantly expand their existing Resource Center programs. Building on current efforts, state Resource Center programs funded under this Program Announcement will be:

(1) Expanded to provide services to additional communities, and/or

(2) Positioned to assume the role as the only entry point to publicly funded long-term support systems, and/or;

(3) Enhanced to support states long-term care rebalancing efforts either through nursing facility diversion activities, nursing facility transition or participation in the re-direction of services dollars to consumer directed models including cash & counseling.

A detailed description of the funding opportunity may be found at *http://www.aoa.gov/doingbus/fundopp/fundopp.asp.*

II. Award Information

1. Funding Instrument Type

These new grants will be issued as cooperative agreements because AoA, in cooperation with CMS, anticipates having substantial involvement with the recipients during performance of funded activities. This involvement may include collaboration, participation, or intervention in the funded activities. AoA, in cooperation with CMS, will also be involved in the development and implementation of the funded projects by way of conducting a review of the applications and providing technical assistance, training, guidance, and oversight throughout the one-year project period. Grantees will be expected to keep in contact with their Federal project officer on a regular basis. Grantees will also be expected to share all significant products that result from their projects with AoA.

2. Anticipated Total Priority Area Funding Per Budget Period

The total amount of Federal funds available for this funding opportunity is $2.4 million. AoA anticipates funding up to 12 projects nationwide for a period of 1 year. The maximum Federal award for the entire project period is approximately $200,000.

III. Eligibility Criteria And Other Requirements

1. Eligible Applicants

Only states that received an AoA and CMS Aging and Disability Resource Center Grant in FY 2004 are eligible to apply. These states are Alaska, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, New Mexico, North Carolina, Northern Mariana Islands, and Wisconsin. Only the state agency that was the ADRC applicant in FY 2004, or a state agency with a Memorandum of Agreement with the existing ADRC grantee (e.g. the Single State Agency on Aging, Single State Medicaid Agency or State Agency serving the target populations of people with disabilities) may apply for this Resource Center grant. The applicant agency must have the documented support, in the form of a Memorandum of Understanding and active participation by the Single State Agency on Aging, the Single State Medicaid Agency and the State Agency(s) serving the target population(s) of people with disabilities specified in the applicant's proposal. A letter of support from the Governor indicating high-level state executive support and designating the lead agency is also required. Only one application per state will be accepted. ''State'' refers to the definition provided under 45 CFR 74.2. Executive Order 12372 is not applicable to these grant applications.

2. Cost Sharing or Matching

Grantees are required to make a non-financial or cash recipient contribution (match) of a minimum of five percent (5%) of the total project cost.

3. DUNS Number

All grant applicants must obtain a D-U-N-S number from Dun and Bradstreet. It is a nine-digit identification number, which provides unique identifiers of single business entities. The D-U-N-S number is free and easy to obtain from *http://www.dnb.com/US/duns_update/.*

4. Intergovernmental Review

Executive Order 12372, Intergovernmental Review of Federal Programs, is not applicable to these grant applications.

IV. Application and Submission Information

1. Address To Request Application

Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Center for Planning and Policy, Washington, DC 20201, by calling Joseph Lugo at 202/357–3417, or online at *http://www.grants.gov.*

2. Address for Application Submission

Applications must be submitted electronically to *www.grants.gov.* In order to be able to submit the application, you must register in the Central Contractor Registry (CCR) database. Information about CCR is available at *www.grants.gov/CCRRegister.* Instructions for electronic submission of grant applications are available at *www.grants.gov.*

3. Submission Dates and Times

To receive consideration, applications must be submitted electronically by midnight Eastern time by the deadline listed in the **DATES** section at the beginning of this Notice.

V. Responsiveness Criteria

Each application submitted will be screened to determine whether it was received by the closing date and time.

Applications received by the closing date and time will be screened for completeness and conformity with the requirements outlined in Sections III and IV of this Notice and the ProgramAnnouncement. Only complete applications that meet these requirements will be reviewed and evaluated competitively.

VI. Application Review Information

Eligible applications in response to this announcement will be reviewed according to the following evaluation criteria:

- Accomplishments and Problem Statement—Weight: 30 points.
- Approach, Work Plan and Activities—Weight: 40 points.
- Project Outcomes and Evaluation—Weight: 15 points.
- Level of Effort (Organization and Management; Budget and Resources)—Weight: 15 points.

VII. Agency Contacts

Direct inquiries regarding programmatic issues can be directed to the U.S. Department of Health and Human Services, Administration on Aging, Center for Planning and Policy Development, Washington, DC 20201, Joseph Lugo at telephone (202) 357–3417.

Dated: May 4, 2007.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. E7–8880 Filed 5–8–07; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0137]

Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Gene Expression Profiling Test System for Breast Cancer Prognosis; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Class II Special Controls Guidance Document: Gene Expression Profiling Test System for Breast Cancer Prognosis.'' This guidance document describes a means by which gene expression profiling test systems for breast cancer prognosis may comply with the requirement of special controls for class II devices. It includes recommendations for validation of performance characteristics and recommendations for product labeling. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule to classify gene expression profiling test systems for breast cancer prognosis into class II (special controls). This guidance document is immediately in effect as the special control for gene expression profiling test systems for breast cancer prognosis, but it remains subject to comment in accordance with the agency's good guidance practices (GGPs).

DATES: Submit written or electronic comments on this guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Class II Special Controls Guidance Document: Gene Expression Profiling Test System for Breast Cancer Prognosis'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Reena Philip, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–1286.

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying gene expression profiling test systems for breast cancer prognosis into class II (special controls) under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)). This guidance document will serve as the special control for gene expression profiling test systems for breast cancer prognosis devices. Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1), request FDA to classify the device under the criteria set forth in section 513(a)(1). FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification. Because of the timeframes established by section 513(f)(2) of the act, FDA has determined, under § 10.115(g)(2) (21 CFR 10.115(g)(2)), that it is not feasible to allow for public participation before issuing this guidance as a final guidance document. Thus, FDA is issuing this guidance document as a level 1 guidance document that is immediately in effect. FDA will consider any comments that are received in response to this notice to determine whether to amend the guidance document.

II. Significance of Guidance

This guidance is being issued consistent with FDA's GGPs regulation (§ 10.115). The guidance represents the agency's current thinking on gene expression profiling test systems for breast cancer prognosis. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. To receive ''Class II Special Controls Guidance Document: Gene Expression Profiling Test System for Breast Cancer Prognosis,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1627 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB Control No. 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB Control No. 0910–0231; the collections of information in 21 CFR part 809 have been approved under OMB Control No. 0910–0485; and the collections of information in 21 CFR part 820 have been approved under OMB Control No. 0910–0073.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic

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

Dated: May 1, 2007.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E7–8872 Filed 5–8–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0254]

Guidance for Industry: Analytical Methods Description for Type C Medicated Feeds; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance for industry (#137) entitled ''Analytical Methods Description for Type C Medicated Feeds.'' This guidance provides our recommendations for describing methods for analyzing new animal drugs in Type C medicated feeds.

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

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the full title of the guidance and the docket number found in brackets in the heading of this document. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Rebecca Owen, Center for Veterinary Medicine (HFV–141), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–9842, e-mail: *rebecca.owen@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 28, 2006 (71 FR 36813), FDA published the notice of availability for a draft guidance entitled ''Analytical Methods Description for Type C Medicated Feeds'' giving interested persons until September 11, 2006, to comment on the draft guidance. With the exception of one general comment regarding medicated feed, FDA received no specific comments on the guidance. The final guidance has not been substantively changed from the draft version.

Section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) establishes the requirements for new animal drug approval. FDA regulations in part 514 (21 CFR part 514) specify the information you must submit as part of your new animal drug application (NADA) and the proper format for the NADA submission. As part of your NADA submission, you must include a ''detailed description of the collection of samples and the analytical procedures to which they are subjected'' (§ 514.1(b)(5)(vii)). This should include a description of practicable methods of analysis which have adequate sensitivity to determine the amount of the new animal drug in the final dosage form (§ 514.1(b)(5)(vii)(a)). This guidance provides recommendations for describing methods for analyzing new animal drugs in Type C medicated feeds. This guidance applies to instrumental methods only (e.g., high pressure liquid chromatography, gas chromatography). For information on other methods (e.g., microbiological methods) you should contact the Center for Veterinary Medicine (CVM).

II. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the agency's current thinking on the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 514.1 have been approved under OMB control numbers 0910–0032 and 0910–0154.

IV. Comments

Interested persons may, at any time, 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 should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Copies of the guidance document entitled ''Analytical Methods Description for Type C Medicated Feeds'' may be obtained from the CVM home page (*http://www.fda.gov/cvm*) and from the Division of Dockets Management Web site (*http://www.fda.gov/ohrms/dockets/default.htm*).

Dated: April 26, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–8808 Filed 5–8–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Health/National Institute of Environmental Health Sciences Proposed Collection; Comment Request; Program Assessment and Evaluations for NIEHS—Asthma Research

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Environmental Health Sciences, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Program Assessment and Evaluations for

NIEHS—Asthma Research. *Type of Information Collection Request:* New. *New and Use of Information Collection:* National Institute of Environmental Health Sciences, Division of Extramural Research and Training (DERT). DERT, with contract support from Battelle Centers for Public Health Research and Evaluation, is examining the impact of its research portfolio. Focusing specifically on one portion of the research portfolio—asthma research—DERT proposes to supplement extant data sources with a primary data collection activity. The purpose of the proposed primary data collection is to obtain information from grantees regarding the impact of their funded asthma research in the short-, intermediate- and long-term. This will be done through a survey of grantees that includes questions about the impact of funding on career development, the field of asthma research, public attitudes, commercial product development, clinical practice, business and industry practices, and long-term human and environmental health. *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* Individuals receiving asthma funding. A 15-minute, close-ended, multi-mode (web and paper) survey will be administered to the universe of NIEHS-funded asthma researchers (N=295) and comparison agency asthma researchers (N=4000). Comparison agencies include other NIH institutes (NICHD, NIAID, NIA, NHLBI), the CDC, AHRQ, and the EPA. The survey development process included formative interviews with a small couple of NIEHS asthma researchers. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report. There are no costs to respondents except for their time to participate.

ANNUALIZED BURDEN TABLE

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden per response	Estimated total annual burden hours requested
Asthma grantee	4295	1	.25	1073.75
Total				1073.75

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Further Information: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Jerry Phelps, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD ED–21, 111 T.W. Alexander Drive, RTP, NC 27709. Phone: (919) 541–4259. E-mail: *phelps@niehs.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: April 22, 2007.

Marc S. Hollander, NIEHS

Associate Director for Management.

[FR Doc. 07–2285 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health, Clinical Center

Proposed Collection; Comment Request; Customer and Other Partners Satisfaction Surveys

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for the opportunity for pubic comment on the proposed data collection projects, the Warren Grant Magnuson Clinical Center (CC), the National Institutes of Health, (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Customer and Other Partners Satisfaction Surveys. *Type of Information Collection Request:* New request/waiver. *Need and Use of Information Collection:* The information collected in these surveys will be used by Clinical Center personnel: (1) To evaluate the satisfaction of various Clinical Center customers and other partners with Clinical Center services; (2) to assist with the design of modifications of these services, based on customer input; (3) to develop new services, based on customer need; and (4) to evaluate the satisfaction of various Clinical Center customers and other partners with implemented service modifications. These surveys will almost certainly lead to quality improvement activities that will enhance and/or streamline the Clinical Center's operations. The major mechanisms by which the Clinical Center will request customer input is through surveys and focus groups. The surveys will be tailored specifically to each class of customer and to that class of customer's needs. Surveys will either be collected as written documents, as faxed documents, mailed electronically or collected by telephone from customers. Information gathered from these surveys of Clinical Center customers and other partners will be presented to, and used directly by, Clinical Center management to enhance the services and operations of our organization. *Frequency of Response:* The participants will respond yearly. *Affected public:* Individuals and households; businesses and other for profit, small businesses and organizations. *Types of respondents:* These surveys are designed to assess the satisfaction of the Clinical Center's major internal and external customers with the services provided. These customers include, but are not limited to, the following groups of individuals: Clinical Center patients, family members of Clinical Center patients, visitors to the Clinical Center, National

Institutes of Health investigators, NIH intramural collaborators, private physicians or organizations who refer patients to the Clinical Center, volunteers, vendors and collaborating commercial enterprises, small businesses, regulators, and other organizations. The annual reporting burden is as follows:

Customer	Number of respondents	Frequency of response	Average time per response	Annual hour burden
FY 2007:				
Clinical Center Patients	5000	1	.5	2500
Family Members of Patients	2000	1	.5	1000
Visitors to the Clinical Center	1000	1	.17	170
Clinical Center Employees	2500	1	.25	625
NIH Investigators	2000	1	.25	625
NIH Intramural Collaborators	2000	1	.17	340
Vendors and Collaborating Commercial Enterprises	2500	1	.33	833
Professionals and Organizations Referring Patients	2000	1	.33	833
Regulators	30	1	.33	10
Volunteers	275	1	.5	138
Total	19,305			7074
FY 2008:				
Clinical Center Patients	5000	1	.5	2500
Family Members of Patients	3000	1	.5	1500
Visitors to the Clinical Center	1500	1	.17	255
Clinical Center Employees	2500	1	.33	833
NIH Investigators	2400	1	.5	1200
NIH Intramural Collaborators	1500	1	.25	375
Vendors and Collaborating Commercial Enterprises	2000	1	.25	500
Professionals and Organizations Referring Patients	1000	1	.33	333
Regulators	30	1	.33	10
Volunteers	275	1	.33	92
Total	19,205			7598
FY 2009:				
Clinical Center Patients	5000	1	.5	2500
Family Members of Patients	2000	1	.5	1000
Visitors to the Clinical Center	1000	1	.17	170
Clinical Center Employees	2500	1	.33	833
NIH Investigators	2500	1	.33	833
NIH Intramural Collaborators	1000	1	.17	170
Vendors and Collaborating Commercial Enterprises	2500	1	.25	625
Professionals and Organizations Referring Patients	3000	1	.33	1000
Regulators	25	1	.25	6
Volunteers	300	1	.25	75
Total	19,825			7212

Estimated costs to the respondents consists of their time; time is estimated using a rate of $10.00 per hour for patients and the public; $30.00 for vendors, regulators, organizations and $55.00 for health care professionals. The estimated annual costs to respondents for each year for which the generic clearance is requested is $159,250 for 2007, $194,540 for 2008, and $194,540 for 2009. Estimated Capital Costs are $7,000. Estimated Operating and Maintenance costs are $73,000.

Requests for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Clinical Center and the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology

For Further Information: To request more information on the proposed project, or to obtain a copy of the data collection plans and instruments, contact: Dr. David K. Henderson, Deputy Director for Clinical Care, National Institutes of Health Clinical Center, Building 10, Room 6–1480, 10 Center Drive, Bethesda, Maryland 20892, or call non-toll free: 301–496–3515, or e-mail your request or comments, including your address to: *dkh@nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: May 2, 2007.

David K. Henderson,

Deputy Director for Clinical Care, CC, National Institutes of Health.

[FR Doc. E7–8885 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Selenocysteine Mediated Hybrid Antibody Molecules

Description of Technology: Available for licensing is a new class of hybrid molecules composed of an antibody, or antibody fragment, and a small synthetic molecule (such as a small molecule inhibitor, or cytotoxic compound). These biological and chemical components are covalently linked at an engineered selenocysteine near the C-terminus of the antibody, or antibody fragment. Through this covalent linkage, the chemical and the biological component can acquire properties of one another. For example, the synthetic molecule acquires antibody properties such as circulatory half-life, effector functions, and ability to interfere with protein interactions whereas the antibody, or antibody fragment, acquires properties of the small synthetic molecule such as specificity, affinity, and stability to bind to targets that are sterically inaccessible to immunoglobulins. The technology can also be used to equip an antibody, or antibody fragment, with a small synthetic molecule that enhances target destruction or imaging capabilities through site-selective biotinylation, PEGylation, addition of an imaging agent, or addition of a cytotoxic agent such as a chemotherapeutic drug or a chelate for radioisotope labeling. The hybrid antibody molecules can be engineered with a variety of small synthetic molecules, and the combination of immunogenic properties and those of the small synthetic molecules results in compounds with powerful target destruction or imaging capabilities. This technology could be applied towards the targeted delivery of small synthetic molecules to various cell surface receptors, and may have applicability as a prevention, diagnosis, or therapy for numerous disease states.

Applications: Potent novel compositions that retains immunogenic properties and those of small synthetic molecules that can be produced at a large scale; Method to prevent, diagnose, and treat cancer, infectious diseases and autoimmune diseases.

Market: Monoclonal antibody market is projected to exceed $30 billion by 2010; Revenue from antibodies for therapeutics and diagnostic uses are expected to grow at an average annual growth rate of 11.5%.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Christoph Rader *et al.* (NCI).

Patent Status: U.S. Provisional Application No. 60/909,665 filed 02 Apr 2007 (HHS Reference No. E–146–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Center for Cancer Research, Experimental Transplantation and Immunology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Selenocysteine Mediated Hybrid Antibody Molecules. Please contact Dr. Christoph Rader at (301) 451–2235 or *raderc@mail.nih.gov* for more information.

Mutant Alleles of Hsp90 that Modulates the Lifespan of Yeast

Description of Technology: Heat shock protein 90 (Hsp90) are a class of chaperone proteins that are up-regulated in response to elevated temperature and other environmental stresses. They act as chaperones to other cellular proteins and facilitate their proper folding and repair, and aid in the refolding of misfolded client proteins.

This invention identifies Hsp90 mutant residues that affect the chronological lifespan of yeast. These mutations in addition to a deletion in the sch9 allele, the yeast homolog to human kinase AKT, can increase yeast lifespan from 45 to 57 days, approximately 20% longer than the wildtype strain. These genetically engineered yeast strains may have the longest chronological lifespan reported to date.

Applications: Model to study aging and longevity factors; Model to screen compounds that affect lifespan; A long-lived yeast strain could be used to ferment alcohol in a more efficient and cost effective as an alternative fuel source; Method to extend lifespan of transgenic farm animals.

Market: Anti-aging and alternative fuel industries are worth billions of dollars.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Bradley T. Scroggins (NCI) *et al.*

Related Publication: BT Scroggins et al. An acetylation site in the middle domain of Hsp90 regulates chaperone function. Mol Cell. 2007 Jan 12;25(1):151–159.

Patent Status: U.S. Provisional Application No. 60/848,346 filed 09 Sep 2006 (HHS Reference No. E–319–2006/0–US–01).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute's Urologic Oncology Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize models to study aging and longevity factors. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Inhibitors of Ubiquitin E1

Description of Technology: The present invention discloses novel pyrazolidinyl compounds that inhibit undesired cell proliferation. The compounds inhibit ubiquitin E1 and can be useful for regulating protein ubiquitination. Specifically, the novel pyrazolidinyl compounds can stabilize p53 and induce apoptosis in mammalian cells through selective inhibition of ubiquitin E1.

Ubiquitin-mediated proteolysis is an important pathway of non-lysosomal protein degradation that controls the timed destruction of a number of cellular regulatory proteins including p53. The ubiquitin pathway leads to the

covalent attachment of poly-ubiquitin chains to target substrates which are then degraded by a multi-catalytic proteosome complex.

The compounds can be useful in the treatment of solid and disseminated cancers or other undesired cell proliferation disease or retroviral infections such as HIV.

Applications and Modality: Treatment of disorders related to ubiquitin E1, such as HIV and viral infections; Compounds are the first general inhibitors of Ubiquitin E1 with broader biological effects than existing proteosome inhibitors; The compounds can serve as a probe to understand the ubiquitin system.

Market: Bortezomib (marketed as Velcade™ by Millennium Pharmaceuticals) is the first therapeutic proteasome inhibitor approved by the FDA. Severe side effects such as peripheral neuropathy occur in 30% of patients treated with Bortezomib. New drugs targeting proteins in ubiquitination pathway are needed that will have broader efficacy and reduced side effects.

Development Status: The technology is in the pre-clinical stage of development.

Inventors: Allan M. Weissman *et al.* (NCI).

Related Publications:

1. A manuscript related to this technology will be available as soon as it is accepted for publication.

2. Y Yang et al. Small molecule inhibitors of HDM2 ubiquitin ligase activity stabilize and activate p53 in cells. Cancer Cell. 2005 Jun;7(6):547–559.

Patent Status: U.S. Provisional Application No. 60/738,242 filed 19 Nov 2005, entitled ''Inhibitors of Ubiquitin E1'' (HHS Reference No. E–070–2005/0–US–01); International Patent Application No. PCT/US2006/0045032 filed 20 Nov 2006, entitled ''Inhibitors of Ubiquitin E1'' (HHS Reference No. E–070–2005/0–PCT–02)

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Thomas P. Clouse; 301/435–4076; *clousetp@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute's Laboratory of Protein Dynamics and Signaling is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize inhibitors of ubiquitin E1. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Biomarkers for Tissue Status

Description of Technology: Tissue regeneration and tumorigenesis are complex, adaptive processes controlled by cues from the tissue microenvironment. There are complex processes both characterized by cell proliferation, migration, and angiogenesis suggesting that wounds and cancer share a number of phenotypic similarities including cellular behavior, signaling molecules, and gene expression.

Utilizing the kidneys as a model to compare renal regeneration and repair (RRR) from ischemically-injured tissues and renal cellular carcinoma (RCC), the inventors have identified biomarkers which are differentially expressed. The invention relates to methods of quickly and accurately diagnosing RCC and monitoring renal tissue health as well as RCC treatment.

Applications: Method to accurately diagnose RCC; RCC biomarker inhibitors such siRNA; Method to treat RCC; Method to determine and monitor renal tissue health status; Method for improving renal ischemia recovery without promoting RCC; Biomarkers for immunotherapy, drug targeting and drug screening, for targeting tumors and not normal regenerating tissue; Biomarkers for immunotherapy, drug targeting and drug screening, for targeting ischemic tissue and not tumors.

Market: Kidney cancer is one of the top ten most prevalent cancers in the U.S. and it accounts for 12,200 deaths annually; Approximately 35,000 new cases of kidney cancer are diagnosed annually; 50% survival rate after five years of diagnosis; Renal cancer accounts for 3% of all adult male malignancies.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Joseph Riss (NCI) *et al.*

Publications:

1. Journal of Urology, May 2007, Vol. 177 No. 5, in press.

2. J Riss et al. Cancers as wounds that do not heal: differences and similarities between renal regeneration/repair and renal cell carcinoma. Cancer Res. 2006 July 15;66(14):7216–7224.

Patent Status: U.S. Provisional Application No. 60/649,208 filed 01 Feb 2005 (HHS Reference No. E–064–2005/0–US–01); PCT Application No. PCT/US2006/003611 filed 01 Feb 2006 (HHS Reference No. E–064–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Center for Cancer Research, Laboratory of Cancer Biology and Genetics, Wound Healing and Oncogenesis (NCI/CCR/LCBG), is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize topics of invention or related to cancer biology, metastasis, wound healing, bioinformatics, pharmacogenomics and therapeutic. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

New Maleiimide Anti-Phosphatase Inhibitors

Description of Technology: The present invention describes novel phenyl maleiimide phosphatase inhibitors that appear to target the Cdc25 family of phosphatases. The new compounds are inhibitors of several human tumor cell lines. The compounds have potent activity against human liver cancer cells in vitro and in vivo against an orthotopic liver cancer in rats. In tumor cells, these new inhibitors appear to target the phosphorylation status of several cell cycle proteins that are important for cell survival and thus could represent a novel class of chemotherapeutic agents targeting cancer cells.

Applications and Modality: Compound targets Cdc25 family of phosphatases and inhibit growth of several human tumor cell lines; Potent activity in vitro against human liver cancer cells and in vivo against orthotopic liver cancer in rats; Targets phosphorylation of cell cycle proteins important for cell survival.

Market: 600,000 deaths from cancer related diseases were estimated in 2006; In 2006, cancer drug sales were estimated to be $25 billion.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Christopher Michejda (NCI) *et al.*

Relevant Publication: S Kar, M Wang, W Yao, CJ Michejda, BI Carr. PM–20, A novel inhibitor of Cdc25A, induces extracellular signal-regulated kinase 1/2 phosphorylation and inhibits hepatocellular carcinoma growth in vitro and in vivo. Mol Cancer Ther. 2006 Jun;5(6):1511–1519.

Patent Status: PCT Patent Application No. PCT/US2005/05742 filed 22 Feb 2005, which published as WO 2005/081972 on 09 Sep 2005 (HHS Reference No. E–110–2004/0–PCT–02); U.S. Patent Application No. 11/508,605 filed 22

Aug 2006 (HHS Ref. No. E–110–2004/0–US–06).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Adaku Nwachukwu, J.D.; 301/435–5560; *madua@mail.nih.gov*.

Leu574 of HIF–1alpha as a Molecular Basis for Therapeutic Application

Description of Technology: The hypoxia-inducible factor 1 (HIF–1) is a transcription factor that plays a pivotal role in cellular adaptation to oxygen availability. HIF–1alpha protein is a subunit of HIF–1. Although the gene for HIF–1alpha is constitutively expressed, it is an extremely short-lived protein under normoxic conditions and is targeted for destruction via the proteosome pathway by an E3 ubiquitin ligase involving the VHL protein.

The invention relates to the discovery that mutations or deletions of Leu574 result in a more stable and more active form of HIF–1alpha. Therefore, the invention relates to methods and compositions for modulating oxygen homeostasis for therapeutic application. In one aspect, the inventors contemplate the use of a more stable form of HIF–1alpha protein for therapeutic angiogenesis purposes such as may be useful in ischemic vascular disease. In another aspect, the inventors contemplate the use of this particular site in a screen for targeted drugs that modulates HIF–1alpha activity. The inventors also suggest that Leu574 could be used for developing drugs targeted to HIF hydroxylase binding, thereby altering HIF–1alpha stability.

Inventor: L. Eric Huang (NCI).

Patent Status: U.S. Patent No. 7,193,053 issued 20 Mar 2007 (HHS Reference No. E–281–2002/0–US–02).

Licensing Status: This technology is available for licensing on an exclusive or a non-exclusive basis.

Licensing Contact: Jesse S. Kindra, J.D.; 301/435–5559; *kindraj@mail.nih.gov*.

Dated: April 30, 3007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer,Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–8893 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

New Compounds and Methods for the Treatment of Spinal Muscular Atrophy and Other Diseases

Description of Technology: Spinal muscular atrophy (SMA) is caused by mutations in the *SMN1* gene that result in reduced expression of the survival motor neuron (SMN) protein and a loss of spinal motor neurons. An *SMN2* gene paralog that differs from SMN by a single base pair has inadequate expression of SMN to support motor neuron survival. Alternative splicing caused by the single base substitution in the *SMN2* gene results in a slightly truncated and highly unstable SMN protein. Drugs that allow translational read through of the stop codons introduced by the alternative splice event have been shown to stabilize the mutant protein, resulting in increased levels of SMN.

A chemical library screen identified indoprofen, a nonsteroidal anti-inflammatory drug, as an inducer of SMN expression in cultured cells. However, indoprofen cannot enter the brain in satisfactory amounts, has a relatively low level of activity and can cause substantial side-effects in part due to its cyclooxygenase inhibitory activity. NIH inventors designed indoprofen derivatives without cyclooxygenase activity that can enter the CNS and increase expression of a SMN protein from the *SMN2* gene with increased potency and efficacy. The mechanism of action of these indoprofen analogs appears to be translational readthrough of stop codons introduced by the alternative *SMN2* splicing event. In addition to treating SMA, novel drugs that allow read through of stop codons could potentially treat many other diseases caused by such mutations such as cystic fibrosis and muscular dystrophy.

Available for licensing are compounds and methods useful for the treatment of spinal muscular atrophy by increasing SMN expression and increasing the expression from any nucleic acid that encodes a translational stop codon.

Applications: Efficacious treatment for SMA, utilizing indoprofen analogs that increase SMN protein expression; Treatment of any genetic disease caused by premature termination of protein translation.

Market: SMA is a rare genetic disease that affects approximately 1 in 6,000 live births, and is the leading genetic cause of death in infants and toddlers. The projected market size for SMA is between $250 million and $750 million.

Development Status: Clinical candidate selection scheduled for June 2007.

Inventors: Jill Heemskerk (NINDS), et al.

Publication: MR Lunn, DE Root, AM Martino, SP Flaherty, BP Kelley, DD Coovert, AH Burghes, NT Man, GE Morris, J Zhou, EJ Androphy, CJ Sumner, BR Stockwell. Indoprofen upregulates the survival motor neuron protein through a cyclooxygenase-independent mechanism. Chem. Biol. 2004 Nov;11(11):1489–1493.

Patent Status: U.S. Provisional Application No. 60/783,292 filed 17 Mar 2006 (HHS Reference No. E–133–2006/0-US–01); PCT Application No. PCT/2007/006772 filed 16 Mar 2007 (HHS Reference No. E–133–2006/1–PCT–01)

Licensing Availability: Available for exclusive and non-exclusive licensing.

Licensing Contact: Norbert Pontzer, J.D., Ph.D.; 301/435–5502; *pontzern@mail.nih.gov.*

STAMP, a Novel Cofactor and Possible Steroid Sparing Agent, Modulates Steroid-Induced Induction or Repression of Steroid Receptors

Description of Technology: Steroid hormones such as androgens, glucocorticoids, and estrogens are used in the treatments of many diseases. They act to regulate many physiological responses by binding to steroid

receptors. However, because steroid receptors are expressed in many tissues, efforts to therapeutically modify the effects of steroid hormones on a specific tissue or on a specific receptor of the steroid receptor family often cause undesirable effects in other tissues or on other receptors. STAMP (SRC–1 and TIF–2 Associated Modulatory Protein), a novel protein that acts to lower the concentration of steroid hormone needed to induce (or repress) selected target genes by regulating steroid receptor synthesis, offers an novel approach for reducing the severity of unwanted side-effects, thereby increasing the ability to use steroid hormone therapies.

Applications

1. Diseases requiring chronic steroid treatment such as rheumatoid arthritis, psoriatic arthritis, asthma, inflammatory and auto-immune diseases;
2. Diseases characterized by excess or deficiency of glucocorticoids such as obesity, diabetes, hypertension, Cushing's Syndrome, Parkinson's Disease, Addison's Disease;
3. Diseases in which glucocorticoid-responsive gene expression is deranged, so deranging carbohydrate, protein or lipid metabolism;
4. Cancers responsive to androgen or estrogen, such as breast cancer or prostate cancer;
5. Therapeutic applications related to male or female hormone replacement, symptoms related to menopause, birth control, menstrual cycle/amenorrhea, fertility or endometriosis.

Advantages

1. STAMP reduces the severity of unwanted side-effects of steroid hormone therapies;
2. STAMP modulates the gene induction properties of androgen and progesterone receptors;
3. STAMP modulates both induction and repression properties of glucocorticoid receptors;
4. STAMP is inactive toward alpha and beta estrogen receptors, thyroid receptor beta, PPAR gamma 2, retinoid receptor alpha or RXR alpha;
5. The siRNAs could be useful as therapeutics.

Market: The protein, STAMP, offers a novel approach for reducing the severity of unwanted side-effects of steroid hormone therapies. Therefore, STAMP would be helpful in the treatment of diseases requiring chronic steroid treatments, those characterized by excess or deficiency of glucocorticoid response, therapies related to male or female hormone replacement or cancers responsive to androgen or estrogen.

Development Status

1. STAMP, a protein which is a novel nuclear receptor cofactor, has been identified;
2. STAMP siRNAs have been shown to change the dose response curve of endogenous glucocorticoid receptor induced genes;
3. A STAMP antibody has been prepared.

Further Research & Development Required

1. Further in-vivo studies into the role of STAMP in glucocorticoid receptor-mediated repression;
2. Further study into the activity of STAMP in androgen receptor-mediated responses;
3. Investigation into the mechanism of action of STAMP;
4. Development of STAMP knockout mouse.

Inventors: Drs. S. Stoney Simons Jr (NIDDK) and Yuanzheng He (NIDDK)

Publication: Y He and SS Simons Jr. STAMP: A Novel Predicted Factor Assisting TIF2 Actions in Glucocorticoid Receptor-mediated Induction and Repression. Mol Cell Biol. 2007 Feb;27(4);1467–1485.

Patent Status: PCT International No. PCT/US2005/006393 filed 25 Feb 2005 (priority date 26 Feb 2004), which published as WO 2005/082935 on 09 Sep 2005, entitled ''A Novel Cofactor that Modulates Steroid Receptor Activities''; National Stage U.S., Europe, Canada, Australia (HHS Reference No. E–056–2004/0).

Related Technologies: HHS Reference No. E–015–2000/0, ''Antiprogestins with Partial Agonist Activity.'' Global IP pending: US, Europe, Australia, Canada, Japan.

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Dr. Susan Carson; 301/435–5020; *carsonsu@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Diabetes, Digestive and Kidney Diseases, Laboratory of Molecular and Cellular Biology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. Please contact Dr. Stoney Simons, Chief, Steroid Hormones Section (NIDDK) at *steroids@helix.nih.gov;* Tel: 301–4960–6796 for more information.

TMC1, a Deafness-Related Gene

Description of Technology: Hearing loss is a common communication disorder affecting nearly 1 in 1,000 children in the United States alone, and nearly 50% of adults by the age of eighty. Hearing loss can be caused by environmental and disease-related factors; however, hearing loss due to genetic factors accounts for approximately 50% of cases.

The NIH announces the isolation of two novel genes involved in hearing; TMC1, short for transmembrane channel-like gene 1. The inventors have discovered that dominant and recessive mutations in TMC1 underlie two forms of hereditary deafness, known as DFNA36 and DFNB7/11. TMC1 encodes a protein required for normal function of the mammalian hair cell, which plays a critical role within the hearing pathway that detects sound in the inner ear.

The invention discloses TMC1 nucleic acids, vectors, and cells. Also disclosed are methods of detecting hearing loss, or a predisposition to hearing loss, due to a mutation in TMC1, as well as methods for identifying agents that interact with the TMC1 gene in a cell. Nucleic acids and methods of use for TMC2, a gene closely related to TMC1, are also disclosed.

Applications: Development of a genetic diagnostic test for hearing loss; Development of pharmaceuticals to treat hearing loss.

Market: Hearing loss with a genetic component accounts for 50% of all cases of hearing loss.

Development Status: Early stage.

Inventors: Andrew J. Griffith et al. (NIDCD).

Publication: K Kurima et al. Dominant and recessive deafness caused by mutations of a novel gene, TMC1, required for cochlear hair-cell function. Nat Genet. 2002 Mar;30(3):277–284.

Patent Status

1. HHS Reference No. E–168–2001/0:
a. U.S. Provisional Application No. 60/323,275 filed 19 Sep 2001.
b. PCT Application No. PCT/US02/29614 filed 19 Sep 2002, which published as WO 03/025140 on 27 Mar 2003.
c. U.S. Patent No. 7,192,705 issued 20 Mar 2007.
d. U.S. Patent Application No. 11/615,250 filed 22 Dec 2006.
e. Foreign counterparts in Australia, Canada, Europe, and Japan.
2. HHS Reference No. E–168–2001/1:
a. U.S. Patent No. 7,116,433 issued 23 Jan 2007.
b. Foreign counterparts in Australia and Canada.

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Tara L. Kirby, Ph.D.; 301/435–4426; *tarak@mail.nih.gov.*

Collaborative Research Opportunity: The NIDCD Otolaryngology Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology as well as collaborate on further pre-clinical and clinical studies with the TMC2 gene mutations. Please contact Ms. Marianne Lynch at 301–402–5579 or via e-mail at *lynchm@nhlbi.nih.gov* for more information.

Dated: April 30, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–8894 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Influenza Vaccines and Antiviral Agents

Description of Technology: The subject invention offers candidate DNA vaccines to target H5N1, H1N1, H3N2 and other subtypes of influenza. These candidates are designed primarily to elicit neutralizing antibodies. The candidate vaccines express hemagglutinin (H/HA) or neuramidase (N/NA) protein that has been codon optimized and/or modified at the protease cleavage site. The modified genes could be used in DNA vaccines, in viral vectors, recombinant proteins/particles or combination. The studies use proprietary expression systems that increase protein expression relative to commonly used alternatives. This invention potentially provides a vaccine strategy for controlling influenza epidemics, including avian flu, should it cross over to humans; the 1918 strain of flu; and seasonal flu strains. In addition, this invention is designed to lead to a combination vaccine to provide a broadly protective vaccine. The incorporation of specific cleavage site types to facilitate preparation of pseudotypes from a variety of strains is an important aspect of this invention.

In addition, HA pseudotyped lentiviral vectors are being tested to screen for neutralizing abs in patients and to screen for diagnostic and therapeutic monoclonal abs.

Applications and Advantages: Influenza vaccine for pandemic or epidemic application; Potential for combination vaccine for broad protection, removing need for seasonal strain monitoring; DNA vaccines are easy to produce and store; No risk of reversion to pathogenic strain as with live-attenuated virus vaccines.

Development Status Highlights: Phase I clinical trials planned for select candidates; DNA vaccine encoding 1918 influenza virus HA protein protects mice against lethal viral challenge; Codon optimized for expression in human cells.

Inventors: Gary J. Nabel (VRC/NIAID), Wing-pui Kong (VRC/NIAID), Zhi-yong Yang (VRC, NIAID), *et al.*

Publication: Certain aspects of this technology were published in WP Kong et al. Protective immunity to lethal challenge of the 1918 pandemic influenza virus by vaccination. Proc Natl Acad Sci USA. 2006 Oct 24;103(43):15987–15991. Epub 2006 Oct 16, doi: 10.1073/pnas.0607564103.

Patent Status: U.S. Provisional Application No. 60/774,923 filed 16 Feb 2006 (HHS Reference No. E–116–2006/0–US–01) and PCT Application No. PCT/US2007/004506 filed 16 Feb 2007 (influenza) (HHS Reference No. E–116–2006/1–PCT–01); U.S. Patent No. 7,094,598 issued 22 Aug 2006 (CMV/R) (HHS Reference No. E–241–2001/1–US–01) and associated foreign rights.

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Susan Ano, Ph.D.; 301/435–5515; *anos@mail.nih.gov*.

Enhanced, Targeted Delivery for DNA Vaccines

Description of Technology: Available for licensing from the NIH is a fusion protein for enhanced gene delivery. Exemplary proteins for achieving this improvement comprise an adenovirus serotype 5 fiber, penton base and core protein V fused to the DNA binding domain of HMG. In vitro studies have shown the effectiveness of the chimeric protein-DNA vaccine co-administration by an increase in uptake of ten to twenty fold. In particular, the plasmid with the chimeric core protein V was delivered efficiently to dendritic cells (DC) as well as 293T cells. The utilization of this chimeric protein could further enhance the immune response elicited by DNA vaccines.

Potential Applications: Improved DNA vaccine delivery and uptake.

Inventors: Gary J. Nabel and Wataru Akahata (VRC/NIAID).

Patent Status: U.S. Provisional Application No. 60/737,896 filed 18 Nov 2005 (HHS Reference No. E–043–2006/0–US–01); U.S. Provisional Application No. 60/795,529 filed 26 Apr 2006 (HHS Reference No. E–043–2006/1–US–01); PCT Application No. PCT/US2006/044525 filed 20 Nov 2006 (HHS Reference No. E–043–2006/3–PCT–01)

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Susan Ano, Ph.D.; 301/435–5515; *anos@mail.nih.gov*.

Dated: April 30, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–8895 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, 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.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: June 13, 2007.

Time: 1 p.m. to 2:30 p.m.

Agenda: 1. Approval of Minutes; 2. Report from Dr. John E. Niederhuber, NCI Director; 3. Reports on NCI Budget; DCLG member activity; 4. Report on the National Community Cancer Center Program, Advisory Committee and Pilot Project; 5. Public Comment; 6. Action Items and Conclusion.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Barbara Guest, Executive Secretary, Office of Liaison Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd, Room 2202, Bethesda, MD 20892–8324, 301–496–0307, *guestb@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/dclg/dclg.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Preventive 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: April 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2294 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine, 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 disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel Clinicl Studies.

Date: June 4–5, 2007.

Time: 8 a.m. to 5:30 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: Jeanette M. Hosseini, Ph.D., Scientific Review Administrator, Office of Scientific Review, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 594–9096, *jeanetteh@mail.nih.gov*.

Dated: May 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2292 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine Announcement of Stakeholder Dialogue

ACTION: Notice.

SUMMARY: The National Center for Complementary and Alternative Medicine (NCCAM) invites the public to a Stakeholder Dialogue. Attendees will meet the NCCAM Acting Director and discuss the Center's activities and priorities. The Dialogue will take place on June 20, 2007 in Bethesda, Maryland. Representatives from the complementary and alternative medicine community are particularly encouraged to attend.

Background: The National Center for Complementary and Alternative Medicine (NCCAM) was established in 1999 with the mission of exploring complementary and alternative healing practices in the context of rigorous science, training CAM researchers, and disseminating authoritative information to the public and professionals.

To date, NCCAM's efforts to rigorously study CAM, to train CAM researchers, to conduct outreach, and to facilitate integration have been guided by NCCAM's strategic plans located on the NCCAM Web site at *http://nccam.nih.gov/about/plans/fiveyear/index.htm*.

Request for Participation: The public is invited to provide input into the NCCAM's priorities and activities at a Stakeholder Dialogue. This event will give NCCAM stakeholders an opportunity to voice their opinions regarding future directions for research, training, outreach, and integration in complementary and alternative medicine (CAM). The Dialogue will be held: June 20, 2007, 9 a.m. to 3 p.m., Natcher Conference Center, National Institutes of Health,Bethesda, Maryland 20892.

NCCAM's acting director will provide an overview of NCCAM's history and current activities, followed by a discussion with attendees. Dialogue attendees are welcome to participate in one of three afternoon breakout sessions (research, training, and communications) wherein there will be an opportunity to interact with NCCAM senior staff and discuss how NCCAM and the CAM community can work together in the future. Representatives from the complementary and alternative medicine community are particularly encouraged to attend. Those wishing to attend should register by June 15, 2007. To register, please visit *http://nccam.nih.gov/dialogue*.

For Further Information: To request more information, visit the NCCAM Web site at *http://nccam.nih.gov/dialogue*, call 1–888–644–6226, or e-mail *info@nccam.gov.*

Dated: May 1, 2007.

Christy Thomsen,

Director, Office of Communications and Public Liaison, National Center for Complementary and Alternative Medicine, National Institutes of Health.

[FR Doc. E7–8876 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

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 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Blending Research and Practice.

Date: May 18, 2007.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Kristen V. Huntley, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1433, *huntleyk@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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2286 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: June 11, 2007.

Open: 8 a.m. to 12:30 p.m.

Agenda: (1) A report by the Director, NICHD; (2) an annual review of the Division of Intramural Research; (3) a report of the Subcommittee on Planning and Policy; (4) a Pediatric Adolescent and Maternal AIDS Branch Presentation; and other business of the Council.

Place: National Institutes of Health, Building 31, 31 Center Drive, C-Wing, Conference Room 6, Bethesda, MD 20892.

Closed: 1:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, 31 Center Drive, C-Wing, Conference Room 6, Bethesda, MD 20892.

Contact Person: Yvonne T. Maddox, Ph.D., Deputy Director, National Institute of Child Health, and Human Development, NIH, 9000 Rockville Pike, MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

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.nichd.nih.gov/about/nachhd.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2287 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Nutrition and Prevention, Care and Treatment of HIV/AIDS.

Date: May 30–31, 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: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2289 Filed 5–8–07; 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 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 Institute of Mental Health Initial Review Group; Mental Health Services in Non-Specialty Settings.

Date: June 6–7, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Aileen Schulte, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1224, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group; Interventions Committee for Disorders Related to Schizophrenia, Late Life, or Personality.

Date: June 8, 2007.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892, 301–443–0004, *sechu@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group; Mental Health Services in MH Specialty Settings.

Date: June 13, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group; Interventions Committee for Disorders Involving Children and Their Families.

Date: June 19, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: JURYS Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608, 301–443–1959, *csarampo@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Adult Mood and Anxiety Disorders.

Date: June 19, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientists Development Award, Scientists Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2290 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Developmental Biology Subcommittee.

Date: June 7, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, Pennsylvania Ave. at 15th Street, NW., Washington, DC 20004.

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2291 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Member Conflict—SEP.

Date: June 5, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, 7400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Beata Buzas, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 3041, Rockville, MD 20852, 301–443–0800, *bbuzas@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2293 Filed 5–8–07; 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 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 Institute on Drug Abuse Initial Review Group, Medication Development Research Subcommittee.

Date: June 5, 2007.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401, 301–402–6626, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Treatment Research Subcommittee.

Date: June 5–6, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1432.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Member Conflict A.

Date: June 5, 2007.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Mark R. Green, PhD, Deputy Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1431, *mgreen1@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, NIDA–L Conflict Meeting.

Date: June 5, 2007.

Time: 2:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, Associate Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 212, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1388, *rliu@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, NIDA–L Conflict Meeting.

Date: June 5, 2007.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, Associate Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 212, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–435–1388, *rliu@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, NIDA–E Member Conflict B.

Date: June 6, 2007.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA—F Member Conflicts.

Date: June 6, 2007.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Initial Review Group, Training and Career Development Subcommittee.

Date: July 17–19, 2007.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Eliane Lazar-Wesley, PhD, Health Scientific Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Room 220, MSC 8401, Bethesda, MD 20892–8401, 301–451–4530, *e16r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2297 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Macromolecular Structure and Function A Study Section, June 4, 2007, 8 a.m. to June 5 2007, 5 p.m., George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037 which was published in the **Federal Register** on April 5, 2007, 72 FR 16804.

The meeting will be held on June 4, 2007, 8 a.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: May 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2295 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 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: Center for Scientific Review Special Emphasis Panel; Hypertension—Member Conflict.
Date: May 24, 2007.
Time: 9 a.m. to 10:30 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockville Drive, Bethesda, MD 20882 (Telephone Conference Call).
Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health; 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892; (301) 435–8367, *boerboom@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Prostate Cancer Metabolic Pathway
Date: May 30, 2007.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockville Drive, Bethesda, MD 20882 (Telephone Conference Call).
Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health; 6701 Rockledge Drive, Room 6200, MSC 7804 (For courier delivery, use MD 20817) Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Structure and Regeneration Study Section.
Date: June 3–5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Mehrdad M. Tondravi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health; 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–435–1173, *tondravm@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensorimotor Integration Study Section.
Date: June 5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Quincy Hotel, 1823 L Street, NW., Washington, DC 20036.
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oncogenic Viruses.
Date: June 5, 2007.
Time: 1 p.m. to 5 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: Fouad A. El-Zaatari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurotoxicology of Pesticides and Methylmercury.
Date: June 6, 2007.
Time: 2 p.m. to 4 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: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular Signaling Regulatory Systems.
Date: June 7, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel-Washington, DC, 1515 Rhode Island Avenue, NW., Washington, DC 20005.
Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5130, MSC 7840, Bethesda, MD 20892, (301) 435–1023, *byrnesn@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.
Date: June 7–8, 2007.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M. Street, NW., Washington, DC 20036.
Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, MSC 7759, Bethesda, MD 20892, 301–435–0912, *levinv@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavior Processes Integrated Review Group; Cognition and Perception Study Section.
Date: June 7–8, 2007.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261, *wiggsc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cognition and Perception SRA Conflict Review.
Date: June 8, 2007.
Time: 10 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7848, Bethesda, MD 20892, (301) 435–2309, *pluded@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group; Vascular Cell and Molecular Biology Study Section.
Date: June 11–12, 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: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Renal and Urological Studies Integrated Review Group; Cellular and Molecular Biology of the Kidney Study Section.
Date: June 11–12, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198, *hildens@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group; Cancer Etiology Study Section.
Date: June 11–12, 2007.
Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Washington DC, 1515 Rhode Island Avenue, Washington, DC 20005.

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *fungv@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group; Tumor Microenvironment Study Section.

Date: June 11–12, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Eun Ah Cho, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Herpes Viruses.

Date: June 12, 2007.

Time: 1 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: Fouad A. El-Zaatari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692, (301) 435–1149, *elzaataf@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuropsychiatric Mechanisms and Models.

Date: June 14–15, 2007.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.

Contact Person: Boris P. Sokolov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, (301) 435–1197, *bsokolov@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Cell Biology.

Date: June 14–15, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jonathan Arias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, (301) 435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Diet and Physical Activity Assessment.

Date: June 14–15, 2007.

Time: 12 a.m. to 11:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695, *hardyan@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Sexually Transmitted Diseases.

Date: June 15, 2007.

Time: 1 p.m. to 4 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: Rossana Berti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3191, MSC 7846, Bethesda, MD 20892, 301–402–6411, *bertiros@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.

Date: June 18–19, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Jane A. Doussard-Roosevelt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Brain Disorders and Clinical Neurosciences Fellowships.

Date: June 18–19, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—Downtown Washington, DC, 1250 22nd Street, NW., Washington, DC 20037.

Contact Person: Deborah L. Lewis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7846, Bethesda, MD 20892, (301) 435–1162, *lewisdeb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vision and Cognition.

Date: June 20, 2007.

Time: 1 p.m. to 4 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: Judith A. Finkelstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, 301–435–1249, *finkelsj@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: May 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2296 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biomedical Computing and Health Informatics Study Section, June 14, 2007, 8 a.m. to June 15, 2007, 5 p.m., Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817 which was published in the **Federal Register** on April 24, 2007, 72 FR 20352–20354.

The meeting will be held June 15, 2007, 8 a.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: May 2, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2298 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurotransporters, Receptors, and Calcium Signaling Study Section, June 7, 2007, 8:30 a.m. to June 8, 2007, 5 p.m., Grand Hyatt San Francisco, 345 Stockton Street, San Francisco, CA 94108 which was published in the **Federal Register** on April 20, 2007, 72 FR 19941–19942.

The meeting will be held on June 7, 2007, 8:30 a.m. to 7 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: May 2, 2007.

Judith Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2299 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Licensee's proprietary delivery formulation containing synthetic peptides of the CEA antigen (or modifications, derivatives, fragments, or immunogenic epitopes thereof) as claimed in the Licensed Patent Rights, alone or in combination with at least one other synthetic peptide for use in the prevention and/or treatment of adenocarcinomas in humans. For the avoidance of doubt, said delivery formulation specifically excludes all poxviruses, eukaryotic expression vectors, and recombinant yeast

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in U.S. Patent 6,756,038 and PCT Application Serial No. PCT/US98/19794 and foreign equivalents thereof, entitled ''Agonist and Antagonist Peptides of Carcinoembryonic Antigen (CEA)'' (E–099–1996/0), to Immatics Biotechnologies, GmbH, which is located in Tuebingen, Germany. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of Licensee's proprietary delivery formulation containing synthetic peptides of the CEA antigen (or modifications, derivatives, fragments, or immunogenic epitopes thereof) as claimed in the Licensed Patent Rights, alone or in combination with at least one other synthetic peptide for use in the prevention and/or treatment of adenocarcinomas in humans. For the avoidance of doubt, said delivery formulation specifically excludes all poxviruses, eukaryotic expression vectors, and recombinant yeast.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before July 9, 2007 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Michelle A. Booden, PhD., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 451–7337; Facsimile: (301) 402–0220; E-mail: *boodenm@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The technology describes the composition and use of nucleic acid sequences that encode agonist and one antagonist peptide variants of the human carcinoembryonic antigen (CEA) peptide, including but not limited to CAP–1. CEA is an antigen, which is expressed on the surface of various types of cancer cells. It is capable of stimulating a specific cytolytic T cell response, as is CAP–1, which is a highly immunogenic epitope of CEA. Therefore, CAP–1 agonists which are capable of eliciting a CEA-specific cytolytic T cell response, such as those identified by the inventors, may represent potential immunogens for use as therapeutic agents or vaccines against various cancers, and possibly also for use against autoimmune diseases. In fact, at least one of the agonist peptides appears to be more immunogenic than the native CAP–1 peptide. CAP–1 antagonists which are capable of reducing or eliminating this T cell response, such as the antagonist peptide variant identified by the inventors, may represent potential agents for use against autoimmune responses to CEA or to agonist peptide variants thereof.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 1, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–8888 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive License: Development and Commercialization of Therapeutic Products for Rheumatoid Arthritis (RA)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. § 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), announces that the Department of Health and Human Services is contemplating the grant of an exclusive license to practice the inventions embodied in PCT Application No. PCT/US01/04125, filed February 9, 2001, entitled ''Identification of a Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-ligand Receptor Assembly and Function'' [E–095–2000/0–PCT–02]; U.S. Patent No. 7,148,061, issued December 12, 2006, entitled ''Identification of Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-ligand Receptor Assembly and Function'' [E–095–2000/0–US–03]; U.S. Patent Application No. 11/637,272, filed December 12, 2006, entitled ''Identification of Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-ligand Receptor Assembly and Function'' [E–095–2000/0–US–08]; PCT Application No. PCT/US06/24909, filed June 26, 2006, entitled ''A Potential Novel Therapeutic Protein Molecule of Inflammatory Arthritis Targeting the Pre-ligand Assembly Domain (PLAD) of Tumor Necrosis Factor Receptor Type 1'' [E–095–2000/4–PCT–01]; European Patent Application No. 01910476.9, filed February 9, 2001, entitled ''Identification of Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-ligand Receptor Assembly and Function'' [E–095–2000/0–EP–06]; Australian Patent Application No. 2001238076, filed on February 9, 2001, entitled ''Identification of Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-

ligand Receptor Assembly and Function'' [E–095–2000/0–AU–04]; Australian Patent Application No. 2006203490, filed on August 11, 2006, entitled ''Identification of Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-ligand Receptor Assembly and Function'' [E–095–2000/0–AU–07]; and Canadian Patent Application No. 2399388, filed February 9, 2001, entitled ''Identification of Novel Domain in the Tumor Necrosis Factor Receptor Family that Mediates Pre-ligand Receptor Assembly and Function'' [E–095–2000/0–CA–05] to Welson Pharmaceuticals, Inc.

The prospective exclusive license territory may be worldwide and the field of use may be limited to therapeutic applications for rheumatoid arthritis (RA) using Welson's proprietary platform.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before July 9, 2007 will be considered.

ADDRESSES: Requests for copies of the patent and/or patent applications, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Mojdeh Bahar, J.D., M.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804. *Telephone:* (301) 435–2950; *Facsimile:* (301) 402–0220; E-mail: *baharm@od.nih.gov.*

SUPPLEMENTARY INFORMATION: The invention relates to methods and compositions that are useful for novel treatment of arthritis and other autoimmune diseases. This technology discloses the identification of a functional domain, Pre-ligand Assembly Domain (PLAD), an essential part in signaling involving receptors of the Tumor Necrosis Factor superfamily and its use in ameliorating rheumatoid arthritis (RA). PLAD is essential for signaling involving TFNR including TNFR–1 (p60), TNFR–2 (p80), Fas, TRAIL–R, LTR, CD40, CD30, CD27, HVEM, OX40 and DR4 and can be isolated as functional polypeptides which can be useful in inhibiting the first step in TNFR mediated signaling, ligand-independent assembly of members of the TNFR superfamily. The ability to inhibit TNFR signaling suggests that these PLAD polypeptides may be useful in development of new therapeutic molecules or as therapeutic molecules themselves used for modulation of immune responses, apoptosis, and inflammation. The inventors have discovered compounds that interfere with PLAD and can block the effects of TNF-alpha.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 30, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer,Office of Technology Transfer,National Institutes of Health.

[FR Doc. E7–8889 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Treatment of Inflammatory Bowel Disease (IBD) Using IL–13 Modulators and Inhibitors

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c) (1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is contemplating the grant of an exclusive license to practice the invention embodied in:

PCT patent application PCT/US2002/018790 filed 14 June 2002, entitled: ''Methods of Treating and Preventing Colitis involving IL–13 and NK–T Cells'' [HHS Reference Number: E–131–2002/0-PCT–01], to

Wyeth Pharmaceuticals, based in Madison, New Jersey. The field of use may be limited to the use of IL–13 modulators or NK–T cell modulators (such as antibodies) for the treatment or prevention of Inflammatory Bowel Disease, including ulcerative colitis and Crohn's disease. The United States of America is an assignee of the patent rights in these inventions.

DATES: Only written comments and/or application for a license, which are received by the NIH Office of Technology Transfer on or before July 9, 2007 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Susan Carson, D.Phil., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; E-mail: *carsonsu@od.nih.gov*; Telephone: (301) 435–5020; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: Ulcerative colitis (UC) is a chronic inflammatory disease of the colorectum and affects approximately 400,000 people in the United States. The cause of UC is not known, although an abnormal immunological response by the mucosal T cells responsive to bacterial antigens in the gut microflora, is thought to be involved. Present treatments for UC include anti-inflammatory therapy using aminosalicylates or corticosteroids, as well as immunomodulators and diet. However, 25–40% of ulcerative colitis patients must eventually have their colons removed due to massive bleeding, severe illness, rupture of the colon, risk of cancer or due to side effects of corticosteroids and novel treatments are still actively being sought. NIH scientists and their collaborators have used a mouse model of experimental colitis (oxazolone colitis, OC) to show that IL–13, a Th2 cytokine, is a significant pathologic factor in OC and that neutralizing IL–13 in these animals effectively prevents colitis (Immunity (2002) 17, 629–638).

OC is a colitis induced by intrarectal administration of a relatively low dose of the haptenating agent oxazolone subsequent to skin sensitization with oxazolone. A highly reproducible and chronic colonic inflammation is obtained that is histologically similar to human ulcerative colitis. Studies show that NKT cells rather than conventional CD4+T cells mediate oxazolone colitis and that NKT cells are the source of IL–13, and are activated by CD1 expressing intestinal epithelial cells. Tissue removed from UC patients was also shown to contain increased numbers of nonclassical NKT cells that produce markedly increased amounts of IL–13 and that in keeping with epithelial damage being a key factor in UC, these NKT cells are cytotoxic for epithelial cells (J Clin. Investigation (2004) 113,

1490–1497). Methods of use claims are directed to treatments preventing the inflammatory response of colitis by modulating IL–13 and NKT cell activity and to methods for screening for therapeutic compounds effective for colitis.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 30, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–8892 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Proposed Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines)

ACTION: Notice of consideration of proposed actions under the NIH Guidelines.

SUMMARY: Proposals to conduct research involving the deliberate transfer of a tetracycline resistance trait to *Chlamydia Trachomatis* have been submitted to the NIH Office of Biotechnology Activities (OBA). The acquisition of this antibiotic resistance trait could possibly compromise the use of a class of antibiotics for the treatment of Chlamydia infections in humans. Under the NIH Guidelines, these experiments can proceed only after they are reviewed by the NIH Recombinant DNA Advisory Committee (RAC) and specifically approval by the NIH Director as Major Actions. These proposals will be discussed at the June 19–21, 2007 meeting of NIH Recombinant DNA Advisory Committee.

DATES: The public is encouraged to submit written comments on these proposed actions. Comments may be submitted to the OBA in paper or electronic form at the OBA mailing, fax, and e-mail addresses shown below under the heading **FOR FURTHER INFORMATION**. The NIH will consider all comments submitted by June 15, 2007. Written comments submitted by May 24, 2007 will be reproduced and distributed to the RAC for consideration at its June 19–21 meeting. In addition, an opportunity for public comment will be provided at that meeting. All written comments received in response to this notice will be available for public inspection at the NIH OBA office, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892 (telephone, 301–496–9838), weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Contact OBA by e-mail at *oba@od.nih.gov*, or telephone at 301–496–9838, if you have questions, or require additional information about these proposed actions. Comments may be submitted to the same e-mail address or by fax at 301–496–9839 or sent by U.S. mail to the Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, MSC 7985, Bethesda, Maryland 20892–7985. For additional information about the RAC meeting at which these proposed actions will be deliberated, please visit the NIH OBA Web site at: *http://www4.od.nih.gov/oba/*.

SUPPLEMENTARY INFORMATION: OBA has received information from two Institutional Biosafety Committees regarding proposed experiments, which, to proceed, would require Major Actions under Section III–A–1–a of the NIH Guidelines. Under this section, if the deliberate transfer of a drug resistance trait to microorganisms could compromise the use of the drug to control disease in humans, veterinary medicine, or agriculture the experiment must be reviewed by the RAC. Dr. Dan Rockey and Dr. Walter Stamm (at Oregon State University and the University of Washington, respectively), are proposing to develop a genetic transformation system to study the pathogenesis of *Chlamydia trachomatis*, a human pathogen that is a leading cause of sexually transmitted disease worldwide and, mostly in the developing world, a preventable cause of blindness. Per the investigators, the lack of genetic tools to study the mechanisms of pathogenesis in these obligate intracellular bacterial parasites hinders research. The recent discovery of naturally occurring tetracycline resistant strains of *C. suis* (a swine pathogen) may provide the necessary genetic elements to develop such a transformation system. To accomplish this goal, experiments are planned to transfer tetracycline resistance from *C. suis* into *C. trachomatis* (a human pathogen). It is asserted that success in these proposed studies will lead to opportunities for ''rapid developments in our understanding of chlamydial biology.'' The investigators are proposing to perform these experiments under Biosafety Level 2 containment.

Background information may be obtained by contacting NIH OBA via e-mail at *oba@od.nih.gov*. Alternatively, information is available on the OBA Web site at *http://www4.od.nih.gov/oba/rac/latestnewsrac.htm*.

Dated: May 3, 2007.

Amy P. Patterson,

Director, Office of Biotechnology Activities, National Institutes of Health.

[FR Doc. E7–8900 Filed 5–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–28034]

Chemical Transportation Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). CTAC advises, consults with, and makes recommendations to the Coast Guard on matters relating to the safe and secure transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways.

DATES: Application forms should reach the Coast Guard on or before August 31, 2007.

ADDRESSES: You may request an application form by writing to Commandant (CG–3PSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 372–1425/1422; or by faxing (202) 372–1926. Submit application forms to the same address. This notice and the application form are available on the Internet at *http://dms.dot.gov.* The application form is also available at

http://www.uscg.mil/hq/g-m/advisory/ctac/ctac.htm.

FOR FURTHER INFORMATION CONTACT: Commander Richard J. Raksnis, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone (202) 372–1425/1422, fax (202) 372–1926.

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee (CTAC) is an advisory committee constituted under the Federal Advisory Committee Act, 5 U.S.C. App. 2. It advises, consults with, and makes recommendations to the Commandant through the Assistant Commandant for Prevention on matters relating to the safe and secure transportation and handling of hazardous materials in bulk on U.S.-flag vessels in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating the position of the United States on hazardous material transportation issues prior to meetings of the International Maritime Organization.

CTAC meets at least once a year, usually twice a year, at Coast Guard Headquarters in Washington, DC, or in another location. CTAC's subcommittees and working groups may meet to perform specific assignments as required.

The Coast Guard will consider applications for eight positions that expire on December 31, 2007. To be eligible, applicants should have experience associated with, and represent the viewpoints of, the following areas associated with marine chemical transportation: Chemical manufacturing, vessel design and construction, safety and security, marine environmental protection, or marine handling or transportation of chemicals. Each member serves for a term of 3 years. Some members may serve consecutive terms. All members serve at their own expense, and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government. While CTAC Charter expires on July 5, 2007, appointments will be made in anticipation of a renewal of the CTAC Charter.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

Dated: April 26, 2007.

J.G. Lantz,

Director of National and International Standards, Assistant Commandant for Prevention.

[FR Doc. E7–8856 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on January 5, 2007, 72 FR 576. The collection involves the submission of identifying and travel experience information by individuals requesting redress through DHS TRIP.

DATES: Send your comments by June 8, 2007. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, Program Analyst, Office of Communications, Business Management Office, Operational Process and Technology, TSA–11, Transportation Security Administration, 701 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3651; facsimile (571) 227–3885.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

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

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0044.

Forms(s): Traveler Inquiry Form, Third Party Consent Form.

Affected Public: Traveling public.

Abstract: The Rice-Chertoff Initiative (RCI) Department of Homeland Security. Traveler Redress Inquiry Program (DHS TRIP) was developed as a voluntary program by DHS to provide a one-stop mechanism for individuals to request redress who believe they have been: (1) Denied or delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; or (3) identified for additional (secondary) screening at our Nation's transportation hubs, including airports, seaports, train stations and land borders. The DHS TRIP office will be located at, and managed by, TSA. In order for individuals to request redress, they are asked to provide identifying information, as well as details of the travel experience. Individuals can do so online at *http://www.dhs.gov/trip.* DHS TRIP then passes the information to the relevant DHS component to process the request, as appropriate. This collection serves to distinguish individuals from an actual individual on any watch list used by DHS, and it helps streamline

and expedite future check-in or border crossing experiences.

Number of Respondents: 31,980.

Estimated Annual Burden Hours: An estimated 31,980 hours annually.

Issued in Arlington, Virginia, on May 2, 2007.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E7–8819 Filed 5–8–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2001–11334]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Aviation Security Infrastructure Fee (ASIF) Records Retention

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved information collection requirement abstracted below that we will submit to the Office of Management and Budget (OMB) for renewal in compliance with the Paperwork Reduction Act. The collection requires air carriers to retain the records that support carriers' cost submissions that were collected for the Aviation Security Infrastructure Fee on the carriers' individual and aggregate costs related to screening passengers and property in calendar year 2000.

DATES: Send your comments by July 9, 2007.

ADDRESSES: Comments may be mailed or delivered to Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: *For Paperwork Reduction Act issues:* Joanna Johnson at the above address, or by telephone (571) 227–3651 or facsimile (571) 227–3588.

For other issues: Michael Gambone, Acting Director, Office of Revenue, Office of Finance and Administration, TSA–14, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; e-mail: *TSA-Fees@dhs.gov*; telephone: (571) 227–2323.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA solicits comments in order to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Background

To help defray TSA's costs of providing civil aviation security services, and as authorized by 49 U.S.C. 44940, TSA published in the **Federal Register** on February 20, 2002, an interim final rule adding part 1511 to the Transportation Security Regulations, which imposed a security service fee (September 11th Security Fee) and a fee known as the Aviation Security Infrastructure Fee (ASIF) on certain air carriers and foreign air carriers. See 67 FR 7926, as codified at 49 CFR part 1511. The amount of ASIF collected by TSA from the carriers, both overall and per carrier, is based upon the carriers' aggregate and individual costs, respectively, for screening passengers and property in calendar year 2000. 49 U.S.C. 44940(a)(2)(B)(i), (ii).

In conjunction with the issuance of part 1511, TSA requested OMB approval to collect information necessary for TSA to establish the ASIF, including information about the carriers' individual and aggregate costs related to screening passengers and property in calendar year 2000. This information collection included submissions to TSA of data on the carriers' screening-related costs and also of independent audits of that data. On February 28, 2002, TSA published in the **Federal Register** a notice that OMB had approved the required collection and submission of this information under control number (2110–0002). See 67 FR 9355. This control number was subsequently transferred to a TSA OMB control number (1652–0001).

On May 18, 2004 (69 FR 28141), TSA published a further information collection request seeking OMB approval to require air carriers to retain the records that support carriers' cost submissions that were collected under control number 1652–0001 (previously 2110–0002). OMB approved the request and issued the collection OMB control number 1652–0018. The information collection proposed under this notice is intended to apply to the retention requirement of 49 CFR 1511.9, and applies to OMB control number 1652–0018.

Purpose of Information Collection

Under Part 1511, carriers must retain any and all documents, records, or information related to the amount of the ASIF, including all information applicable to the carrier's calendar year 2000 security costs and information reasonably necessary to complete an audit. This requirement includes retaining the source information for the calendar year 2000 screening costs reported to TSA; the calculations and allocations performed to assign costs submitted to TSA; information and documents reviewed and prepared for the required independent audit; the accountant's working papers, notes, worksheets, and other relevant documentation used in the audit; and, if applicable, the specific information leading to the accountant's opinion, including any determination that the accountant could not provide an audit opinion.

Description of Information Collection

The information collection, submission, and retention requirement applies to each air carrier and foreign air carrier that incurred costs for the screening of passengers and property in calendar year 2000. It is estimated that the 196 respondent air carriers and foreign air carriers will each, on average, incur $104.06 annually, which includes $54.60 in records storage, and $50 in labor costs for 2 hours of records management at $25 per hour. Thus, the total annual burden for 196 air carriers is estimated at $20,396. The annual average burden related to this requirement for all respondents combined over a three-year period is at a cost of $61,187. TSA may use the subject records to make determinations regarding security-related costs in calendar year 2000, including

conducting reviews and otherwise ensuring compliance with part 1511.

Issued in Arlington, Virginia on May 3, 2007.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E7–8818 Filed 5–8–07; 8:45 am]

BILLING CODE 9910–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Construction of an Industrial Facility in Brevard County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice: Receipt of application for an incidental take permit; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) application and Habitat Conservation Plan (HCP). Michael Richardson (applicant) requests an incidental take permit (ITP) for a duration of 5 years pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The applicant anticipates taking approximately 2.2 acre (ac) of Florida scrub-jay (*Alphelocoma coerulescens*)—occupied habitat incidental to constructing an industrial facility in Brevard County, Florida (project). The applicant's HCP describes the mitigation and minimization measures the applicant proposes to address the effects of the project to the scrub-jay.

DATES: We must receive any written comments on the ITP application and HCP on or before June 8, 2007.

ADDRESSES: If you wish to review the application and HCP, you may write the Field Supervisor at our Jacksonville Field Office, 6620 Southpoint Drive South, Suite 310, Jacksonville, FL, 32216, or make an appointment to visit during normal business hours. If you wish to comment, you may mail or hand deliver comments to the Jacksonville Field Office, or you may e-mail comments to *erin_gawera@fws.gov*. For more information on reviewing documents and public comments and submitting comments, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Erin Gawera, Fish and Wildlife Biologist, Jacksonville Field Office (see **ADDRESSES**); telephone: 904/232–2580, ext. 121.

SUPPLEMENTARY INFORMATION:

Public Review and Comment

Please reference permit number TE151087–0 for Michael Richardson in all requests or comments. Please include your name and return address in your e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. There may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Background

The Florida scrub-jay (scrub-jay) is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development has resulted in habitat loss and fragmentation, which have adversely affected the distribution and numbers of scrub-jays.

The total estimated population is between 7,000 and 11,000 individuals. The decline in the number and distribution of scrub-jays in east-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire, which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

Applicant's Proposal

The applicant is requesting take of approximately 2.2 ac of occupied scrub-jay habitat incidental to the construction of an industrial facility. The project is located within Section 23, Township 25 South, Range 36 East, Rockledge, Brevard County, Florida, on the west side of Riomar Drive near its southern terminus.

Development of the project, including infrastructure, parking areas and landscaping, preclude retention of scrub-jay habitat onsite. Therefore, the applicant proposes to mitigate for the loss of 2.2 ac of occupied scrub-jay habitat by donating $44,880 to the Florida Scrub-jay Fund administered by The Nature Conservancy. Funds in this account are earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies for categorical exclusions under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. A low-effect HCP is one involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

We will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 et seq.). If we determine that the application meets those requirements, we will issue the ITP for incidental take of the Florida scrub-jay. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP.

Authority: We provide this notice under Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

Dated: March 30, 2007.

David L. Hankla,

Field Supervisor, Jacksonville Field Office.

[FR Doc. E7–8873 Filed 5–8–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0051).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 250, Subpart L, ''Oil and Gas Production Measurement, Surface Commingling, and Security,'' and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by June 8, 2007.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0051). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@mms.gov.* Reference Information Collection 1010–0051 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart L, Oil and Gas Production Measurement,Surface Commingling, and Security.

OMB Control Number: 1010–0051.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition. The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, *et seq.*) at section 1712(b)(2) prescribes that an operator will ''develop and comply with such minimum site security measures as the Secretary deems appropriate, to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft.''

These authorities and responsibilities are among those delegated to the Minerals Management Service (MMS). This information collection request addresses the regulations at 30 CFR part 250, subpart L, Oil and Gas Production Measurement, Surface Commingling, and Security, and the associated supplementary notices to lessees and operators (NTLs) intended to provide clarification, description, or explanation of these regulations.

Regulations implementing these responsibilities are under 30 CFR part 250. Responses are mandatory. No questions of a ''sensitive'' nature are asked. MMS will protect proprietary information according to 30 CFR 250.197, ''Data and information to be made available to the public,'' and 30 CFR Part 252, ''OCS Oil and Gas Information Program.''

MMS uses the information collected under subpart L to ensure that the volumes of hydrocarbons produced are measured accurately, and royalties are paid on the proper volumes. Specifically, MMS needs the information to:

- Determine if measurement equipment is properly installed, provides accurate measurement of production on which royalty is due, and is operating properly;
- Obtain rates of production data in allocating the volumes of production measured at royalty sales meters, which can be examined during field inspections;
- Ascertain if all removals of oil and condensate from the lease are reported;
- Determine the amount of oil that was shipped when measurements are taken by gauging the tanks rather than being measured by a meter;
- Ensure that the sales location is secure and production cannot be removed without the volumes being recorded; and
- Review proving reports to verify that data on run tickets are calculated and reported accurately.

Frequency: The frequency varies by section, but is primarily monthly or on occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 8,533 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart L	Reporting or recordkeeping requirement	Hour burden minutes	Average number of annual responses	Annual burden hours
		Fees		
1202(a)(1), (b)(1); 1203(b)(1);1204(a)(1).	Submit application for liquid hydrocarbon or gas measurement procedures or changes; or for commingling of production or changes.	11	363	3,993

Citation 30 CFR 250 subpart L	Reporting or recordkeeping requirement	Hour burden minutes	Average number of annual responses	Annual burden hours
		$1,200 simple fee × 57 applications = $68,400		
		$3,550 complex fee × 306 applications = $1,086,300		
Subtotal		363 responses		3,993
		$1,154,700 fees		
1202(a)(4)	Copy & send pipeline (retrograde) condensate volumes upon request.	45 minutes	21	16
1202(c)(4)*	Copy & send all liquid hydrocarbon run tickets monthly	1 minute	24,450	408 (rounded)
1202(d)(5)*	Copy & submit liquid hydrocarbon royalty meter proving reports monthly & request waiver as needed.	2 minutes	9,870	329
1202(f)(2)*	Copy & submit mechanical-displacement prover & tank prover calibration reports.	10 minutes	102	17
1202(l)(2)*	Copy & submit royalty tank calibration charts before using for royalty measurement.	15 minutes	12	3
1202(l)(3)*	Copy & submit inventory tank calibration charts upon request; retain charts for as long as tanks are in use.	15 minutes 5 minutes	4 115	1 10 (rounded)
1203(b)(6), (8), (9)*	Copy & submit gas quality and volume statements monthly or as requested (most will be routine; few will take longer).	2 minutes 30 minutes	21,792 48	726 (rounded) 24
1203(c)(4)*	Copy & submit gas meter calibration reports upon request; retain for 2 years.	5 minutes 1 minute	44 19,290	4 (rounded), 322 (rounded)
1203(e)(1)*	Copy & submit gas processing plant records upon request.	30 minutes	4	2
1203(f)(5)	Copy & submit measuring records of gas lost or used on lease upon request.	30 minutes	24	12
Subtotal		75,776 responses		1,874
1202(c)(1), (2); 1202(e)(4); 1202(h)(1), (2), (3), (4); 1202(i)(1)(iv), (2)(iii);1202(j).	Record observed data, correction factors & net standard volume on royalty meter and tank run tickets. Record master meter calibration runs. Record mechanical-displacement prover, master meter, or tank prover proof runs.. Record liquid hydrocarbon royalty meter malfunction and repair or adjustment on proving report; record unregistered production on run ticket.. List Cpl and Ctl factors on run tickets.	Respondents record these items as part of normal business records & practices to verify accuracy of production measured for sale purposes		0
1202(d)(4)	Request approval for proving on a schedule other than monthly.	1	35	35
1204(a)(2)	Provide state production volumetric and/or fractional analysis data upon request.	1	1	1
1205(a)(2)	Post signs at royalty or inventory tank used in royalty determination process.	1	85	85
1205(a)(4)	Report security problems (telephone)	15 minutes	2	1 (rounded)
1200 thru 1205	General departure and alternative compliance requests not specifically covered elsewhere in subpart L.	1	60	60
Subtotal		183 responses		182
1202(e)(6)	Retain master meter calibration reports for 2 years	1 minute	1,420	24 (rounded)
1202(k)(5)	Retain liquid hydrocarbon allocation meter proving reports for 2 years.	1 minute	10,875	182 (rounded)
1203(f)(4)	Document & retain measurement records on gas lost or used on lease for 2 years at field location and minimum 7 years at location of respondent's choice.	1 minute	4,045	68 (rounded)
1204(b)(3)	Retain well test data for 2 years	2 minutes	57,400	1,914 (rounded)
1205(b)(3), (4)	Retain seal number lists for 2 years	2	8,870	296 (rounded)
Subtotal		82,610 responses		2,484 hours
Total Hour and Fee Burden			158,932	8,533 $1,154,700

*Respondents gather this information as part of their normal business practices. MMS only requires copies of readily available documents. There is no burden for testing, meter reading, etc.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified two paperwork ''non-hour cost'' burdens associated with this collection of information (see Hour and Fee Burden table). One is a $1,200 simple fee and the other is a $3,550 complex fee for a total of $1,154,700.

Simple fee applications are to temporarily reroute production (for a duration not to exceed six months); production tests prior to pipeline construction; departures related to meter proving, well testing, or sampling frequency.

Complex fee applications are for creations of new facility measurement points (FMPs); association of leases or units with existing FMPs; inclusion of production from additional structures; meter updates which add buy-back gas meters or pigging meters; other applications which request deviations from the approved allocation procedures.

The application filing fees are required to recover the Federal Government's processing costs. We have not identified any other ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on October 3, 2006, we published a **Federal Register** notice (71 FR 58429) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR 250 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We received one comment in response to these efforts, but it was not germane to the paperwork requirements.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by June 8, 2007.

Public Comment Procedures: The MMS's practice is to make comments, including names and addresses of respondents, available for public review. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. The MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure ''would constitute an unwarranted invasion of privacy.'' Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: April 6, 2007.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E7–8837 Filed 5–8–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Fifth Public Meeting for Reclamation's Managing for Excellence Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of a public meeting and announcement of subsequent meetings to be held.

SUMMARY: The Bureau of Reclamation is holding a meeting to inform the public about the *Managing for Excellence* project. This meeting is the second to be held in 2007 to inform the public about the action items, progress, and results of the *Managing for Excellence* project and to seek broad public input and feedback. Subsequent meetings in 2007 are anticipated but not yet scheduled.

DATES: May 30, 2007, 8 a.m. to 5 p.m., and May 31, 2007, 8 a.m. to 3 p.m.

ADDRESSES: Marriott Hotel, 16455 East 40th Circle, Aurora, Colorado.

FOR FURTHER INFORMATION CONTACT: Debbie Byers at (303) 445–2790.

SUPPLEMENTARY INFORMATION: The *Managing for Excellence* project will identify and address the specific 21st Century challenges Reclamation must meet to fulfill its mission to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. This project will examine Reclamation's core capabilities and the agency's ability to respond to both expected and unforeseeable future needs in an innovative and timely manner. This project will result in essential changes in a number of key areas, which are outlined in, *Managing for Excellence*—An Action Plan for the 21st Century Bureau of Reclamation. For more information regarding the project, Action Plan, and specific actions being taken, please visit the *Managing for Excellence* Web site at *http://www.usbr.gov/excellence.*

Registration

Although you may register the first day of the conference beginning at 7 a.m., we highly encourage you to register prior to the date of the meeting online at *http://www.usbr.gov/excellence*, or by phone at 303–445–2935.

Dated: May 2, 2007.

Ryan Serote,

Deputy Commissioner—External and Intergovernmental Affairs.

[FR Doc. E7–8805 Filed 5–8–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 21, 2007.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 21, 2007.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 1st day of May 2007.

Ralph Dibattista,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 4/23/07 and 4/27/07]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
61350	Amsea Inc./RSD Technologies (Wkrs)	Fenton, MI	04/23/07	04/01/07
61351	Low Country Cotton Service, LLP (29609)	Greenville, SC	04/23/07	04/11/07
61352	SSA/Cooper, LLC (Wkrs)	Georgetown, SC	04/23/07	04/12/07
61353	Skip's Cutting Inc. (Comp)	Ephrata, PA	04/23/07	04/20/07
61354	J.A.M. Plastics, Inc. (Wkrs)	Anaheim, CA	04/23/07	04/14/07
61355	Texas Instruments Incorporated (Comp)	Dallas, TX	04/23/07	04/18/07
61356	Nokia Mobile Phone Inc/USA/Ft. Worth TX/Alliance(Wkrs)	Ft. Worth, TX	04/23/07	04/16/07
61357	Medtronic Vascular(State)	Santa Rosa, CA	04/23/07	04/20/07
61358	Masonite Door Fabrication Services(Union)	Toledo, OH	04/23/07	04/15/07
61359	Bayer Clothing Group Inc.(Comp)	MacClenny, FL	04/23/07	03/29/07
61360	Bayer Clothing Group, Inc.(Comp)	New York, NY	04/23/07	03/29/07
61361	Bayer Clothing Group, Inc.(Comp)	Atlanta, GA	04/23/07	03/29/07
61362	Bayer Clothing Group Inc.,Target Sales Corporation(Comp)	Naperville, IL	04/23/07	03/29/07
61363	Methode Electronics(Wkrs)	Carthage, IL	04/23/07	04/16/07
61364	CyOptics, Inc.(Comp)	Breingsville, PA	04/24/07	04/23/07
61365	Ingersol-Rand Corp/Hussmann Refrigeration(USW)	Bridgeton, MS	04/24/07	04/17/07
61366	Staples Inc.(Wkrs)	Framingham, MA	04/24/07	04/18/07
61367	Air System Components, Inc.(Comp)	El Paso, TX	04/24/07	04/20/07
61368	Kraft Foods (Post Cereal Div.)(Union)	Battle Creek, MI	04/24/07	04/12/07
61369	Wood Tech Enterprises, Inc.(Comp)	Fairview, NC	04/25/07	04/24/07
61370	Federal Mogul Corporation(State)	Dumas, AR	04/25/07	04/24/07
61371	Grand Marais Investor Inc.(Comp)	Traverse City, MI	04/25/07	04/09/07
61372	Rockwell Collins(Wkrs)	Tustin, CA	04/25/07	04/16/07
61373	Autolign Manufacturing Group, Inc.(State)	Milan, MI	04/25/07	04/23/07
61374	Seaswirl Boats, Inc.(State)	Culver, OR	04/25/07	04/22/07
61375	Wire Products, Inc.(State)	Lavaca, AR	04/25/07	04/23/07
61376	Topy America(Wkrs)	Frankfort, KY	04/25/07	04/23/07
61377	Mereen-Johnson Machine Company(State)	Minneapolis, MN	04/25/07	04/24/07
61378	Applied Biotech, Inc.(92121)	San Diego, CA	04/26/07	04/24/07
61379	Chromalox, Inc.(Comp)	Albany, WI	04/26/07	04/25/07
61380	Briggs and Stratton Corporation(Wkrs)	Murray, KY	04/26/07	03/30/07
61381	Distel Tool & Machine Company(Comp)	Warren, MI	04/26/07	04/24/07
61382	Tandem Enterprises, Inc.(Comp)	Weslaco, TX	04/26/07	04/15/07
61383	Kasle Steel Corporation(Wkrs)	Dearborn, MI	04/26/07	04/19/07
61384	Collezione Europa, USA(Wkrs)	Claremont, NC	04/26/07	04/22/07
61385	A.C. Nielsen Company(Wkrs)	Fond du Lac, WI	04/26/07	04/24/07
61386	Berkline/Benchcraft LLC(State)	Livingston, TN	04/26/07	04/25/07
61387	Yamaha Music Manufacturing, Inc.(Comp)	Thomaston, GA	04/26/07	04/11/07
61388	Domtar(Union)	Baileyville, ME	04/27/07	04/20/07
61389	Vaungarde Acquisition LLC(Wkrs)	Owosso, MI	04/27/07	04/18/07
61390	Kyowa America Corporation(Wkrs)	Waynesburg, PA	04/27/07	04/28/07
61391	B Braun(State)	San Juan, PR	04/27/07	04/23/07
61392	Shadowline, Incorporated(Comp)	Morganton, NC	04/27/07	04/26/07

[FR Doc. E7–8822 Filed 5–8–07; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *April 16 through April 27, 2007.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A), all of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B), both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–61,126; U.S. Axle, Inc., On-Site Leased Workers of Volt Services Group, Pottstown, PA: March 5, 2006

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–61,212; Motorcar Parts of America, Inc., Perfecto Staffing, Team, Priority, Accountemps, City, Torrance, CA: March 27, 2006

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

NONE

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

NONE

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,946; Safer Pigment Corporation, A Subsidiary of Safer Holding Corp., Newark, NJ: February 7, 2006

TA–W–60,946A; Safer Textiles Processing Corporation, A Subsidiary of Safer Holding Corp., Newark, NJ: February 7, 2006

TA–W–60,946B; Safer Paper and Transfer Printing Corporation, A Subsidiary of Safer Holding Corp., Newark, NJ: February 7, 2006

TA–W–60,999; Dispatch Printing Company, Columbus Dispatch

Division (The), Columbus, OH: February 5, 2006

TA–W–61,041; Collins & Aikman, Port Huron Operations Division, Port Huron, MI: February 27, 2006

TA–W–61,100; Performance Sports Apparel, Inc., Reading, PA: March 12, 2006

TA–W–61,133; Foundation Works, Inc., Cottage Grove, OR: March 14, 2006

TA–W–61,143; Van Dorn Demag Corp, Demag Plastics Group (Formerly Van Dorn Service Corp.), Strongville, OH: March 9, 2006

TA–W–60,975; Elliss Technologies LLC, Sterling Heights, MI: February 14, 2006

TA–W–60,977; Ward Manufacturing, Inc., Blossburg, PA: February 14, 2006

TA–W–61,022; Mid Continent Nail Corporation, A Subsidiary of Libla Industries, Inc., Radford, VA: February 23, 2006

TA–W–61,065; Freight Car America, A Subsidiary of Johnstown America, Johnstown, PA: March 5, 2006

TA–W–61,068; Microfibers, Inc, Pawtucket Division, Pawtucket, RI: March 5, 2006

TA–W–61,072; Jefferson City Manufacturing, Inc., Jefferson City, MO: March 6, 2006

TA–W–61,107; Boise Cascade LLC, Paper Division,Vancouver, WA: March 12, 2006

TA–W–61,112; Modine Manufacturing Company, Automotive Division, Clinton, TN: March 13, 2006

TA–W–61,119; Northcutt Woodworks, L.P., Crockett, TX: March 13, 2006

TA–W–61,124; Top-Flite Golf Co. (The), Callaway Golf, Johnson & Hill, Reliable & Career, Chicopee, MA: October 26, 2006

TA–W–61,132; John Dusenbery Company, Inc., Randolph, NJ: March 16, 2006

TA–W–61,154; Quaker Narrow Fabrics, Milton, PA: March 19, 2006

TA–W–61,171; Athol Manufacturing Co., A Division of Sandusky Athol International, Butner, NC: March 22, 2006

TA–W–61,191; Collins & Aikman Products Co, Fabrics Division, Roxboro, NC: March 23, 2006

TA–W–61,216; Broyhill Furniture Industries, Inc., Pacemaker Furniture Company, Lenior, NC: December 23, 2006

TA–W–61,283; IBM Corporation, Workers On-Site at Dana Corporation, Seating Products, Fulton, KY: April 10, 2006

TA–W–61,222; Good Companion Sewing Co., San Francisco, CA: March 30, 2006

TA–W–61,302; TDS/US Automotive, A Subsidiary of TDS Logistics, Chesapeake, VA: March 28, 2006

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,866; Wolverine World Wide, Rockford, MI: January 29, 2006

TA–W–61,091; Esselte Corporation, Leased Workers of People Link Staffing and Trillum Staffing, Kankakee, IL: March 9, 2006

TA–W–61,113; Jabil Circuit, Inc., Including Workers of the Cisco Systems, Q-Logic Assembly Lines, St. Petersburg, FL: March 13, 2006

TA–W–61,117; Hanes Brands, Inc., Formerly Sara Lee Branded Apparel, Rockingham Plant Division, Rockingham, NC: February 28, 2006

TA–W–61,145; Enhanced Manufacturing Solutions LLC, Amherst Injection Molding Div., SPS Temporary, Amherst, NY: February 28, 2006

TA–W–61,157; Visteon Systems LLC, Climate Control Div./Evaporators, Connersville, IN: March 19, 2006

TA–W–61,157A; Visteon Systems LLC, Climate Control Div./Radiator/Heat Exchange, Connersville, IN: March 19, 2006

TA–W–61,165; Carhartt Inc Autopocket Facility, Autopocket (Sewing) Facility, Madisonville, KY: August 3, 2006

TA–W–61,166; Carhartt Inc, Providence (Sewing) Facility, Providence, KY: March 21, 2006

TA–W–61,192; Arrow Electronics, Inc., Leased Workers of Adecco, Lenexa, KS: March 23, 2006

TA–W–61,218; Hanesbrands, Inc., Winston-Salem, NC: March 29, 2006

TA–W–61,263; Parker Hannifin Corporation, Powertrain Division, Leased Workers of Manpower Temp Services, Iron Gate, VA: April 5, 2006

TA–W–61,264; Sanmina Sci USA, Inc., Backplanes Division, Woburn, MA: April 6, 2006

TA–W–61,314; Tridon, Smyrna, TN: March 19, 2006

TA–W–61,001; Optera Colorado, Inc., A Subsidiary of Magna Donnelly, Longmont, CO: February 16, 2006

TA–W–61,054; Corsair Marine, Inc., Chula Vista, CA: February 28, 2006

TA–W–61,127; ICT, Inc., Calvert City, KY: March 15, 2006

TA–W–61,140; Konica Minolta Graphic Imaging, Glen Cove, NY: March 12, 2006

TA–W–61,167; Photronics, Inc., Allen, TX: March 13, 2006

TA–W–61,187; PointCare Corporation, Subsidiary of Biocare Corporation, San Jose, CA: March 16, 2006

TA–W–61,201; Photronics, Inc., Brookfield, CT: March 23, 2006

TA–W–61,258; Springs Global US, Inc., Formerly Springs Industries, Grace Complex, Lancaster, SC: May 3, 2007

TA–W–61,259; Amtek Gears, Inc., Subsidiary of Amtek Auto Limited, Bay City, MI: April 5, 2006

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–61,094; Pine River Plastics Inc., St. Clair, MI: March 9, 2006

TA–W–61,220; Silberline Mfg. Company, Inc., Decatur, IN Division, Decatur, IN: March 28, 2006

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

NONE

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

NONE

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–61,126; U.S. Axle, Inc., On-Site Leased Workers of Volt Services Group, Pottstown, PA

TA–W–61,212; Motorcar Parts of America, Inc., Perfecto Staffing, Team, Priority, Accountemps, City, Torrance, CA:

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

NONE

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility

criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–61,142; Alcatel Lucent, System Integration Center, Columbus, OH.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,800; Volvo Trucks North America, A Division of Volvo Group North America, New River Valley Assembly Plant, Dublin, VA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,662; Irving Forest Products, Pinkham Sawmill Division, Ashland, ME.

TA–W–60,942; Weyerhaeuser Company, Bauman Lumber—Sawmill Division, Lebanon, OR.

TA–W–61,053; Nypro Kentucky, Hazard Division, Hazard, KY.

TA–W–61,057; Bobcat Company, Gwinner, ND.

TA–W–61,078; U.S. Traffic Corporation, A Quixote Company, Santa Fe Spring, CA.

TA–W–61,110; Dent Manufacturing, Inc., Northampton, PA.

TA–W–61,157B; Visteon Systems LLC, Climate Control Div./Modules, Connersville, IN.

TA–W–61,175; Beard Hosiery, Inc., Lenior, NC.

TA–W–61,179; Rebtex Inc., Sommerville, NJ.

TA–W–60,905; General Motors Corporation, GMVM Division, Janesville, WI.

TA–W–61,074; Fleetwood Travel Trailers of Kentucky, Inc., Travel Trailer Division, Campbellsville, KY.

TA–W–61,122; Snap-On Logistics Company, Division of Snap-On Tools Co. LLC, Industrial/ Diagnostics Mfg., JohnsonCity, TN.

TA–W–61,180; Welex Incorporated, Blue Bell, PA.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country under a preferential trade agreement, or there has been or is likely to be an increase in imports).

TA–W–61,308; Allied Air Enterprises, Bellevue, OH.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–61,032; Baker Furniture, Grand Rapids, MI.

TA–W–61,153; Lenovo, Americas Sales Operations, Research Triangle Park, NC.

TA–W–61,178; Owens-Illinois, Hayward, CA.

TA–W–61,190; Entronix, Rogers, MN.

TA–W–61,190A; Entronix, Eveleth, MN.

TA–W–61,202; Glenoit LLC/Ex-Cell Home Fashion, Inc., Goldsboro, NC.

TA–W–61,255; Unisys Corporation, Technology Management Center, Blue Bell, PA.

TA–W–61,266; Mortgage Guaranty Insurance Corporation, Concord, CA.

TA–W–61,272; U.S. Borax, Rio Tinto Minerals, Valencia, CA.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

TA–W–61,012; Avantech Manufacturing, LLC, Formerly Known as Intier Automotive Interiors of America, Mt. Pleasant,TN.

I hereby certify that the aforementioned determinations were issued during the period of *April 16 through April 27, 2007.* Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 3, 2007.

Ralph DiBattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–8821 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,876B]

Armstrong Wood Products, Inc., Armstrong Hardwood Flooring Company, Pattern Plus Flooring Department; Oneida, TN; Notice of Affirmative DeterminationRegarding Application for Reconsideration

On April 13, 2007, the U.S. Department of Labor (Department) received a request for administrative reconsideration of the Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers and former workers of the subject firm. The negative determination was issued on March 28, 2007. The Department's Notice of determination was published in the **Federal Register** on April 10, 2007 (72 FR 17937).

The negative determination was based on the Department's findings that, during the relevant period, the subject firm did not import pattern plus flooring, the subject firm did not shift production of pattern plus flooring overseas, and the subject firm's customers did not import pattern plus flooring.

In the request for reconsideration, the workers alleged that the subject firm imported pattern plus flooring and provided a copy of a shipping label for hardwood flooring made in China which was, allegedly, received by the subject firm.

The Department has carefully reviewed the workers' request for reconsideration and has determined that the Department will conduct further investigation.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 2nd day of May 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8827 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,177]

Bartech Group, Inc., Including Workers of Continental Design and Engineering and Manpower, Anderson, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 26, 2007 in response to a petition filed on behalf of workers of Bartech Group, Inc., including workers of Continental Design and Engineering and Manpower, Anderson, Indiana.

The petitioning group of workers is covered by an active certification (TA–W–60,858 as amended) which expires on February 2, 2009. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 2nd day of May 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8824 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–61,104]

Bay State Circuits, Inc.; Millbury, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 13, 2007, in response to a worker petition filed by a company official on behalf of workers of Bay State Circuits, Inc., Millbury, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 1st day of May 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8828 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,858]

Delphi Corporation, Automotive Holdings Group Including Leased Workers of Bartech Group, Inc., Manpower and Continental Design and Engineering Working On-Site at Delphi; Anderson, IN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 2, 2007, applicable to workers of Delphi Corporation, Automotive Holdings Group, Anderson, Indiana. The notice was published in the **Federal Register** on February 14, 2007 (72 FR 7087).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive ignition products.

New information shows that leased workers of Bartech Group, Inc., Manpower and Continental Design and Engineering were employed on-site at the Anderson, Indiana location of Delphi Corporation, Automotive Holdings Group.

Based on these findings, the Department is amending this certification to include leased workers of Bartech Group, Inc., Manpower and Continental Design and Engineering working on-site at the Anderson, Indiana location of the subject firm.

The intent of the Department's certification is to include all workers employed on-site at Delphi Corporation, Automotive Holdings Group, Anderson, Indiana who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–60,858 is hereby issued as follows:

''All workers of Delphi Corporation, Automotive Holdings Group, including leased workers of Bartech Group, Inc., Manpower and Continental Design and Engineering, Anderson, Indiana, who became totally or partially separated from employment on or after January 23, 2006, through February 2, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 1st day of May 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8826 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,648]

International Business Machines Corporation, Tulsa, OK; Notice of Revised Determination on Remand

On March 30, 2007, the United States Court of International Trade (USCIT) remanded to the Department of Labor (Department) for further investigation *Former Employees of International Business Machines Corporation* v. *U.S. Secretary of Labor*, Court No. 04–00079. In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department herein presents the results of the remand investigation regarding workers' eligibility to apply for worker adjustment assistance.

The initial investigation to determine the eligibility of workers of International Business Machines Corporation (IBM), Tulsa, Oklahoma (subject firm) to apply for Trade Adjustment Assistance (TAA) was initiated on November 26, 2003 in response to a worker-filed petition. The Department's initial negative determination, issued on December 2, 2003 and published in the **Federal Register** on January 16, 2004 (69 FR 2622), was based on finding that the workers did not produce an article within the meaning of Section 222 of the Trade Act of 1974.

The petitioners requested administrative reconsideration of the negative determination on February 6, 2004. By letter dated February 11, 2004, the petitioners also sought judicial review of the negative determination. On March 30, 2004, the USCIT granted the Department's request for voluntary remand in order to issue a finding pursuant to the request for reconsideration.

The Department issued a negative determination on the request for reconsideration on March 31, 2004. The Department's Notice of determination was published in the **Federal Register** on April 16, 2004 (69 FR 20644). The determination was based on findings

that the workers' firm did not produce an article within the meaning of Section 222 of the Trade Act and that the workers did not provide services in direct support of an affiliated TAA certified firm.

On May 14, 2004, the Department filed its second consent motion for voluntary remand. The Department issued a negative determination on remand on August 2, 2004. The Department's Notice of determination was published in the **Federal Register** on August 10, 2004 (69 FR 48527). The determination was based on findings that the workers at the subject facility did not produce or support the production of an article by IBM and were not under the control of BP. On December 2, 2005, the USCIT remanded the matter to the Department.

On February 6, 2006, the Department issued a second negative determination on remand. The Department's Notice of determination was published in the **Federal Register** on March 2, 2006 (71 FR 10709). The Department's determination was based on findings that the criteria developed by the Department to determine the extent to which a worker group engaged in activities related to the production of an article by a producing firm was under the control of the producing firm had not been met. On March 30, 2007, the USCIT remanded the matter to the Department.

The Department has determined after further review that during the relevant period, a significant number or proportion of the subject worker group was separated and that the subject worker group was working in support of, and under sufficient control of import impacted BP production facilities, whose workers were certified as eligible for TAA.

Conclusion

Based on review of the record evidence, I determine that BP controlled the subject worker group and that increased imports of articles like or directly competitive with crude oil produced by an affiliated facility which the subject worker group supported, contributed to the total or partial separation of a significant number or proportion of workers at the subject facility.

In accordance with the provisions of the Act, I make the following certification:

''All workers of International Business Machines Corporation, Tulsa, Oklahoma, who became totally or partially separated from employment on or after November 26, 2002, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 2nd day of May 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–8825 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection RequestSubmitted for Public Comment and Recommendations; Safety Defects, Examination, Correction, and Records

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before July 9, 2007.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2171, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via E-mail to *Ferraro.Debbie@dol.gov*, along with an original printed copy. Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR 56.13015 and 57.13015 require that compressed-air receivers and other unfired pressure vessels be inspected by inspectors holding a valid National Board Commission and in accordance with the applicable chapters of the National Board Inspection Code, a manual for Boiler and Pressure Vessels Inspectors, 1979.

Title 30 CFR 56.13030 and 57.13030 require that fired pressure vessels (boilers) be equipped with safety devices approved by the American Society of Mechanical Engineers (ASME) to protect against hazards from overpressure, flameouts, fuel interruptions and low water level. Sections 56/57.13030 requires that records of inspections and repairs be retained by the mine operator in accordance with the requirements of the ASME Boiler and Pressure Vessel Code and the National Board Inspection Code (progressive records—no limit on retention time) and made available to the Secretary or his/her authorized representative.

Title 30 CFR 56.14100 and 57.14100 require equipment operators to inspect equipment, machinery, and tools that are to be used during a shift for safety defects before the equipment is placed in operation. Defects affecting safety are required to be corrected in a timely manner. In instances where the defect makes continued operation of the equipment unsafe, the standards require removal from service, tagging to identify that it is out of use, and repair before use is resumed.

Title 30 CFR 56.18002 and 57.180002 require that a competent person designated by the operator shall examine each working place at least once each shift for conditions which may adversely affect safety or health. A record that such examinations were conducted shall be kept by the operator for a period of one year, and shall be made available for review by the Secretary or his/her authorized representative.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Safety Defects, Examination, Correction, and Records. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov*) and then choosing ''Rules and Regs'' and ''**Federal Register** Documents''.

III. Current Actions

Inspection records denote any hazards that were discovered and how the hazards or unsafe conditions were abated. Federal inspectors use the records to ensure that unsafe conditions are identified early and corrected.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Safety Defects, Examination, Correction, and Records.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Safety Defects; Examination, Correction and Records.

OMB Number: 1219–0089.

Number of Respondents: 12,557.

Number of Responses: 11,502,241.

Burden Hours: 1,223,104.

Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 4th day of May, 2007.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. E7–8882 Filed 5–8–07; 8:45 am]

BILLING CODE 4510–43–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

May 2, 2007.

TIME AND DATE: 10 a.m., Thursday, May 10, 2007.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Marfork Coal Co.,* Docket Nos. WEVA 2006–788–R, WEVA 2006–789–R, and WEVA 2006–790–R. (Issues include whether an operator may maintain a contest proceeding under section 105(d) of the Mine Act when it does not seek an expedited hearing.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 07–2321 Filed 5–7–07; 3:19 pm]

BILLING CODE 6735–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management Renewal

The NSF management officials having responsibility Advisory Committee for International Science and Engineering (#25104) have determined that renewing this group for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Effective date for renewal is May 23, 2007. For more information contact Susanne Bolton at (703) 292–7488.

Dated: May 4, 2007.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–8857 Filed 5–8–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET NOS. 50–498 and 50–499]

STP Nuclear Operating Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of amendments to Facility Operating Licenses, numbered NPF–76 and NPF–80, issued to STP Nuclear Operating Company (the licensee) for operation of the South Texas Project, Units 1 and 2, respectively, located in Matagorda County, Texas.

The proposed amendment request would change the name of one licensee, Texas Genco, LP (Texas Genco), to NRG South Texas LP. The name change results from purchase of Texas Genco's parent company by NRG Energy, Inc. as approved by the NRC in January 2006.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> The proposed amendment[s] would only change the name of a licensee. The proposed name change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed name change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed name change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendments before expiration of the 60-day period provided that its final determination is that the amendments involve no significant hazards consideration. In addition, the Commission may issue the amendments prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i) through (c)(1)(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV;* or (4)

facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, *Attention:* Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to A. H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004, the attorney for the licensee.

For further details with respect to this action, see the application for amendments dated April 4, 2006, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of May 2007.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–8911 Filed 5–8–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS)Subcommittee Meeting on Thermal-Hydraulic Phenomena; Revised

The ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena scheduled for May 23–24, 2007 has been *rescheduled to May 24–25, 2007 at 8:30 a.m. in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.*

The entire meeting will be open to public attendance, with the exception of portions that may be closed to discuss General Electric proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The Subcommittee will review the staff evaluation of the MELLLA+, GE Methods, and GE DSS–CD Topical Reports. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Notice of this meeting was published in the **Federal Register** on Wednesday, April 18, 2007 (72 FR 19553). All other items pertaining to this meeting remain the same as previously published.

For Further Information Contact: Mr. Ralph Caruso, Senior Staff Engineer (telephone 301–415–8065 or e-mail: *rxc@nrc.gov*) between 7:30 a.m. and 4:15 p.m. (ET).

Dated: May 3, 2007.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E7–8890 Filed 5–8–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice with Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with respect to a list of countries denying fair market opportunities for products, suppliers or bidders of the United States in airport construction projects.

EFFECTIVE DATE: Date of Publication.

FOR FURTHER INFORMATION CONTACT: Dawn Shackleford, Director for International Procurement, Office of the United States Trade Representative, (202) 395–9461, or Behnaz Kibria, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–9589.

SUMMARY: Pursuant to section 533 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. 50104), the United States Trade Representative (USTR) has determined not to include any countries on the list of countries that deny fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (codified at 49 U.S.C. 50104) (''the Act''), requires USTR to decide whether any foreign countries have denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the governments of such countries. The list of such countries must be published in the **Federal Register**. For the purposes of the Act, USTR has decided not to include any countries on the list of countries that deny fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Susan C. Schwab,

United States Trade Representative.

[FR Doc. E7–8891 Filed 5–8–07; 8:45 am]

BILLING CODE 3190–W7–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55677; File No. SR–CBOE–2007–32]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Transaction Fees for Certain Electronically Executed Orders

April 27, 2007

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 March 29, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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 substantially prepared by the CBOE. 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 the CBOE Fees Schedule (''Fees Schedule'') to increase transaction fees for certain electronically executed orders. The text of the proposed rule change is available at the CBOE, on the Exchange's Web site at *http://www.cboe.org/legal*, and in the Commission's Public Reference Room.

[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, 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

Currently, the Exchange charges $.25 per contract for broker-dealer transactions and $.26 per contract for non-member market-maker transactions, except for such transactions in options on the S&P 100 Index (''OEX'' and ''XEO'') and options on the S&P 500 (''SPX''), which are charged $.30 per contract for broker-dealer and market-maker transactions and $.40 per contract for broker-dealer and market-maker transactions, respectively. The purpose of this proposed rule change is to amend the Fees Schedule to establish a higher fee for ''electronically executed'' broker-dealer and non-member market-maker orders, *i.e.*, broker-dealer and non-member market-maker orders that are automatically executed on the CBOE Hybrid Trading System (''Hybrid'').

The Exchange proposes to assess electronically executed broker-dealer and non-member market-maker orders a transaction fee of $.45 per contract. Manually executed broker-dealer and non-member market-maker orders would be assessed a transaction fee of $.25 per contract. The $.26 per contract non-member market-maker transaction fee would be deleted from the Fees Schedule. OEX, XEO and SPX broker-dealer and non-member market-maker fees would remain unchanged. Broker-dealer and non-member market-maker orders for options on the Morgan Stanley Retail Index (''MVR'') would be charged $.25 per contract.[3] A new Footnote 16 is proposed to be added to the Fees Schedule clarifying that the broker-dealer manual and electronic transaction fees apply to broker-dealer orders (orders with ''B'' origin code), non-member market-maker orders (orders with ''N'' origin code), and orders from specialists in the underlying security (orders with ''Y'' origin code).

No changes are proposed to Linkage order fees. The proposed broker-dealer electronic transaction fee is comparable to the RAES Access Fee assessed by the Exchange on certain orders executed through the RAES system in non-Hybrid classes, which is a fee assessed in addition to standard transaction fees.[4] Like the RAES Access Fee, the Exchange believes the proposed broker-dealer electronic transaction fee will help allocate to such orders a fair share of the costs of running the automatic execution feature of Hybrid and related Exchange systems.

The proposed fees are modeled after the broker-dealer transaction fees of the NYSE Arca, Inc. (''NYSE Arca'').[5] The Exchange believes its proposed $.45 per contract fee is reasonable in that it is less than the $.50 per contract fee assessed by NYSE Arca on electronically executed broker-dealer and non-member market-maker orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4)[7] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of 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 solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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[8] and subparagraph (f)(2) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the 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.[10]

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–CBOE–2007–32 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–CBOE–2007–32. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying

[3] OEX, MVR and SPX are currently non-Hybrid classes.

[4] *See* CBOE Fees Schedule, Section 4.

[5] *See* Securities Exchange Act Release No. 54309 (August 11, 2006), 71 FR 48571 (August 21, 2006) (SR–NYSEArca–2006–25).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] *Id.*

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–32 and should be submitted on or before May 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–8812 Filed 5–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55697; File No. SR–NASD–2007–027]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change to NASD By-Laws Relating to SEC Section 31—Related Fees

May 2, 2007.

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 April 17, 2007, the National Association of Securities Dealers, Inc. (''NASD'') 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 substantially prepared by NASD. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to allow member firms to voluntarily submit, within six months of the effective date of this rule proposal, funds previously accumulated by member firms to satisfy their, and subsequently NASD's, obligation to remit SEC Section 31-related fees, to NASD. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

SCHEDULE A TO NASD BY-LAWS

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of NASD shall be determined on the following basis.

* * * * *

Section 3—Regulatory Transaction Fee

Each member shall be assessed a regulatory transaction fee. The amount shall be determined periodically in accordance with Section 31 of the Act. Transactions assessable under this Section 3 that must be reported to NASD shall be reported in an automated manner.

IM-Section 3—Temporary Program to Address Accumulated Funds

Pursuant to Section 3 of Schedule A, NASD makes an assessment on member firms that NASD uses to pay fees owing to the SEC in accordance with Section 31 of the Act (''the Section 3 assessment''). The Section 31 fees payable by NASD to the SEC is determined based on the aggregate dollar amount of ''covered sales,'' as defined by SEC Rule 31, effected otherwise than on an exchange by or through any member of the NASD. Members, in many cases, have passed along the Section 3 assessment on a trade-by-trade basis to their customers or correspondent firms. For certain reasons, including the difference between the calculation of the Section 3 assessment on an aggregate basis and its collection by member firms from customers or correspondent firms on a disaggregated trade-by-trade basis, there has been an historical accumulation of funds collected by members that are in excess of their Section 3 assessment. Consequently, these funds were not remitted to NASD.

NASD has determined that it is appropriate for these accumulated funds, if remitted to the NASD, to be used to pay NASD's current Section 31 fees, which conforms the use of those funds with the stated purpose for which they were collected. Consequently, members may voluntarily remit all or part of historically accumulated funds that were collected and are in surplus to the Section 3 assessment of such firms in accordance with the terms of this Interpretive Material.

This temporary program will automatically sunset six months after the effective date, and thereafter may not be utilized by members after a date certain. Members are reminded that the SEC stated in its release adopting new Rule 31 and Rule 31T that ''it is misleading to suggest that a customer or [self-regulatory] member incurs an obligation to the Commission under Section 31.'' Further, NASD has issued guidance to members in the form of two Notices to Members to ensure there is no confusion in the marketplace between NASD's ''Regulatory Transaction Fee'' and the ''SEC's Section 31 Fee.''

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Section 31 of the Act[3] and SEC Rule 31, NASD and the national securities exchanges (collectively ''SROs'') are required to pay a transaction fee to the SEC that is designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. To offset this obligation, NASD assesses its clearing and self-clearing members a regulatory fee in accordance with Section 3 of Schedule A of the NASD By-Laws, which mirrors the SEC Section 31 fee in scope and amount. Clearing members may in turn seek to charge a fee to their customers or correspondent firms. Any allocation of the fee between the clearing member and its correspondent firm or customer is the responsibility of the clearing member.

Reconciling the amounts billed by NASD and the amounts collected from the customers historically had been difficult for member firms, causing surpluses to accumulate at some broker-dealer firms (referred to as ''accumulated funds''). These accumulated funds were not remitted to NASD, despite the fact that these charges may have been previously identified as ''Section 31 Fees'' or ''SEC Fees'' by certain firms.[4]

[11] 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. 78ee.

[4] NASD's rule also previously referred to this fee as an ''SEC Transaction Fee.'' The SEC stated in its release adopting new Rule 31 and Rule 31T that ''it is misleading to suggest that a customer or [self-regulatory organization] member incurs an obligation to the Commission under Section 31.'' *See* Securities Exchange Act Release No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July 7, 2004). In response to this statement, NASD amended its rule to refer to this fee as a ''Regulatory Transaction

In November 2004, NASD received a letter from the SEC's Division of Market Regulation requesting, among other things, that NASD conduct an analysis to ascertain the amount of accumulated funds and present a plan for broker-dealers to dispose of or otherwise resolve title to such accumulated funds. Accordingly, in an effort to ascertain the amount of accumulated funds, NASD surveyed 240 member clearing and self-clearing firms to review their practices regarding the collection of such fees from customers. After compiling and analyzing the data provided by member firms, NASD staff found that over half of the firms surveyed did not have an accumulated funds balance. NASD worked with the other SROs to recommend a potential solution to allow NASD member firms to resolve title to the accumulated funds. It was determined, based upon information provided in connection with NASD's survey, that it would be virtually impossible to return customer-related accumulated funds to the customers that had paid these funds to the firms.[5]

The current proposed rule change is aimed at enabling those fees that may have been collected for purposes of paying an ''SEC Fee'' or ''Section 31 Fee'' to be used to pay such fees. NASD is proposing new interpretive material (''IM'') that will allow firms, on a one-time-only basis, voluntarily to remit historically accumulated funds to NASD. These funds then would be used to pay the SRO's current Section 31 fees in conformity with prior representations made by member firms. Finally, to the extent the payment of these historically accumulated funds is in excess of the fees due the SEC from NASD under Section 31 of the Act, such surplus shall be used by NASD to offset other NASD regulatory costs.

As stated above in Item 2, the effective date of the proposed rule change would be six months following Commission approval, if the Commission grants approval. In addition, the IM would automatically sunset six months after the effective date.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will provide a transparent way of addressing the issue of accumulated funds. As this proposed rule change would automatically sunset, it will be of a limited duration. Moreover, based on the reminder set forth in the IM and the issuance of prior *Notices to Members* on this matter, the accumulation of funds that are collected and disclosed as ''Section 31 Fees'' or ''SEC Fees'' should not reoccur.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–NASD–2007–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities andExchange Commission, 100 F Street, NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2007–027. 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 offices of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2007–027 and should be submitted on or before May 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–8813 Filed 5–8–07; 8:45 am]

BILLING CODE 8010–01–P

Fee.'' *See* Securities Exchange Act Release No. 50274 (August 26, 2004), 69 FR 53757 (September 2, 2004) (SR–NASD–2004–129). Further, NASD issued guidance to ensure there is no confusion in the marketplace regarding NASD's ''Regulatory Transaction Fee'' and the ''SEC's Section 31 Fee. *See Notice to Members* 05–11 (February 2005) and *Notice to Members* 04–63 (August 2004).

[5] NASD had asked all surveyed firms whether they could '' identify and relate the funds to specific customers on a transaction by transaction basis.'' The surveyed firms universally stated that tracking fractions of a penny to individual customers would be impossible and any over-collections could not be passed back at the customer level.

[6] 15 U.S.C. 78o–3(b)(6).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55698; File No. SR–NYSE–2007–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for NYSE Bonds

May 2, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders it 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 eliminate certain fees applicable to NYSE Bonds℠ (''NYSE Bonds'') and adopt a new transaction fee of $0.50 per bond for executions on NYSE Bonds that remove liquidity from NYSE Bonds. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *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 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

On Monday, April 22, 2007, the Exchange implemented the operation of its NYSE Bond platform. Only NYSE members and member organizations that have executed and delivered to the Exchange the NYSE Bonds Service and Access Agreement, including member organizations that were subscribers to the Automated Bond System (''ABS''), are eligible to access NYSE Bonds (''Eligible Members'').

Through this filing, the Exchange proposes to eliminate certain fees associated with the NYSE Bonds platform.[5] Specifically, the Exchange proposes to eliminate its current $15,000 annual subscription charge, the $5,000 additional display charge, the current usage fees ($0.05, $0.10, $0.20, and $0.30), the $0.10 Fixed Income Public Agency Transaction fee, and the $5,000 computer-to-computer service fee effective on May 1, 2007.

The current fee structure for NYSE Bonds is a tier-based structure with a range from $0.05 to $0.30 per order entered, depending on the amount of fixed income orders submitted by the member organization within the calendar year. The Exchange further proposes to amend the current transaction fees to charge a new transaction fee of $0.50 per bond for executions on NYSE Bonds that remove liquidity from the NYSE Bonds book. To facilitate the move to the new fee structure, the Exchange intends to waive the assessment of any transaction fees on NYSE Bonds for fixed income orders executed through the system for the period of April 23, 2007 through April 30, 2007.

Beginning Tuesday, May 1, 2007, the Exchange will implement a fee of $5,000 per year to be assessed to Eligible Members that utilize an Exchange-sponsored fixed income order management and entry (''Graphic User Interface'' or ''GUI'') system for accessing NYSE Bonds. Eligible Members that do not utilize the GUI will not be assessed the annual fee.

Finally, the Exchange further seeks to remove the current cap on the total fees incurred by member organizations that participate on or submit orders to NYSE Bonds. The current cap is $20,000 per year per member organization; however, the Exchange may seek to impose a cap of such fees at a later date.

The Exchange believes that the new transaction fees that are scheduled to become operative on May 1, 2007 will bring the NYSE Bonds platform more in line with the current fixed income market.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [6] in general and furthers the objectives of Section 6(b)(4) [7] in particular in that it is intended to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(ii) of the Act [8] and subparagraph (f)(2) of Rule 19b–4 thereunder [9] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] The current fees applicable to the NYSE Bonds system were carried over from ABS. *See* Securities Exchange Act Release No. 55496 (March 20, 2007), 72 FR 14631 (March 28, 2007) (SR–NYSE–2006–37).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–44 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–2007–44. 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 will also 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–2007–44 and should be submitted on or before May 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–8811 Filed 5–8–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55699; File No. SR–NYSEArca–2007–27]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To List and Trade Shares of the iShares FTSE NAREIT Residential Index Fund

May 3, 2007.

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 March 9, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares (''Shares'') of the iShares FTSE NAREIT Residential Index Fund (''Fund'') of the iShares®[3] Trust (''Trust'') based on the FTSE NAREIT Residential Index (''Index'' or ''Underlying Index'') pursuant to NYSE Arca Equities Rule 5.2(j)(3). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item 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 proposes to list the Shares of the Fund. The Trust is an open-end management company with over 90 separate investment portfolios and is registered under the Investment Company Act of 1940 (''1940 Act'').[4] The Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the Underlying Index, as described more fully below. The Fund would concentrate its investments in a particular industry or group of industries to approximately the same extent as the Index is so concentrated. Because all of the securities included in the Underlying Index are issued by real estate investment trusts (''REITs'') that invest in residential real estate, the Fund would always be concentrated in the residential real estate industry.[5]

Under NYSE Arca Equities Rule 5.2(j)(3), the Exchange may list and/or trade pursuant to unlisted trading privileges (''UTP'') ''Investment Company Units'' (''ICUs'').[6] The Fund does not meet the ''generic'' listing requirements of NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs in reliance upon Rule 19b–4(e) under the Act,[7] and thus cannot be listed without a filing pursuant to Rule 19b–4 under the Act. Specifically, the Underlying Index does not meet the requirement of Commentary .01(a)(3) to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] iShares® is a registered trademark of Barclays Global Investors, N.A.

[4] *See* Post-Effective Amendment No. 63 to the Trust's Registration Statement on Form N–1A, as filed with the Commission on November 15, 2006 and accompanying Statement of Additional Information (''SAI'') (File No. 333–92935 and 811–09729) (the ''Registration Statement''). The Trust was established as a Delaware statutory trust on December 16, 1999.

[5] *See supra* note 4; e-mail from Tim Milanowski, Director, NYSE Group, Inc. to Mitra Mehr, Special Counsel, Division of Market Regulation (''Division''), Commission, dated April 25, 2007.

[6] In October 1999, the Commission approved NYSE Arca Equities Rule 5.2(j)(3), which sets forth the rules related to listing and trading criteria for ICUs. *See* Securities Exchange Act Release No. 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–1998–29). In July 2001, the Commission also approved the Exchange's generic listing standards for listing and trading, or the trading pursuant to UTP, of ICUs under NYSE Arca Equities Rule 5.2(j)(3). *See* Securities Exchange Act Release No. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14). NYSE Arca Equities Rule 5.1(b)(15) defines an ICU as a security representing an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

[7] 17 CFR 240.19b–4(e).

NYSE Arca Equities Rule 5.2(j)(3) that the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio.[8]

Operation of the Fund

Barclays Global Fund Advisors (''BGFA''), a subsidiary of Barclays Global Investors, N.A. (''BGI''), would be the investment adviser (''Advisor'') to the Fund. The Advisor is registered as an investment adviser under Section 203 of the Investment Advisers Act of 1940[9] (''Advisers Act''). As the Advisor, BGFA would have overall responsibility for the general management and administration of the Trust. BGFA would provide an investment program for the Fund and would manage the investment of the Fund's assets. In seeking to achieve a Fund's investment objective, BGFA would use teams of portfolio managers, investment strategists, and other investment specialists. BGFA would also arrange for transfer agency, custody, fund administration, and all other non-distribution-related services necessary for the Fund to operate. While the Fund would be managed by the Advisor or portfolio manager, the Trust's Board of Trustees would have responsibility for the overall management and operations of the Fund.

The Index Provider

FTSE International Limited (''FTSE'') is the provider of the Index. FTSE is an independent company whose sole business is the creation and management of indices and associated data services. FTSE is a joint venture between The Financial Times and the London Stock Exchange and ''FTSE™'' is a trademark owned jointly by the London Stock Exchange plc and The Financial Times Limited. FTSE calculates over 60,000 indices daily, including more than 600 real-time indices. ''NAREIT®'' is a trademark of National Association of Real Estate Investment Trusts (''NAREIT''). Both the FTSE and NAREIT trademarks are used by FTSE under license. FTSE is not affiliated with the Trust, BGFA, or its affiliates or SEI Investments Distribution Co. (''SEI''), the distributor of the Fund (as discussed below). BGI has entered into a license agreement with FTSE to use the Underlying Index and is sub-licensing rights in the Underlying Index to the Trust at no charge.

Administrator, Custodian, and Transfer Agent

Investors Bank & Trust Company (''Investors Bank'') would serve as administrator, custodian, and transfer agent for the Fund (''Administrator''). Under the Administration Agreement with the Trust, the Administrator would provide necessary administrative, legal, tax, accounting, and financial reporting services for the maintenance and operations of the Trust and the Fund. Under the Custodian Agreement with the Trust, the Administrator would maintain cash, securities, and other assets of the Trust and the Fund and would keep all necessary accounts and records. The Administrator would be required to deliver securities held by the Administrator and to make payments for securities purchased by the Trust for the Fund. Also, under a Delegation Agreement, the Administrator may appoint certain foreign custodians or foreign custody managers for Fund investments outside the United States. Pursuant to a Transfer Agency and Service Agreement with the Trust, the Administrator would act as a transfer agent for the Fund's authorized and issued shares of beneficial interest, and as dividend disbursing agent of the Trust.

The Distributor

SEI would be the distributor of shares of the Trust (''Distributor''). The Distributor has entered into a Distribution Agreement with the Trust pursuant to which it distributes Shares of the Fund. Shares would be offered continuously for sale by the Fund through the Distributor only in Creation Unit Aggregations (as described more fully below). Shares in less than Creation Unit Aggregations would not be distributed by the Distributor. The Distributor would deliver the prospectus and, upon request, the Statement of Additional Information (''SAI'') to persons purchasing Creation Unit Aggregations and would maintain records of both orders placed with it and confirmations of acceptance furnished by it. The Distributor is a broker-dealer registered under the Act and a member of NASD.

The Fund intends to qualify as a ''regulated investment company'' (''RIC'') under the Internal Revenue Code (''Code''). The Fund must, among other things, meet certain diversification tests imposed by the Code to satisfy RIC requirements.[10]

Description of the Fund and the Underlying Index

According to the Fund's Registration Statement, the Fund would be an ''index fund'' that seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the Underlying Index. The Underlying Index measures the performance of the residential real estate sector of the U.S. equity market. The Fund would concentrate its investments in a particular industry or group of industries to approximately the same extent as the Underlying Index is so concentrated. Because all of the securities included in the Underlying Index are issued by REITs that invest in residential real estate, the Fund would always be concentrated in the residential real estate industry.[11]

The Underlying Index is sponsored by the Index Provider. The Index Provider determines the relative weightings of the securities in the Underlying Index and publishes information regarding the market value of the Underlying Index.

The Advisor would use a ''passive'' or ''indexing'' approach to try to achieve the Fund's investment objective. The Fund would not try to ''beat'' the index it tracks and would not seek temporary defensive positions when markets decline or appear overvalued. Indexing eliminates the chance that the Fund may substantially outperform the Underlying Index, but also may eliminate some of the risk of active management, such as poor security selection. Indexing seeks to achieve lower costs and better after-tax performance by keeping portfolio turnover low in comparison to actively managed investment companies.

The Fund would invest at least 90% of its assets in the securities of its Underlying Index or in American Depositary Receipts (''ADRs'') representing securities in the Underlying Index. The Fund may invest the remainder of its assets in securities not included in the Underlying Index, but which the Advisor believes would help the Fund track the Underlying Index. For example, the Fund may

[8] The five most heavily weighted component stocks constitute approximately 69.90% of the weight of the index, as of March 9, 2007. Source: Bloomberg.

[9] 15 U.S.C. 80b.

[10] Among these is a requirement that, at the close of each quarter of the Fund's taxable year: (1) At least 50% of the market value of the Fund's total assets must be represented by cash items, U.S. government securities, securities of other RICs, and other securities, with such other securities limited for the purpose of this calculation with respect to any one issuer to an amount not greater than 5% of the value of the Fund's assets and not greater than 10% of the outstanding voting securities of such issuer; and (2) not more than 25% of the value of its total assets may be invested in securities of any one issuer, or two or more issuers that are controlled by the Fund (within the meaning of Section 851(b)(4)(B) of the Code) and that are engaged in the same or similar trades or business (other than U.S. government securities or other RICs).

[11] *See supra* note 5.

invest in securities not included in the Underlying Index to reflect various corporate actions (such as mergers) and other changes in the Underlying Index (such as reconstitutions, additions, and deletions). The Fund also may invest its other assets in futures contracts or other derivatives related to the Underlying Index, as well as cash and cash equivalents, including shares of money market funds affiliated with the Advisor. The Advisor would use a representative sampling indexing strategy for the Fund.

''Representative Sampling'' is an indexing strategy that involves investing in a representative sample of the securities, included in the Underlying Index, that collectively have an investment profile similar to the Underlying Index. The securities selected are expected to have, in the aggregate, investment characteristics (based on factors such as market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation, and yield), and liquidity measures similar to those of the Underlying Index. The Fund may or may not hold all of the securities that are included in the Underlying Index.

The Advisor expects that, over time, the correlation between the Fund's performance and that of the Underlying Index, before fees and expenses, would be 95% or better. A correlation percentage of 100% would indicate perfect correlation. The difference between 100% correlation and the Fund's actual percentage correlation with the Underlying Index is called ''tracking error.'' The Fund's use of a representative sampling indexing strategy can be expected to result in greater tracking error than if the Fund used a replication indexing strategy. ''Replication'' is an indexing strategy in which a fund invests in substantially all of the securities in its underlying index in approximately the same proportions as in the underlying index.

The Fund would concentrate its investments only in the residential real estate sector to approximately the same extent that the Underlying Index is so concentrated. For purposes of this limitation, securities of the U.S. government (including its agencies and instrumentalities), repurchase agreements collateralized by U.S. government securities, and securities of state or municipal governments and their political subdivisions are not considered to be issued by members of any industry.

The Underlying Index is included in the FTSE NAREIT U.S. Real Estate Indices (''FTSE NAREIT Indices''). The FTSE NAREIT Indices are primarily rule-based, but are also monitored by the FTSE NAREIT Index Advisory Committee. All tax-qualified REITs that are listed on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or the Nasdaq Stock Market (''Nasdaq'') are eligible for inclusion in the FTSE NAREIT Indices. Potential components of the FTSE NAREIT Residential Index are determined by sector classifications of components in the FTSE NAREIT Composite Index. As part of an annual review, all eligible securities are ranked by their full market capitalizations as at the close of business on the last business day in November. Stocks are then screened to ensure they have sufficient liquidity. Factors used to determine liquidity include the availability of current and reliable price information and the level of trading volume relative to shares outstanding. Value traded and float turnover are also analyzed periodically to monitor liquidity. The FTSE NAREIT Index Advisory Committee meets to approve the annual review on the Wednesday after the first Friday in December. Any component changes resulting from the annual review would be implemented at the close of business on the third Friday of December.

When calculating index component weights, component companies' shares are adjusted for available float. In general, shares held by governments, corporations, strategic partners, or other control groups are excluded from a component company's outstanding shares. The FTSE NAREIT Composite Index would be periodically reviewed for changes in free float. These reviews would occur on a quarterly basis, and implementation of any changes to the Underlying Index, and potentially the FTSE NAREIT Indices, would happen at the close of business on the third Friday in March, June, September, or December.

The FTSE NAREIT Index Advisory Committee is responsible for undertaking the review of the FTSE NAREIT Indices and for approving changes in components and is also responsible for the sector classification of components of the FTSE NAREIT Indices. The Chairman and Deputy Chairman of the FTSE NAREIT Index Advisory Committee are collectively responsible for approving component changes to the FTSE NAREIT Indices between meetings of the Advisory Committee. Adjustments to reflect a major change in the amount or structure of a component company's issued securities would be made before the start of the index calculation on the day on which the change takes effect. Adjustments to reflect less significant changes would be implemented before the start of the index calculation on the day following the announcement of the change. Adjustments generally would be made before the start of the index calculations on the day concerned, unless market conditions prevent such adjustment. If a component is delisted, or ceases to have a firm quotation, or is subject to a takeover offer which has been declared wholly unconditional, it would be removed from the indices of which it is a component.

The FTSE NAREIT Indices are calculated continuously during normal trading hours of the Nasdaq, Amex, and NYSE, and would be closed on U.S. holidays. The prices used to calculate the FTSE NAREIT Indices are the Reuters daily closing prices or those figures accepted as such. FTSE NAREIT reserves the right to use an alternative pricing source on any given day. For end-of-day alternative currency calculations, FTSE NAREIT uses the WM/Reuters Closing Spot Rates.

The Fund would issue and redeem, on a continuous basis, shares at its net asset value (''NAV'') only in blocks of 50,000 shares or multiples thereof (each, a ''Creation Unit'' or a ''Creation Unit Aggregation'').

Only certain large institutional investors known as Authorized Participants (as defined below) may purchase or redeem Creation Units directly with the Fund at the NAV. These transactions are usually in exchange for a basket of securities similar to the Fund's portfolio and an amount of cash. Except when aggregated in Creation Units, Shares of the Fund are not redeemable securities. Shareholders who are not Authorized Participants may not redeem shares directly from the Fund.

The Fund would impose a purchase transaction fee and a redemption transaction fee to offset transfer and other transaction costs associated with the issuance and redemption of Creation Units. Purchasers and redeemers of Creation Units for cash are required to pay an additional variable charge to compensate for brokerage and market impact expenses. The creation and redemption transaction fees for creations and redemptions in-kind for the Fund are described in the Fund's prospectus.

All orders to purchase Shares of the Fund in Creation Units must be placed with the Distributor by or through an ''Authorized Participant,'' which is either: (1) A ''Participating Party,'' *i.e.*, a broker-dealer or other participant in the clearing process through the

Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency that is registered with the Commission (''Clearing Process''); or (2) a Depository Trust Company (''DTC'') Participant that has executed a ''Participant Agreement'' with the Distributor.

Consideration for Purchase of Creation Units

The consideration for purchase of Creation Unit Aggregations of the Fund generally consists of the in-kind deposit of a designated portfolio of equity securities, the Deposit Securities, which constitutes a substantial replication, or a portfolio sampling representation, of the stocks involved in the Fund's Underlying Index and an amount of cash (the ''Cash Component'') computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit Aggregation.

The Cash Component is sometimes also referred to as the ''Balancing Amount.'' The Cash Component serves the function of compensating for any difference between the NAV per Creation Unit Aggregation and the Deposit Amount. The Cash Component is an amount equal to the difference between the NAV of the shares (per Creation Unit Aggregation) and the ''Deposit Amount,'' which is an amount equal to the market value of the Deposit Securities. If the Cash Component is a positive number (*i.e.*, the NAV per Creation Unit Aggregation exceeds the Deposit Amount), the creator would deliver the Cash Component. If the Cash Component is a negative number (*i.e.*, the NAV per Creation Unit Aggregation is less than the Deposit Amount), the creator would receive the Cash Component. Computation of the Cash Component excludes any stamp duty or other similar fees and expenses payable upon transfer of beneficial ownership of the Deposit Securities, which shall be the sole responsibility of the Authorized Participant.

BGFA, through the NSCC, makes available on each business day, prior to the opening of business on the applicable listing exchange (currently 9:30 a.m. Eastern time), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Deposit Securities are applicable, subject to any adjustments as described below, in order to effect creations of Creation Unit Aggregations of the Fund until such time as the next-announced composition of the Deposit Securities is made available. The identity and number of shares of the Deposit Securities required for the Fund Deposit for the Fund changes as rebalancing adjustments and corporate action events are reflected from time to time by BGFA with a view to the investment objective of the Fund. The composition of the Fund may also change in response to adjustments to the weighting or composition of the component securities of the Underlying Index.

In addition, the Trust reserves the right to permit or require the substitution of an amount of cash (*i.e.* a ''cash in lieu'' amount) to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the systems of DTC or the Clearing Process. The Trust also reserves the right to permit or require a ''cash in lieu'' amount where the delivery of the Deposit Security by the Authorized Participant would be restricted under the securities laws or where the delivery of the Deposit Security to the Authorized Participant would result in the disposition of the Deposit Security by the Authorized Participant becoming restricted under the securities laws, or in certain other situations. The adjustments described above would reflect changes known to BGFA on the date of announcement to be in effect by the time of delivery of the Fund Deposit, in the composition of the Underlying Index or resulting from certain corporate actions.

Redemption of Shares in Creation Units

Shares may be redeemed only in Creation Unit Aggregations at their NAV next determined after receipt of a redemption request in proper form by the Fund through Investors Bank and only on a business day. The Fund would not redeem shares in amounts less than Creation Unit Aggregations. A beneficial owner must accumulate enough shares in the secondary market to constitute a Creation Unit Aggregation to have such shares redeemed by the Trust. There can be no assurance, however, that there would be sufficient liquidity in the public trading market at any time to permit assembly of a Creation Unit Aggregation. Investors should expect to incur brokerage and other costs in connection with assembling a sufficient number of shares to constitute a redeemable Creation Unit Aggregation.

With respect to the Fund, BGFA, through the NSCC and the Distributor, would make available immediately prior to the opening of business on the applicable listing exchange (currently 9:30 a.m. Eastern time) on each business day, the identity of the Fund securities that would be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Unit Aggregations.

Unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit Aggregation would generally consist of Fund Securities—as announced on the business day of the request for redemption received in proper form—plus cash in an amount equal to the difference between the NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''), less a redemption transaction fee as described below. If the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the difference must be made by or through an Authorized Participant by the redeeming shareholder.

The right of redemption may be suspended or the date of payment postponed with respect to the Fund: (i) For any period during which the NYSE is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the NYSE is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal of the shares of the Fund or determination of the Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as is permitted by the Commission.

Dividends, Distributions, and Taxes

Dividends from net investment income, if any, would be declared and paid at least annually by the Fund. Distributions of net realized securities gains, if any, generally would be declared and paid once a year, but the Trust may make distributions on a more frequent basis for the Fund. The Trust reserves the right to declare special distributions if, in its reasonable discretion, such action is necessary to improve tracking error or is necessary or advisable to preserve the status of the Fund as a RIC or to avoid imposition of income or excise taxes on undistributed income.

Dividends and other distributions on shares would be distributed on a pro-rata basis to beneficial owners of such shares. Dividend payments would be made through DTC Participants and Indirect Participants to beneficial owners then of record with proceeds received from the Fund.

Dividend Reinvestment Service

No dividend reinvestment service would be provided by the Trust. Broker-dealers may make available the DTC book-entry Dividend Reinvestment Service for use by beneficial owners of the Fund for reinvestment of their dividend distributions. Beneficial owners should contact their broker to determine the availability and costs of the service and the details of participation therein. Brokers may require beneficial owners to adhere to specific procedures and timetables. If this service is available and used, dividend distributions of both income and realized gains would be automatically reinvested in additional whole shares of the Fund purchased in the secondary market.

Availability of Information Regarding Shares and Underlying Index

The Advisor, through the NSCC, would make available on each business day, prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund.

Additional information regarding the indicative value of shares of the Fund, also known as the ''indicative optimized portfolio value'' (''IOPV''), would be disseminated every 15 seconds through the Consolidated Tape throughout the Opening, Core, and Late Trading Sessions (4 a.m. ET to 8 p.m. Eastern Time) by the Exchange. The IOPV does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund at a particular point in time or the best possible valuation of the current portfolio. Therefore, the IOPV should not be viewed as a ''real-time'' update of the NAV, which is computed only once a day. The IOPV is generally determined by using both current market quotations and/or price quotations obtained from broker-dealers that may trade in the portfolio securities held by the Fund.

According to the Fund's Registration Statement, Investors Bank would calculate the NAV for the Fund generally once daily Monday through Friday generally as of the regularly scheduled close of business of the NYSE (normally 4:00 p.m. Eastern time) on each day that the NYSE is open for trading, based on prices at the time of closing, provided that: (i) Any assets or liabilities denominated in currencies other than the U.S. dollar shall be translated into U.S. dollars at the prevailing market rates on the date of valuation as quoted by one or more major banks or dealers that makes a two-way market in such currencies (or a data service provider based on quotations received from such banks or dealers); and (ii) U.S. fixed income assets may be valued as of the announced closing time for trading in fixed income instruments on any day that the Securities Industry and Financial Markets Association (SIFMA) announces an early closing time. The NAV of the Fund would be calculated by dividing the value of the net assets of the Fund (*i.e.*, the value of its total assets less total liabilities) by the total number of outstanding shares of the Fund, generally rounded to the nearest cent. In calculating a Fund's NAV, a Fund's investments are generally valued using market valuations. If current market valuations are not readily available or such valuations do not reflect current market values, the affected investments would be valued using fair value pricing pursuant to the pricing policy and procedures approved by the Board of Trustees. The frequency with which a Fund's investments are valued using fair value pricing is primarily a function of the types of securities and other assets in which a Fund invests pursuant to its investment objective, strategies, and limitations.[12]

The NAV for the Fund would be calculated and disseminated daily. In addition, the Trust's Web site would include the Fund's Prospectus and SAI, information regarding the Underlying Index for the Fund, the prior business day's NAV, and the mid-point of the bid-ask spread at the time of calculation of the NAV (the ''Bid/Ask Price''), a calculation of the premium or discount of the Bid/Ask Price at the time of calculation of the NAV against such NAV, the Component Securities of the Underlying Index, and a description of the methodology used in these computations. The Bid/Ask Price of the Fund is determined using the highest bid and the lowest offer on the Exchange on which the shares are listed for trading. The Exchange would also disseminate a variety of data such as Total Cash Amount Per Creation Unit, Shares Outstanding, and the Fund's NAV on a daily basis by means of CTA and CQ High Speed Lines.

BGFA has informed the Exchange that the Fund would make the Fund's NAV available to all market participants at the same time. If the NAV is not disseminated to all market participants at the same time, the Exchange would halt trading in the Fund shares.

The closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant Exchange, automated quotation systems, and published or other public sources or on-line information services that are major market data vendors, such as Bloomberg or Reuters. Similarly, information regarding market prices and volume of Shares would be broadly available on a real-time basis throughout the trading day. Quotation and last-sale information for the Shares would be widely disseminated pursuant to the CTA Plan.[13] The previous day's closing price and volume information for the Shares would be published daily in the financial sections of many newspapers.

The value of the Underlying Index would be updated intra-day on a real-time basis as individual Component Securities change in price and would be disseminated every 15 seconds throughout the Exchange's Core Trading Session by one or more major market data vendors.

The Underlying Index

As of March 9, 2007, the FTSE NAREIT Residential Index component securities had a market capitalization of approximately $66,859,124,000, representing 20 securities. The average market capitalization was approximately $3,342,956,000. The ten largest components represented approximately 91.41% of the index weight. The five highest weighted securities represented approximately 69.90% of the index weight. The heaviest weighted security represented approximately 21.27% of the index weight.[14]

Criteria for Initial and Continued Listing

The Shares would be subject to the criteria for initial and continued listing

[12] Valuing a Fund's investments using fair value pricing would result in using prices for those investments that may differ from current market valuations. Use of fair value prices and certain current market valuations could result in a difference between the prices used to calculate a Fund's NAV and the prices used by the Fund's Underlying Index, which in turn could result in a difference between the Fund's performance and the performance of the Fund's Underlying Index.

[13] *See* e-mail from Tim Milanowski, Director, NYSE Group, Inc. to Mitra Mehr, Special Counsel, Division, Commission, dated May 2, 2007 (''May NYSE Arca e-mail'').

[14] Source: Bloomberg.

of Investment Company Units under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2). A minimum of two Creation Units (at least 100,000 Shares) would be required to be outstanding at the start of trading. This minimum number of Shares required to be outstanding at the start of trading would be comparable to requirements that have been applied to previously listed series of ICUs. The Exchange believes that the proposed minimum number of Shares outstanding at the start of trading is sufficient to provide market liquidity.

The continued listing criteria for ICUs under NYSE Arca Equities Rule 5.5(g)(2) provides that the Exchange would consider the suspension of trading and delisting (if applicable) of the Shares in any of the following circumstances:

- Following the initial 12-month period following upon the commencement of trading of the Shares of the Fund, there are fewer than 50 record and/or beneficial holders of such Shares for 30 or more consecutive trading days;
- The value of the Underlying Index of the Fund is no longer calculated or available; or
- Such other event occurs or condition exists that, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

In addition, the Exchange would remove the Shares from trading and listing upon termination of the Trust. The Exchange represents the Trust is required to comply with Rule 10A–3 under the Act [15] for the initial and continued listing of the Shares.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The trading hours for the Funds on the Exchange are the same as those set forth in NYSE Arca Equities Rule 7.34 (4 a.m. to 8 p.m. Eastern Time). The minimum trading increment for shares of the Funds on the Exchange would be $0.01.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (i) the extent to which trading is not occurring in the securities comprising an Underlying Index and/or the financial instruments of a Fund; or (ii) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Shares could be halted pursuant to the Exchange's ''circuit breaker'' rule [16] or by the halt or suspension of trading of the underlying securities. If the IOPV or the Index value is not being calculated or widely disseminated as required,[17] the Exchange may halt trading during the day in which the interruption to the calculation or wide dissemination of the IOPV or the Index value occurs. If the interruption to the calculation or wide dissemination of the IOPV or the Index value persists past the trading day in which it occurred, the Exchange would halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules.

The Exchange's current trading surveillance focuses on detecting when securities trade outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG.[18]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange would inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin would discuss the following: (i) The procedures for purchases and redemptions of Shares in Creation Unit Aggregations (and that Shares are not individually redeemable); (ii) NYSE Arca Equities Rule 9.2(a),[19] which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (iii) how information regarding the IOPV is disseminated; (iv) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (v) trading information.

In addition, the Bulletin would reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin would discuss exemptive, no-action, and interpretive relief granted by the Commission from Section 11(d)(1) of the Act [20] and certain rules under the Act, including Rule 10a–1, Regulation SHO, Rule 10b–10, Rule 14e–5, Rule 10b–17, Rule 11d1–2, Rules 15c1–5 and 15c1–6, and Rules 101 and 102 of Regulation M under the Act. The Bulletin would also disclose that the NAV for the Shares would be calculated after 4 p.m. eastern time each trading day.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[21] in general, and furthers the objectives of Section 6(b)(5),[22] 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 would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[15] 17 CFR 240.10A–3.

[16] *See* NYSE Arca Equities Rule 7.12.

[17] *See* May NYSE Arca e-mail.

[18] For a list of the current members and affiliate members of ISG, *see www.isgportal.com*.

[19] NYSE Arca Equities Rule 9.2(a) provides that an ETP Holder, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for its customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that it believes would be useful to make a recommendation. *See* Securities Exchange Act Release No. 34–54045 (June 26, 2006), 71 FR 37971 (July 3, 2006) (SR–PCX–2005–115).

[20] 15 U.S.C. 78k(d)(1).

[21] 15 U.S.C. 78f(b).

[22] 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

Written comments on the proposed rule change were neither solicited nor received.

III. 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–NYSEArca–2007–27 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–NYSEArca–2006–27. 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 available publicly. All submissions should refer to File Number SR–NYSEArca–2007–27 and should be submitted on or before May 30, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[24] which requires that an exchange have rules designed, among other things, 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 Fund does not meet the ''generic'' listing standards of NYSE Arca Rule 5.2(j)(3) and thus cannot be listed in reliance upon Rule 19b–4(e) under the Act. As of March 9, 2007, the five highest weighted securities in the Underlying Index represented approximately 69.90% of the index weight, rather than 65% as required by NYSE Arca's listing standards under Rule 5.2(j)(3).[25] Nevertheless, the Commission believes that the listing and trading of the Shares is consistent with the Act. The Commission notes that it previously has approved exchange rules that contemplate the listing and trading of derivative securities products based on indices with similar weightings.[26] In addition, the market capitalization and liquidity of the Index components suggest that the Index has been reasonably designed to reduce the likelihood of manipulation.

The Commission believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[27] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares would be widely disseminated pursuant to the CTA Plan. Moreover, the IOPV would be calculated and disseminated at least every 15 seconds throughout the trading day, and the Index value would be calculated and disseminated every 15 seconds during the Exchange's Core Trading Session. The NAV of the Fund would be calculated once each trading day and disseminated to all market participants at the same time. In addition, the Trust's Web site would include the Fund's prospectus and SAI, information regarding the Underlying Index for the Fund, the prior business day's NAV, the Bid/Ask Price, a calculation of the premium or discount of the Bid/Ask Price at the time of calculation of the NAV against the NAV, the component securities of the Underlying Index, and a description of the methodology used in these computations. In sum, the Commission believes that the proposal is reasonably designed to facilitate access to information that will assist investors in properly valuing the Shares.

The Commission believes that the proposal is reasonably designed to preclude trading of the Shares when transparency is impaired. The Exchange has represented that if the NAV is not disseminated to all market participants at the same time, the Exchange would halt trading in the Fund shares. If the IOPV or the Index value applicable to a series of Shares is not being calculated and disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IOPV or the Index value occurs. If the interruption to the calculation and dissemination of the IOPV or the Index value persists past the trading day in which it occurred, the Exchange would halt trading no later than the beginning of the trading day following the interruption.

The Commission finds that the Exchange's proposed rules and procedures for trading of the Shares are consistent with the Act. The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has made the following representations:

[23] In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] *See supra* note 8.

[26] *See* Securities Exchange Act Release No. 52826 (November 22, 2005), 70 FR 71874 (November 30, 2005) (SR–NYSE–2005–67) (approving the listing of the iShares Dow Jones U.S. Energy Sector Index Fund where the five highest weighted securities in the underlying index represented 83.24% of the index weight and the iShares Dow Jones U.S. Telecommunications Sector Index Fund where the five highest weighted securities in the underlying index represented 93.5% of the index weight). The Commission also notes that, as of March 9, 2007, the heaviest weighted security in the Underlying Index represented approximately 21.27% of the index weight. *See id.* (the heaviest weighted security in iShares Dow Jones U.S. Energy Sector Index Fund represented 31.91% of the index weight).

[27] 15 U.S.C. 78k–1(a)(1)(C)(iii).

1. The Exchange would rely on its existing surveillance procedures applicable to derivative products to monitor trading in the Shares. These procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules. The Exchange may obtain information via the ISG from other exchanges that are members or affiliates of the ISG.

2. Prior to the commencement of trading, the Exchange would inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

3. If the IOPV or the Index value applicable to a series of Shares is not being calculated and disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IOPV or the Index value occurs. If the interruption to the calculation and dissemination of the IOPV or the Index value persists past the trading day in which it occurred, the Exchange would halt trading no later than the beginning of the trading day following the interruption.

This Order is conditioned on NYSE Arca's adherence to the foregoing representations.

The Commission finds good cause to approve the proposed rule change, prior to the thirtieth day after publication for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[28] Except for the weighting of the Underlying Index, the Fund meets the ''generic'' listing standards of NYSE Arca Equities Rule 5.2(j)(3). In this case, the weighting of the five highest components of the Underlying Index (69.90%) is only marginally higher than that required by NYSE Arca's generic listing standards (65%). The market capitalization and liquidity of the Index components and the fact that they are securities issued by REITs that are listed and traded on a national securities exchange reduce the likelihood of the Shares being manipulated. Finally, the Commission notes that it previously has approved exchange rules that contemplate the listing and trading of derivative securities based on indices with similar weightings.[29] The listing and trading of the Shares do not appear to present any new regulatory concerns. Accelerating approval would allow the Shares to trade on NYSE Arca without undue delay and should generate additional competition in the market for such products.

[28] 15 U.S.C. 78s(b)(2).

[29] *See supra* note 26.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–NYSEArca–2007–27), be and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–8860 Filed 5–8–07; 8:45 am]

BILLING CODE 8010–01–P

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10859]

Maine Disaster # ME–00007

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maine (FEMA–1693–DR), dated 04/25/2007.

Incident: Severe Storms and Inland and Coastal Flooding.

Incident Period: 04/15/2007 and continuing.

Effective Date: 04/25/2007.

Physical Loan Application Deadline Date: 06/25/2007.

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, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/25/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Androscoggin, Cumberland, Kennebec, Knox Oxford, York.

The Interest Rates are:

	Percent
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 10859.

(Catalog of Federal Domestic Assistance Number 59008).

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–8823 Filed 5–8–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10855 and # 10856]

New Jersey Disaster Number NJ–00006

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–1694–DR), dated 04/26/2007.

Incident: Severe Storms and Inland and Coastal Flooding.

Incident Period: 04/14/2007 through 04/20/2007.

Effective Date: 04/30/2007.

Physical Loan Application Deadline Date: 06/25/2007.

Eidl Loan Application Deadline Date: 01/28/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of New Jersey, dated 04/26/2007 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Camden, Gloucester, Mercer.

Contiguous Counties:

New Jersey, Cumberland, Salem, Delaware, New Castle, Pennsylvania and Delaware.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–8831 Filed 5–8–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10862 and # 10863]

Texas Disaster # TX–00251

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1697–DR), dated 05/01/2007.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/21/2007 through 04/24/2007.

Effective Date: 05/01/2007.

Physical Loan Application Deadline Date: 07/02/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 02/01/2008.

ADDRESSES: *Submit completed loan applications to:* U.S. Small Business Administration Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/01/2007, 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 (Physical Damage and Economic Injury Loans):

Maverick, Moore, Swisher.

Contiguous Counties (Economic Injury Loans Only):

Texas, Armstrong, Briscoe, Carson, Castro, Dallam, Dimmit, Floyd, Hale, Hansford, Hartley, Hutchinson, Kinney, Oldham, Potter, Randal, Sherman, Uvalde, Webb, Zavala.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10862C and for economic injury is 108630.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–8829 Filed 5–8–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10860 and # 10861]

Vermont Disaster # VT–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Vermont dated 05/01/2007.

Incident: Severe Storms and Flooding.

Incident Period: 04/15/2007 through 04/16/2007.

Effective Date: 05/01/2007.

Physical Loan Application Deadline Date: 07/02/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 02/01/2008

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:

Rutland.

Contiguous Counties:

Vermont, Addison, Bennington, Windsor. New York, Washington.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
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 10860 B and for economic injury is 10861 0. The States which received an EIDL Declaration # are Vermont and New York.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 1, 2007.

Steven C. Preston,

Administrator.

[FR Doc. E7–8830 Filed 5–8–07; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations

regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed, faxed or e-mailed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA,Fax: 202–395–6974.E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235,Fax: 410–965–6400. E-mail address: *OPLM.RCO@ssa.gov.*

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. *Representative Payee Evaluation Report—20 CFR 404.2065 & 416.665—0960–0069.* Sections 205(j) and 1631(a)(2) of the Social Security Act provide that a representative payee may be appointed to receive benefits on behalf of an individual entitled to Title II and/or Title XVI benefits when that individual is unable to manage or direct the management of those funds by themselves. The representative payee is required to report to SSA at least once per year on how those funds received have been used or conserved. When a representative payee fails to adequately report to SSA as required, SSA will conduct a face-to-face interview with the payee to complete an SSA–624, Representative Payee Evaluation Report, in order to determine the continued suitability of the representative payee to serve as a payee. The respondents are individuals and organizations who act as representative payees for Title II and Title XVI benefits who fail to comply with SSA's statutory annual reporting requirement.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 252,000.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 126,000 hours.

2. *Request for Change in Time/Place of Disability Hearing—20 CFR 404.914(c)(2) and 416.1414(c)(2)—0960–0348.* The information on Form SSA–769 is used by SSA and the State Disability Determination Services (DDS) to provide claimants with a structured format to exercise their right to request a change in time or place of a scheduled disability hearing. The information will be used as a basis for granting or denying requests for changes and for rescheduling disability hearings. Respondents are claimants who wish to request a change in the time and/or place of their hearing.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 7,483.

Frequency of Response: 1.

Average Burden Per Response: 8 minutes.

Estimated Annual Burden: 998 hours.

3. *Agency/Employer Government Pension Offset Questionnaire—20 CFR 404.408(a)—0960–0470.* The information collected by form SSA–4163 will provide SSA with accurate information from the agency paying the pension, for purposes of applying the pension-offset provision. The form will be used only when (1) the claimant does not have the information and (2) the pension-paying agency has not cooperated with the claimant. Respondents are Federal and State Government agencies which have information needed by SSA to determine if the GPO applies and the amount of offset.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 1000.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 50 hours.

4. *Child Care Dropout Questionnaire—20 CFR 404.211(e)(4)—0960–0474.* Information collected on this form is ed by SSA to determine if an individual qualifies for a child care exclusion in computing the individual's disability benefit amount. Respondents are applicants for disability benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 2000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 167 hours.

5. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989—20 CFR Subpart B—416.204—0960–0643.*

Forms SSA–3988 and SSA–3989 will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for Supplemental Security Income eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988 and SSA–3989 are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The respondents are recipients of SSI payments or their representatives.

Type of Request: Revisions to an existing OMB information collection.

Collection instrument	Respondents	Frequency of response	Average burden per response	Estimated annual burden (hours)
SSA–3988	30,000	1	26 min.	13,000
SSA–3989	30,000	1	26 min.	13,000
Totals	60,000			26,000

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Treating Physician Consultative Examination Interest Form—20 CFR 404.1519g–i—0960–NEW.* The individual's treating physician (TP) is the preferred source to perform a consultative examination (CE). SSA uses the SSA–84 to ascertain whether the TP is interested in performing the CE. This form is sent to the claimant's treating physician along with the medical evidence of record request letter. If the treating physician is interested in performing the CE, he or she indicates

interest by completing the SSA–84 and returning it to SSA. If the form is not returned, SSA assumes that the TP is not interested in performing the CE. Respondents are the claimants' treating physicians.

Type of Request: Collection in Use Without an OMB Number.

Number of Respondents: 168.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 14 hours.

2. *Application for Child's Insurance Benefits—20 CFR 404.350–404.368, 404.603, & 416.350—0960–0010.* SSA uses the information collected by the SSA–4–BK to entitle children of living and deceased workers to monthly Social Security payments. Respondents are guardians completing the form on behalf of the children of living or deceased workers, or the children of living or deceased workers.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 1,740,000.

Estimated Annual Burden: 344,141 hours.

Type of request	Number of respondents	Frequency per response	Average burden per response (minutes)	Estimated annual burden
Life Claims	46,250	1	10	7,708
Life Claims—MCS	439,375	1	10	73,229
Life Claims—Signature Proxy	439,375	1	9	65,906
Death Claims	40,750	1	15	10,188
Death Claims—MCS	387,125	1	15	96,781
Death Claims—Signature Proxy	387,125	1	14	90,329
Totals	1,740,000			344,141

3. *Work History Report—20 CFR 404.1512 and 416.912— 0960–0578.* The information collected by form SSA–3369 is needed to determine disability by the State DDS. The information will be used to document an individual's past work history. The respondents are applicants for SSI disability payments and Social Security disability benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 1,000,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 500,000 hours.

4. *Beneficiary Interview and Auditor's Observations Form—0960–0630.* The information collected through the Beneficiary Interview and Auditor's Observation Form, SSA–322, will be used by SSA's Office of the Inspector General to interview beneficiaries and/or their payees to determine whether representative payees are complying with their duties and responsibilities under SSA's regulations at 20 CFR 404.2035 and 416.635. Respondents to this collection will be randomly selected SSI recipients and Social Security beneficiaries who have representative payees.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 2,550.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 638 hours.

5. *Report to U.S. SSA by Person Receiving Benefits for a Child or Adult Unable to Handle Funds; Report to U.S. SSA—0960–0049.* SSA needs the information on Form SSA–7161–OCR–SM to monitor the performance of representative payees outside the U.S and the information on Form SSA–7162–OCR–SM to determine continuing entitlement to Social Security benefits and correct benefit amounts for beneficiaries outside the U.S. The respondents are individuals outside the U.S. who are receiving benefits either for someone else, or on their own behalf, under title II of the Social Security Act.

Type of Request: Revision of an OMB-approved information collection.

Form No.	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–7161–OCR–SM	30,000	1	15	7,500
SSA–7162–OCR–SM	236,500	1	5	19,708
Totals	257,000			27,208

6. *Real Property Current Market Value Estimate—0960–0471.* The SSA–L2794 is used to obtain current market value estimates of real property owned by applicants for, or recipients of, SSI payments (or a person whose resources are deemed to such an individual). The value of an individual's resources, including non-home real property is one of the eligibility requirements for SSI payments. The respondents are individuals with knowledge of local real property values.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 5,438.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 1,813 hours.

7. *Requests for Self-Employment Information, Employee Information, Employer Information—20 CFR 422.120—0960–0508.* SSA uses forms SSA–L2765, SSA–L3365 and SSA–L4002 to request correct information when an employer, employee or self-employed person reports an individual's earnings without a Social Security Number (SSN) or with an incorrect name or SSN. The respondents are employers, employees or self-employed individuals who are requested to furnish additional identifying information.

Type of Request: Revision of an OMB-approved information collection.

Form No.	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–L2765	15,400	1	10	2,567
SSA–L3365	173,100	1	10	28,850
SSA–L4002	656,000	1	10	109,333
Total	844,500			140,750

8. *Questionnaire for Children Claiming SSI Benefits—0960–0499.* The information collected on form SSA–3881–BK is used by SSA to evaluate disability in children who are appealing an unfavorable disability decision or whose continuing disability is being reviewed. The form requests the names and addresses of non-medical sources such as schools, counselors, agencies, organizations or therapists who would have information about a child's functioning. The respondents are children or their representatives who are appealing an unfavorable decision on their claim or whose continuing disability is being reviewed.

Type of Request: Extension of OMB-approved collection.

Number of Respondents: 253,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 126,500 hours.

Dated: May 2, 2007.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E7–8804 Filed 5–8–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Rockwood Municipal Airport, Rockwood, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the release of land at the Rockwood Municipal Airport in the City of Rockwood, Tennessee. This property, approximately 25 acres, will change to a non-aeronautical use. This action is taken under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

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

ADDRESSES: Documents are available for review at the Tennessee Department of Transportation, Division of Aeronautics, 424 Knapp Blvd, Bldg 4219, Nashville, TN 37217 and the FAA Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bob Woods, Director, TDOT, Division of Aeronautics, P.O. Box 17326, Nashville, TN 37217.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Program Manager, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the Rockwood Municipal Airport, Rockwood, TN. Under the provisions of AIR 21 (49 U.S.C. 47107(h)(2)).

On April 27, 2007, the FAA determined that the request to release property at the Rockwood Municipal Airport submitted by the airport owner meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than June 8, 2007.

The following is a brief overview of the request:

The City of Rockwood, Tennessee, owner of the Rockwood Municipal Airport, is proposing the release of approximately 25 acres of airport property so the property can be converted to use for industrial development.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the request, notice and other documents germane to the request in person at the Tennessee Department of Transportation, Division of Aeronautics.

Issued in Memphis, TN on April 27, 2007.

Phillip J. Braden,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 07–2272 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meetings of the National Parks Overflights Advisory Group Aviation Rulemaking Committee and the Grand Canyon Working Group

ACTION: Notice of meetings.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). In addition, the FAA and NPS are announcing the next meeting of the Grand Canyon Working Group (GCWG). The GCWG is a self-contained group within the NPOAG. This notification provides the dates, location, and agendas for the meetings.

DATES AND LOCATION: The GCWG meetings will take place on June 12 and June 13, 2007. The NPOAG ARC will meet on June 14 and 15, 2007. The meetings will take place in the Arizona/Barcelona Rooms at the Chaparral Suites Resort, 5001 N. Scottsdale Road, Scottsdale, Arizona 85250, phone number (480) 949–1414. The meetings will begin at 8:30 a.m. each day. Members of either group (NPOAG/GCWG) as well as the public can attend both meetings.

FOR FURTHER INFORMATION CONTACT: For the NPOAG meeting contact Barry Brayer, AWP–1SP, Special Programs, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3800, e-mail: *Barry.Brayer@faa.gov*, or Karen Trevino, National Park Service, Natural

Sounds Program, 1201 Oakridge Dr., Suite 350, Ft. Collins, CO 80525, telephone: (970) 225–3563, e-mail: *Karen_Trevino@nps.gov.* For the GCWG meeting contact Lucy Moore, 5 Seton Place, Santa Fe, NM 87505, telephone: (505) 820–2166, e-mail: *lucymoore@nets.com.*

SUPPLEMENTARY INFORMATION:

Background

The FAA and NPS established the GCWG within the NPOAG to provide advice and recommendations regarding the implementation of the National Parks Overflights Act of 1987 with respect to the Grand Canyon. The GCWG is comprised of 20 members to assure a representative and balanced group of agency, tribal, environmental, recreation, and aviation interests. The Working Group is co-chaired by a representative of the NPS and a representative of the FAA, and is facilitated by Lucy Moore Associates, a third-party neutral contracted through the U.S. Institute for Environmental Conflict Resolution. The Working Group has specific responsibilities for Grand Canyon overflight matters, including but not limited to: Review of the overflights noise analysis; and recommendations for a final overflights plan that provides for the substantial restoration of natural quiet and experience of the Grand Canyon National Park, including routes or corridors for commercial air tour operations that employ quiet aircraft technology.

The National Parks Air Tour Management Act of 2000, enacted on April 5, 2000, as Public Law 106–181, required the establishment of the NPOAG within one year after its enactment. The Act requires that the NPOAG be a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year as chairman of the advisory group.

The duties of the NPOAG include providing advice, information, and recommendations to the FAA Administrator and the NPS Director on: Implementation of Public Law 106–181; quiet aircraft technology; other measures that might accommodate interests to visitors to national parks; and at the request of the Administrator and the Director, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

Agenda for the June 12–13, 2007 Grand Canyon Working Group Meeting

An agenda will be distributed to Working Group members and posted on the FAA Grand Canyon Overflights Web site (*http://overflights.faa.gov*)

Agenda for the June 14–15, 2007 NPOAG Meeting

The agenda for the meeting will include, but is not limited to, the following: Review and approval of previous meeting minutes; update on ongoing Air Tour Management Program projects; and NPOAG subgroup assignments.

Attendance at the Meetings

Although these are not public meetings, interested persons may attend. Because seating is limited, if you plan to attend please contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT** so that meeting space may be made to accommodate all attendees.

Record of the Meetings

A meeting summary for the GCWG meeting will be posted under the related documents section of the FAA Grand Canyon Overflights Web site at *http://overflights.faa.gov*. If you cannot attend the NPOAG meeting, a summary record of the meeting will be made available under the program information section of the FAA ATMP Web site at *http://www.atmp.faa.gov* or through the Special Programs staff, Western-Pacific Region, Federal Aviation Administration, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3800.

Issued in Hawthorne, CA on May 2, 2007.

Barry Brayer,

Manager, Special Programs, Western-Pacific Region.

[FR Doc. 07–2273 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting, Special Committee 214: Data Communications—Next Generation Air Transportation System (NextGen) & Single European Sky ATM Research Initiatives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 214, Data Communications—Next Generation Air Transportation System (NextGen) & Single European Sky ATM Research Initiatives.

SUMMARY: The FAA is issuing this notice to advise the public of a first meeting of RTCA Special Committee 214, Data Communication—Next Generation Air Transportation System (NextGen) & Single European Sky ATM Research Initiatives.

DATES: The meeting will be held June 5–7, 2007 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org* for directions.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 214 meeting. The agenda will include:

- *June 5–7:*
  - Opening Plenary Session (Welcome, Introductions, and Administrative Remarks, Agenda Review).
  - RTCA Functional Overview.
  - ATO Data Communications Program—Overview.
  - European Data Communications Initiatives—Overview.
  - Committee Scope—Terms of Reference.
  - Presentation, Discussion, Recommendations.
  - Organization of Work, Assign Tasks and Workgroup.
  - Presentation, Discussion, Recommendations.
  - Assignment of Responsibilities.
  - Review first draft of OSED product for e.g. Departure Clearance with Revisions, Data Link Task.
  - Closing Plenary Session (Establish Dates, Location and Agenda for Next Meeting, Other Business, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 27, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–2271 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed State Route 99 project, Goshen to Kingsburg Six-Lane Freeway project between kilometer posts 66.4 to 86.8 (post miles 41.3 to 53.9) in Tulare County, and kilometer posts 0.0 to 1.6 (post miles 0.0/1.0) in Fresno County, State of California. Those actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 5, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mayela Sosa, Central Team Leader, Federal Highway Administration, 650 Capitol Mall, #4–100, Sacramento, CA 95814, weekdays 7 a.m. to 4 p.m. (Pacific time), telephone (916) 498–5057; e-mail: *mayela.sosa@fhwa.dot.gov* or Juergen Vespermann, Senior Environmental Planner, California Department of Transportation (Caltrans), 2015 E. Shields Avenue, Suite 100, Fresno, CA 93726, weekdays 7 a.m. to 4 p.m. (Pacific time), telephone (559) 243–8157, e-mail: *juergen_vespermann@dot.ca.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following State Route 99 project in the State of California. The Goshen to Kingsburg Six-Lane Freeway project would alleviate traffic congestion and delays, improve safety and operations, and attain an acceptable Level of Service to meet the existing and projected traffic volumes within the project limits. The 13.6-mile project is located on State Route 99 between Goshen in Tulare County to Kingsburg in Fresno County, California.

The actions by the Federal agencies and the laws under which such actions were taken, are described in the Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for the project, approved on October 23, 2006 and in other documents in the FHWA administrative record. The EA/FONSI and other documents are available by contacting FHWA or Caltrans at the addresses provided above. The FHWA EA/FONSI can be viewed and downloaded from the project Web site at: *http://www.dot.ca.gov/dist6/environmental/envdocs/envTulFre99EAIS.pdf*.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321—4351]; and Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. *Air:* Clean Air Act [42 U.S.C. 7401—7671(q)].
3. *Land:* Landscape and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wetlands and Water Resources:* Safe Drinking Water Act [42 U.S.C. 300(f) –300(j)(6)]; and Wetlands Mitigation [23 U.S.C. 103(b)(6)(m) and 133(b)(11)].
5. *Wildlife:* Endangered Species Act [16 U.S.C. 1531—1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661—667(d)]; and Migratory Bird Treaty Act [16 U.S.C. 703—712].
6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469—469c]; Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa *et seq*]; and Native American Graves Protection and Repatriation Act [25 U.S.C. 3001—3013].
7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)—2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201—4209]; and The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.
8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601—9675]; Superfund Amendments and Reauthorization Act of 1986; and Resource Conservation and Recovery Act [42 U.S.C. 6901—6992(k)].
9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of the Cultural Environment; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; and E.O. 13112 Invasive Species.

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

Authority: 23 U.S.C. 139(l)(1)

Issued on: April 30, 2007.

Maiser Khaled,

Director, Project Development & Environment, Sacramento, California.

[FR Doc. E7–8806 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; MAZDA

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Mazda Motor Corporation, (Mazda) in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard,* for the Mazda CX–9 vehicle line beginning with model year (MY) 2008. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International

Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated March 8, 2007, Mazda requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the CX–9 vehicle line beginning with MY 2008. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one of its vehicle lines per year. Mazda has petitioned the agency to grant an exemption for its CX–9 vehicle line beginning with MY 2008. In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the CX–9 vehicle line. Mazda will install its passive antitheft device as standard equipment on the vehicle line. Features of the antitheft device will include a powertrain control module, immobilizer control module, transceiver and ignition key. Mazda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

The antitheft device to be installed on the MY 2008 Mazda CX–9 is a transponder-based electronic immobilizer system. Mazda's antitheft device is activated when the driver/operator turns off the engine using the properly coded ignition key. When the ignition key is turned to the ''ON'' position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module. Mazda stated that encrypted communications exist between the immobilizer system control function and the powertrain's electronic control module. The vehicle's engine can only be started if the transponder code matches the code previously programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled. If the correct code is not transmitted to the electronic control module there is no way to mechanically override the system and start the vehicle. Furthermore, Mazda stated that drive-away thefts are virtually eliminated with the sophisticated design and operation of the electronic engine immobilizer system which makes conventional theft methods (*i.e.*, hot-wiring or attacking the ignition-lock cylinder) ineffective.

Mazda also stated that its immobilizer system incorporates a light-emitting diode (LED) that provides information as to when the system is ''set'' and ''unset''. When the ignition is initially turned to the ''ON'' position, a three-second continuous LED indicates the proper ''unset'' state of the device. When the ignition is turned to ''OFF'', a flashing LED indicates the ''set'' state of the system and provides a visual confirmation that the vehicle is protected by the immobilizer system. The integration of the setting/unsetting device (transponder) into the ignition key prevents any inadvertent activation of the system.

Mazda reported that in MY 1996, the proposed system was installed on certain U.S. Ford vehicles as standard equipment (i.e. on all Ford Mustang GT and Cobra models, Ford Taurus LX, SHO and Sable LS models). The immobilizer system was installed on the Ford Mustang vehicle line as standard equipment in MY 1997. When comparing 1995 model year Mustang vehicle thefts (without immobilizer), with MY 1997 Mustang vehicle thefts (with immobilizer), data from the National Insurance Crime Bureau (NCIC) showed a 70% reduction in theft. Actual NCIC reported thefts were 500 for MY 1995 Mustang and 149 thefts for MY 1997 Mustang.)

Mazda also noted that a July 2000 Insurance Institute for Highway Safety news release compared theft loss data before and after equipping vehicles with a passive immobilizer device. It showed an average reduction of about 50 percent for vehicles with an immobilizer system.

In addressing the specific content requirements of 543.6, Mazda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. Mazda also states that its proposed device is reliable and durable because it does not have any moving parts, nor does the key require a separate battery. Any attempt to slam-pull the ignition lock cylinder, for example, will have no effect on a thief's ability to start the vehicle. Starting the vehicle is accomplished by having the correct ignition key transmit the correct code to the control module.

Mazda's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lacks an audible or visible alarm. Therefore, the device cannot perform one of the functions listed in 49 CFR Part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with devices similar to that which Mazda proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Mazda has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Mazda, the agency believes that the antitheft device for the Mazda CX–9 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). Based on the information Mazda provided about its device, the agency concludes that the device will provide the four types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a)(4) and (5), the agency finds that Mazda has provided adequate reasons for its belief that the antitheft device will reduce and deter theft.

For the foregoing reasons, the agency hereby grants in full Mazda's petition for exemption for the Mazda CX–9 vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law

enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Mazda decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mazda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 3, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–8861 Filed 5–8–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 3, 2007.

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 June 8, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1226.

Type of Review: Extension.

Title: FI–59–89 (Final) Proceeds of Bonds used for Reimbursement.

Description: The rule requires record maintenance by a state or local government or section 501(c)(3) organization issuing tax-exempt bonds (''Issuer'') to reimburse itself for previously-paid expenses. This recordkeeping will establish that the issuer had an intent, when it paid an expense, to later issue a reimbursement bond.

Respondents: State, local, or tribal governments.

Estimated Total Burden Hours: 6,000 hours.

OMB Number: 1545–1708.

Type of Review: Extension.

Title: Publication 1345, Handbook for Authorized IRS e-file Providers.

Description: Publication 1345 informs those who participate in the IRS e-file Program for Individual Income Tax Returns of their obligations to the Internal Revenue Service, taxpayers, and other participants.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 3,636,463 hours.

OMB Number: 1545–1734.

Type of Review: Extension.

Title: Terminal Operator Report.

Form: 720–TO.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 2,347,020 hours.

OMB Number: 1545–1296.

Type of Review: Extension.

Title: PS–27–91 (Final) Procedural Rules for Excise Taxes Currently Reportable on Form 720, PS–8–95 (Final) Deposits of Excise Taxes.

Description: Section 6302(c) authorizes the use of Government depositaries. These regulations provide reporting and recordkeeping rules relating to the use of Government depositaries for taxes imposed by chapter 33 of the Code.

Respondents: Business and other for-profit institutions.

Estimated Total Burden Hours: 242,350 hours.

OMB Number: 1545–1850.

Type of Review: Extension.

Title: REG–105885–99 (Final), Compensation Deferred Under Eligible Deferred Compensation Plans.

Description: REG–105885–99 provides guidance regarding the trust requirements for certain eligible deferred compensation plans enacted in the Small Business Job Protection Act of 1996.

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 10,600 hours.

OMB Number: 1545–1461.

Type of Review: Extension.

Title: INTL–24–94 (Final) Taxpayer Identifying Numbers (TINs).

Description: This regulation relates to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. Procedures are provided for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. The regulation also requires foreign persons to furnish a taxpayer identifying number on their tax returns.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1 hours.

OMB Number: 1545–1117.

Type of Review: Extension.

Title: Notice 89–61, Imported Substances; Rules for Filing a Petition.

Description: The notice sets forth procedures to be followed in petitioning the Secretary to modify the list of taxable substances in section 4672(a)(3).

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 100 hours.

OMB Number: 1545–0041.

Type of Review: Extension.

Title: Corporation Dissolution or Liquidation.

Form: 966.

Description: Form 966 is filed by a corporation whose shareholders have agreed to liquidate the corporation. As a result of the liquidation, the

shareholders receive the property of the corporation in exchange for their stock. The IRS uses Form 966 to determine if the liquidation election was properly made and if any taxes are due on the transfers of property.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 159,120 hours.

OMB Number: 1545–1595.

Type of Review: Extension.

Title: Revenue Procedure 98–25, Automatic Data Processing.

Description: Processing System (ADP). If machine-sensible records are lost, stolen, destroyed, or materially inaccurate, the Rev. Proc. requires that a taxpayer promptly notify its District Director and submit a plan to replace the affected records. The District Director will notify the taxpayer of any objection(s) to the taxpayer's plan.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 120,000 hours.

OMB Number: 1545–2040.

Type of Review: Extension.

Title: Revenue Procedure Granting Automatic Consent to change certain elections relating to the apportionment of interest expense and research and experimental expenditures.

Description: This revenue procedure provides the administrative procedure under which a taxpayer may obtain automatic consent to change (a) from the fair market value method under § 1.861–8T(c)(2) or from the alternative tax book value method under § 1.861–9(i)(1) to apportion interest expense or (b) from the sales method or the optional gross income methods under § 1.861–17(c) and (d) to apportion research and experimental expenditures. The reporting and recordkeeping requirements imposed by this revenue procedure will enable the IRS to identify eligibility to use the procedure and the years for which the new method or methods is being adopted.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 100 hours.

OMB Number: 1545–0908.

Type of Review: Revision.

Title: Form 8282, Donee Information Return (Sale, Exchange or Other Disposition of Donated Property); Form 8283, Noncash Charitable Contributions.

Form: 8282, 8283.

Description: Internal Revenue Code section 170(a)(1) and regulation section 1.170A–13(c) require donors of property valued over $5,000 to file certain information with their tax return in order to receive the charitable contribution deduction. Form 8283 is used to report the required information. Code section 6050L requires donee organizations to file an information return with the IRS if they dispose of the property received within two years. Form 8282 is used for this purpose.

Respondents: Individuals or households.

Estimated Total Burden Hours: 7,805,692 hours.

OMB Number: 1545–1733.

Type of Review: Extension.

Title: Carrier Summary Report.

Form: 720–CS.

Description: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–CS is an information return that will be used by carriers to report their monthly deliveries and receipts of products to and from terminals.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 183,027 hours.

OMB Number: 1545–0704.

Type of Review: Revision.

Title: Information Return of U.S. Persons with Respect To Certain Foreign Corporations.

Form: 5471.

Description: Form 5471 and related schedules are used by U.S. persons that have an interest in a foreign corporation. The form is used to report income from the foreign corporation. The form and schedules are used to satisfy the reporting requirements of sections 6035, 6038 and 6046 and the regulations thereunder pertaining to the involvement of U.S. persons with certain foreign corporations.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 4,045,343 hours.

OMB Number: 1545–1736.

Type of Review: Extension.

Title: Revenue Procedure 2001–24, Advanced Insurance Commissions.

Description: Insurance companies that want to obtain automatic consent to change their method of accounting for cash advances that qualify as loans to their agents must attach a statement to their federal income tax return.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,318 hours.

OMB Number: 1545–1872.

Type of Review: Extension.

Title: Request for Transcript of Tax Return.

Form: 4506–T.

Description: 26 U.S.C. 7513 allows for taxpayers to request a copy of a tax return or return information. Form 4506–T is used by a taxpayer to request a copy of a Federal Tax information, other than a return. The information provided will be used to search the taxpayer's account and provide the requested information; and to ensure that the requester is the taxpayer or someone authorized by the taxpayer.

Respondents: Individuals or households.

Estimated Total Burden Hours: 555,600 hours.

OMB Number: 1545–1578.

Type of Review: Extension.

Title: REG–106542–98 (Final), Election to Treat Trust as Part of an Estate.

Description: REG–106542–98 and Rev. Proc. 98–13 relate to an election to have certain revocable trusts treated and taxed as part of an estate, and provides the procedures and requirements for making the section 645 election.

Respondents: Individuals or households.

Estimated Total Burden Hours: 5,000 hour.

OMB Number: 1545–1577.

Type of Review: Extension.

Title: REG–109704–97 (NPRM) HIPAA Mental Health Parity Act; (Temporary) Interim Rules for Mental Health Parity.

Description: The regulations provide guidance for group health plans with mental health benefits about requirements relating to parity in the dollar limits imposed on mental health benefits and medical/surgical benefits.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 3,280 hours.

OMB Number: 1545–1873.

Type of Review: Extension.

Title: Revenue Procedure 2004–15, Waivers of Minimum Funding Standards.

Description: This revenue procedure describes the process for obtaining a waiver from the minimum funding standards set forth in section 412 of the Code.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 4,730 hours.

OMB Number: 1545–2043.

Type of Review: Extension.

Title: Form 8879–B, IRS e-file Signature Authorization for Form 1065–B.

Form: 8879–B.

Description: Tax year 2006 is the first year that filers of Form 1065–B (electing large partnerships) can file electronically. Form 8879–B is used when a personal identification number (PIN) will be used to electronically sign the electronic tax return, and, if applicable, consent to an electronic funds withdrawal.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 258 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. E7–8881 Filed 5–8–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA), recipient agency, intends to continue a recurring computer-matching program with the Social Security Administration (SSA), source agency.

The goal of this match is to compare income and employment status as reported to VA with wage records maintained by SSA. The proposed matching program will enable VA to ensure accurate reporting of income and employment status. VA will use this information to adjust VA benefit payments as prescribed by law.

DATES: VA will file a report of the subject matching agreement with the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Oversight and Government Reform; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated in this notice.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov*, by mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m., and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS).

FOR FURTHER INFORMATION CONTACT: Pamela Liverman (212C), (202) 273–7280.

SUPPLEMENTARY INFORMATION: This information is required by title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. SSA and VA have determined that a computer matching agreement is the most cost effective and efficient way to verify statements of beneficiaries. By comparing the information received through the matching program between SSA and VA on an annual basis, VA will be able to make timely and more accurate adjustments in the benefits payable.

A. Participating Agencies

This is a computer matching agreement between the Social Security Administration, source agency, and the Department of Veterans Affairs, recipient agency.

B. Purpose of the Match

The purpose of the matching agreement is to provide VA with data from income tax return information disclosed to SSA, to include its wage and self-employment income records. VA will use this information to adjust VA benefit payments as prescribed by law.

C. Authority for Conducting the Matching Program

The authority to conduct this match is 38 U.S.C. 5106, which requires Federal agencies to furnish VA with information necessary to determine eligibility for or amount of benefits. In addition, 26 U.S.C. 6103(l)(7) authorizes the disclosure of tax return information to VA.

D. Records To Be Matched

VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22), first published at 41 FR 9294 (March 3, 1976), and last amended at 70 FR 34186 (June 13, 2005), with other amendments as cited therein. VA's routine use for this match is routine use number 46.

The SSA records will come from the Earnings Recording and Self-Employment Income System, SSA/OSR, 60–0059. Routine use 26 permits SSA to disclose the pertinent information to VA.

E. Description of Computer Matching Program

VA plans to match records of veterans, surviving spouses and children who receive pension, and parents who receive dependency and indemnity compensation, with SSA income tax return information as it relates to earned income. VA will also match records of veterans receiving disability compensation at the 100 percent rate based on unemployability with SSA income tax return information as it relates to earned income.

VA will furnish an electronic file, which contains the social security number (SSN), name, VA claim number, and date of birth for each individual for whom tax return information is being requested. SSA will verify the SSNs furnished by using the Enumeration Verification System. SSA will provide a response for each individual identified by either indicating why the SSN could not be verified, or including earnings data for each record verified.

F. Inclusive Dates of the Matching Program

The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

This computer-matching program is subject to public comment and review by Congress and the Office of Management and Budget. In accordance with title 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act

of 1974 as amended by Public Law 100–503.

Approved: April 19, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E7–8858 Filed 5–8–07; 8:45 am]

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Federal Register

Wednesday,
May 9, 2007

Part II

Department of Education

34 CFR Part 303

Early Intervention Program for Infants and Toddlers With Disabilities; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 303

[Docket ID ED–2007–OSERS–131]

RIN 1820–AB59

Early Intervention Program for Infants and Toddlers With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Secretary proposes to amend the regulations governing the Early Intervention Program for Infants and Toddlers with Disabilities. The proposed regulations would implement changes made to the Individuals with Disabilities Education Act by the Individuals with Disabilities Education Improvement Act of 2004.

DATES: We must receive your comments on or before July 23, 2007.

We will hold public meetings about this NPRM. The dates, times, and places of the meetings will be published in a separate notice in the **Federal Register**.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Department of Education'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select ED–2007–OSERS–131 to add or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for submitting comments, accessing documents, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed regulations, address them to Alexa Posny, U.S. Department of Education, 400 Maryland Avenue, SW., room 4109, Potomac Center Plaza, Washington, DC 20202–2600.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing on the Federal eRulemaking Portal at *http://www.regulations.gov*. All submissions will be posted to the Federal eRulemaking Portal without change, including personal identifiers and contact information.

FOR FURTHER INFORMATION CONTACT: Alexa Posny, U.S. Department of Education, 400 Maryland Avenue, SW., room 4109, Potomac Center Plaza, Washington, DC 20202–2600. *Telephone:* (202) 245–7459, extension 3.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) upon request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should provide to reduce the potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations by accessing Regulations.gov. You may also inspect the comments, in person, in room 4165, Potomac Center Plaza, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meetings

We will hold public meetings about this NPRM. Each meeting will take place from 4 p.m. to 7:30 p.m. We will be providing more specific information on meeting dates and locations in a separate notice published in the **Federal Register**.

Assistance to Individuals With Disabilities at the Public Meetings

The meeting sites will be accessible to individuals with disabilities and sign language interpreters will be available. If you need an auxiliary aid or service other than a sign language interpreter to participate in the meeting (e.g., interpreting service such as oral, cued speech, or tactile interpreter; assisted listening device; or materials in alternate format), notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Background

On December 3, 2004, the Individuals with Disabilities Education Improvement Act of 2004 was enacted into law as Public Law 108–446. This statute, as passed by Congress and signed by the President, reauthorizes and makes significant changes to the Individuals with Disabilities Education Act.

Part C of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004 (Act or IDEA), provides Federal funds to States to make available early intervention services for infants and toddlers with disabilities (from birth to age three) and their families. In 2004, the Act was revised to—(1) Emphasize child find for underserved populations of infants and toddlers; (2) increase accountability for the success of early intervention services; (3) ensure a seamless transition for children and families when they exit from the Part C program to other appropriate programs; (4) provide States with flexibility to provide early intervention services to children with disabilities who are age three and older; (5) provide States with alternatives to dispute resolution under

Part C's procedural safeguards; (6) clarify certain definitions including specific early intervention services, qualified personnel, and natural environments; and (7) streamline Part C grant application requirements.

Changes to the current Part C regulations (34 CFR part 303) are necessary in order for the Department to appropriately and effectively address the provisions of the law and to assist State lead agencies and early intervention service programs and providers in implementing their responsibilities under the law.

On December 29, 2004, the Secretary published a notice in the **Federal Register** requesting advice and recommendations from the public on regulatory issues under the Act, and announcing a series of seven public meetings during January and February of 2005 to seek further input and suggestions for developing regulations based on the new statute.

Over 6000 public comments were received in response to the **Federal Register** notice and the seven public meetings, including letters from parents, public agency personnel, early intervention personnel, and parent-advocate and professional organizations. The comments addressed the major provisions of the law. These comments were reviewed and considered in developing this NPRM. The Secretary appreciates the interest and thoughtful attention of the commenters responding to the December 29, 2004 notice and participating in the seven public meetings.

General Proposed Regulatory Plan and Structure

In developing this NPRM, we have elected to prepare one comprehensive document that incorporates the majority of the requirements from the law along with the applicable regulations, rather than publishing a regulation that does not include statutory provisions. The rationale for doing this is to create a single reference document for parents, State lead agencies, early intervention service programs and providers, State Interagency Coordinating Councils, and others to use, so there is no need to shift between one document for regulations and a separate document for the statute. Although this approach will result in longer regulations, it is our impression that there is support for this practice.

We have reorganized the regulations by following the general order, substance, and structure of provisions in the statute, rather than using the arrangement of the current regulations. We believe this change will be helpful to parents, State lead agencies, early intervention service providers and the public both in reading the regulations, and in finding the direct link between a given statutory requirement and the regulation related to that requirement.

The proposed regulations contain Part C statutory provisions (even where those provisions are not in the current regulations but were in the statute prior to 2004). For example, proposed § 303.104 (Acquisition of equipment and construction or alteration of facilities) contains new regulatory language that incorporates the longstanding statutory language in section 605 of the Act, which was unchanged by the 2004 amendments to the Act. Because these changes in the proposed regulations do not involve new substantive requirements, but rather incorporate longstanding statutory requirements, they are not identified in this preamble as substantive changes. The changes in these proposed regulations are identified in the appropriate locations in the preamble.

In general, the requirements related to a given statutory section will be included in one location and in the same general order as in the statute, rather than being spread throughout several subparts, as the statutory sections are in the current regulations. One exception to this approach is that the regulations implementing section 638 of the Act (Uses of funds), are combined with the regulations implementing section 632 (System of payments) and section 640 of the Act (Payor of last resort) in proposed subpart F, because both relate to financial and interagency matters.

As restructured in this NPRM, these proposed regulations are divided into eight major subparts, each of which is directly linked to, and comports with, the general order of provisions in a specific section of the Act. For example, we have revised subpart H in the proposed regulations to include all provisions regarding the allocation of Part C funds (from section 643 of the Act), rather than having those provisions dispersed among several different subparts, as in the current Part C regulations.

In addition, these proposed regulations do not contain notes following the regulatory text as in the current regulations. Where necessary and relevant, language from the notes in the current regulations has been incorporated into the proposed regulations.

Finally, these proposed regulations incorporate, where practicable, applicable Part B regulations in order to align the two systems, minimize administrative costs (particularly for lead agencies that are also State educational agencies (SEAs) responsible for administering both Parts B and C of the Act in a State), and promote a seamless system of services for infants, toddlers, children, and youth with disabilities birth through 21 years of age.

Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

Subpart A—General

Proposed subpart A would incorporate the provisions in sections 601, 602, 631, and 632 of the Act regarding the purpose of and definitions under Part C of the Act.

Purpose and Applicable Regulations

Proposed § 303.1(a) through (d) (Purpose) would be substantively unchanged and would incorporate sections 601(d)(2) and 631(a)(5) and (b)(1) through (3) of the Act regarding the purposes of Part C of the Act. Proposed § 303.1(e), regarding expanding opportunities for children under three who would be at risk of developmental delay, would be added to incorporate the language from section 631(b)(4) of the Act.

Proposed § 303.2, regarding eligible recipients under Part C of the Act would remain substantively unchanged from current § 303.2, and would be consistent with the definition of *State* in section 602(31) of the Act and in proposed § 303.34.

Current § 303.3, regarding use of funds for activities supported under Part C of the Act, would be incorporated into proposed § 303.501 regarding permissive use of funds by the lead agency in subpart F of these proposed regulations. Current § 303.4 regarding the limitation on eligible children would be removed because the definitions of *child* and *infant or toddler with a disability* in proposed §§ 303.6 and 303.21, respectively, make clear that part 303 applies to infants and toddlers with disabilities who are under the age of three and therefore does not apply to children with disabilities ages three and older who may be entitled to receive a free appropriate public education under Part B of the Act.

Proposed § 303.3, regarding applicable regulations, would incorporate the provisions from current § 303.5. Proposed § 303.3(a)(1) would incorporate the language from current

§ 303.5(a)(2). Proposed § 303.3(a)(2) would include the references from the Education Department General Administrative Regulations (EDGAR) in current § 303.5(a)(1). The references to the Part B regulations in current § 303.3(a)(3) would be removed because all applicable provisions from the Part B regulations would be included in these proposed regulations. For example, the provisions in the Part B regulations regarding confidentiality and the procedures for the Secretary's determination of State eligibility to receive a grant, which are cross-referenced in current § 303.5(a)(3), would appear, respectively, in proposed §§ 303.402 through 303.417 and proposed §§ 303.231 through 303.236.

Proposed § 303.3(b) would incorporate the language from current § 303.5(b)(1), regarding the meaning of *State educational agency,* to indicate that any reference to the term *State educational agency* means the *lead agency* under this part.

Current § 303.5(b)(2) through (b)(5) regarding the meaning of terms and cross-references from the Part B regulations as applied to the Part C regulations would be removed as unnecessary because we would incorporate applicable definitions and provisions from the Part B regulations in these proposed regulations.

Definitions Used in This Part

Proposed § 303.4 (*Act*) would incorporate the statutory definition of *Act* from section 601(a) of the Act and current § 303.6, and would further clarify that the Act has been amended.

Proposed § 303.5 (*At-risk infant or toddler*) would incorporate the statutory definition from section 632(1) of the Act. This section would also include the examples of biological and environmental at-risk factors listed in Note 2 following current § 303.16 as follows: Low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, and history of abuse or neglect. With this change, Note 2 following current § 303.16 would be removed from the regulations. Proposed § 303.5 would also include as an example of at-risk infants and toddlers whom the State may elect to serve those infants and toddlers directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure to reflect the new provisions described in section 637(a)(6)(B) of the Act.

Proposed § 303.6 (*Child*) would modify the definition of *child* in current § 303.7 to mean an individual under age six and would be consistent with the State option outlined in proposed § 303.211 to serve children ages three and older.

Proposed § 303.7 (*Consent*) would incorporate the provisions of current § 303.401(a), except that proposed § 303.7(c)(2) would add that if the parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that has occurred before the consent was revoked), consistent with the Part B regulations in 34 CFR 300.9 (71 FR 46757).

Proposed § 303.8 (*Council*) would remain substantively unchanged from current § 303.8 and would reflect the statutory definition in section 632(2) of the Act.

Proposed § 303.9 (*Day*) would remain substantively unchanged from current § 303.9.

Proposed § 303.10 (*Developmental delay*) would remain substantively unchanged from current § 303.10 and would cross-reference proposed § 303.111 regarding the State definition of developmental delay and proposed § 303.203(c) regarding the requirement that the State must include its rigorous definition of developmental delay in its application to the Department.

Proposed § 303.11 (*Early intervention service program* or *EIS program*) would replace current § 303.11 and would clarify that the EIS program is an entity designated by the lead agency for reporting under sections 616(b)(2)(C) and 642 of the Act and proposed §§ 303.700 through 303.702.

Proposed § 303.12(a) (*Early intervention service provider* or *EIS provider*) would clarify that an EIS provider can be an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under Part C of the Act in the State whether or not the entity or individual receives Federal funds under Part C of the Act and may include the lead agency and a public agency under Part C of the Act, where appropriate. For example, an EIS provider may include the lead agency, a public agency, or individuals if these entities or individuals are responsible for conducting evaluations and assessments, providing service coordination, or other Part C services.

Proposed § 303.12(b) would be similar to current § 303.12(c) in that it would continue to clarify that the EIS provider is responsible for: participating in the multidisciplinary team's assessment of an infant or toddler to develop integrated goals and outcomes for the individualized family service plan (IFSP); and providing early intervention services in accordance with the infant's or toddler's IFSP because States must ensure EIS providers are providing direct services to eligible children in addition to their other roles. However, proposed § 303.12(b) would further identify that the EIS provider would be responsible for consulting with and training parents and others regarding the provision of the early intervention services described in the infant's or toddler's IFSP.

Proposed § 303.13, regarding the definition of *early intervention services*, would replace current § 303.12(a) and (b) and would incorporate the provisions of the definition of this term in section 632(4) of the Act. In addition, proposed § 303.13(a)(2) would retain the language in current § 303.12(a)(2) to clarify that the early intervention services are selected in collaboration with parents. Proposed § 303.13(a)(4) would clarify that early intervention services are designed to meet the developmental needs of an infant or toddler with a disability, and as requested by the family, the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team. Proposed § 303.13(a)(8) would clarify that early intervention services, to the maximum extent appropriate, are provided in natural environments, as defined in proposed § 303.26 and consistent with proposed § 303.126.

Proposed § 303.13(b) regarding types of early intervention services would substantively incorporate the provisions of current § 303.12(d) but would not include the references from current § 303.12(d)(6) and (d)(7) to nursing services and nutrition services, which are not specifically listed in section 632(4)(E) of the Act. Only those types of services identified in section 602(4)(E) of the Act would be retained. The list of services identified in this proposed section is not intended to comprise an exhaustive list of the types of services that may be provided to an infant or toddler with a disability as an early intervention service. Nursing services or nutrition services could be deemed early intervention services if they are provided by qualified personnel and otherwise meet the definition of early intervention services.

Proposed § 303.13(b)(1)(i) (*Assistive technology device*) and (b)(1)(ii) (*Assistive technology service*) would reflect the statutory definition of these terms in section 602(1) and 602(2) of the Act. The definition of *assistive technology device* as well as the definition of *health services* in proposed § 303.16(c)(1)(iii) (*Health services*) would exclude, as a covered service under Part C of the Act, a medical device that is surgically implanted,

including cochlear implants, or the optimization or maintenance or replacement of such a device, consistent with section 602(1)(B) of the Act and 34 CFR 300.34(b) of the Part B regulations (71 FR 46760).

Optimization or ''mapping'' of a cochlear implant means the adjustment or fine tuning of the electrical stimulation levels provided by the cochlear implant. These adjustments are required as an infant or toddler learns to discriminate signals to a finer degree. Optimization services are generally provided at specialized clinics by specially trained professionals. These mapping or remapping services are not the responsibility of the lead agency under Part C of the Act.

Although mapping is not an early intervention service, the need for it and the use of a cochlear implant by an infant or toddler with a disability may indicate a need for services, some of which would be considered early intervention services such as speech therapy, assistive listening devices and auditory training. In addition, for a child who has been receiving Part C services, the implantation of a device may require a reevaluation of the child's level of functioning and review and, if appropriate, revision of the child's IFSP.

Nothing in proposed § 303.13(b)(1)(i) (*Assistive technology device*), proposed § 303.13(b)(1)(ii) (*Assistive technology service*), and proposed § 303.16(c)(1)(iii) (*Health services*) would limit the right of an infant or toddler with a disability with a surgically implanted device (such as a cochlear implant) and the child's family to receive the early intervention services that are determined by the IFSP team to be necessary to meet the unique developmental needs of the infant or toddler. Thus, although a cochlear implant is expressly excluded from being an assistive technology device under Part C of the Act, funds under Part C of the Act may under certain circumstances be used to pay for a hearing aid. A hearing aid in general is not covered because it is considered a personal device used for daily purposes. However, if the hearing aid is identified as a needed assistive technology device by the infant's or toddler's IFSP team in order to meet the specific developmental outcomes of the infant or toddler with a disability, funds under Part C of the Act may be used to provide this early intervention service.

Proposed § 303.13(b)(2) (*Audiology services*) would be substantively unchanged from current § 303.12(d)(2), except that the term in current § 303.12(d)(2) would be changed from *audiology* to *audiology services* because the section outlines specific audiology services provided.

Proposed § 303.13(b)(3) (*Family training, counseling, and home visits*) would be substantively unchanged from current § 303.12(d)(3).

Proposed § 303.13(b)(4) (*Health services*) would reference the definition of *health services* in proposed § 303.16, consistent with the reference to the definition of health services in current § 303.12(d)(4).

Proposed § 303.13(b)(5) (*Medical services*) would be substantively unchanged from current § 303.12(d)(5) (Medical services only for diagnostic or evaluation). Proposed § 303.13(b)(5) would clarify that the term *medical services* means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.

Proposed § 303.13(b)(6) (*Occupational therapy*) would be substantively unchanged from current § 303.12(d)(8).

Proposed § 303.13(b)(7) (*Physical therapy*) would be substantively unchanged from current § 303.12(d)(9).

Proposed § 303.13(b)(8) (*Psychological services*) would be substantively unchanged from current § 303.12(d)(10).

Proposed § 303.13(b)(9) (*Service coordination services*) would cross-reference the definition of service coordination services in proposed § 303.33, which substantively includes the language in current § 303.12(d)(11) regarding the meaning of service coordination services.

Proposed § 303.13(b)(10) (*Social work services*) would be substantively unchanged from current § 303.12(d)(12).

Proposed § 303.13(b)(11) (*Special instruction*) would be substantively unchanged from current § 303.12(d)(13).

Proposed § 303.13(b)(12) (*Speech-language pathology services*) would reflect the definition of speech-language pathology in current § 303.12(d)(14) and the language from section 632(4)(E)(iii) of the Act, which includes sign language and cued language services, such as speech-language pathology services, as early intervention services. The definition also would clarify that interpreting or transliteration services include oral transliteration (such as amplification) services. The definition would also add that auditory/oral language services would be used with respect to infants and toddlers with disabilities who are hearing impaired, which would include services to the infant or toddler with a disability and the family to teach auditory/oral language.

Proposed § 303.13(b)(13) (*Transportation and related costs*) would be substantively unchanged from current § 303.12(d)(15) except that we would remove taxi from among the examples because transportation via taxi is less common than transportation via the other examples such as common carriers. Proposed § 303.13(b)(14) (*Vision services*) would be substantively unchanged from current § 303.12(d)(16).

Proposed § 303.13(c) (*Qualified personnel*) would be similar to current § 303.12(e) except for the following changes. As previously described in the discussion related to proposed § 303.13(b) regarding the types of early intervention services, registered dieticians would be included in the list of types of qualified personnel to reflect the provisions of section 632(4)(F)(viii) of the Act. The reference to nutritionists in current § 303.12(e)(4) would not be included in proposed § 303.13(c) consistent with section 632(4) of the Act.

Proposed § 303.13(c)(11) also would provide that teachers of infants or toddlers with hearing impairments (including deafness) and teachers of the visually impaired (including blindness) are special educators. As stated in note 284 of the U.S. House of Representatives Conference Report No. 108–779 (Conf. Rpt.), the ''Conferees commend the Office of Special Education and Rehabilitative Services for developing updated early intervention materials that set out the full range of options for families with deaf and hard of hearing children who now have the potential to develop age appropriate language in whatever modality their parents choose.'' Note 285 in the Conf. Rpt. further states that ''[t]he conferees intend that the term 'special educators' include 'teachers of the deaf'.'' We propose to use the term ''teachers of the hearing impaired'' rather than the term ''teachers of the deaf'' because the former includes teachers of the deaf, and provides States with broader flexibility to provide teachers to meet the language and communication needs of infants or toddlers who are hearing impaired, including infants and toddlers who are deaf. It is the intent of the Department and these proposed regulations to continue to ensure that such qualified personnel are available for infants and toddlers with hearing impairments including deafness.

The Department requests comment on whether it is necessary to classify teachers of the visually impaired as special educators as we have proposed in proposed § 303.13(c)(11). We believe that such classification in the regulations is necessary to ensure that

qualified personnel are available for infants and toddlers with visual impairments, including blindness. Additionally, to conform to section 632(4)(F) of the Act, proposed § 303.13(c)(13) would include vision specialists, ophthalmologists, and optometrists to meet the service and sensory needs of infants and toddlers who are visually impaired, including infants and toddlers who are blind.

The note following current § 303.12 would be removed because the substance of the note would be reflected in proposed § 303.13(d). Proposed § 303.13(d) would clarify that the lists of early intervention services and personnel in proposed § 303.13(b) and (c) are not exhaustive. The list does not preclude the provision of other early intervention services for an infant or toddler with a disability and the child's family to enhance the developmental needs of the child. Such Part C services can include, for example, respite care if the IFSP team identifies it as a service necessary to enable the parent of an infant or toddler with a disability to participate in or receive other early intervention services in order to meet the developmental outcomes identified on the child's IFSP. In addition, persons other than those identified in proposed § 303.13(c) could provide early intervention services provided that the services otherwise met the requirements of this part.

Proposed § 303.14 (*Elementary school*) would incorporate the definition of this term from section 602(6) of the Act. We propose to add this definition here because Part C of the Act now includes references to elementary schools in the discussion of a State's option to make early intervention services under Part C of the Act available to children ages three and older under sections 632 and 635(c) of the Act.

Proposed § 303.15 (*Free appropriate public education* or (*FAPE*)) would be added to incorporate the definition of *FAPE* from section 602(9) of the Act, given the State's option to make early intervention services available to children in lieu of receiving FAPE under sections 632(5)(B)(ii) and 635(c) of the Act.

Proposed § 303.16 (*Health services*) would be substantively unchanged from current § 303.13 except that, consistent with the language in section 602(1) of the Act, the term would not include optimization (e.g., mapping), maintenance or replacement of surgically implanted medical devices, including cochlear implants. We have provided further clarification on the issue of cochlear implants elsewhere in this preamble in the discussion of the definition of *assistive technology device*.

Additionally, proposed § 303.16(c)(1)(iii) would clarify that an infant or toddler with a surgically implanted device, such as a cochlear implant, is entitled to receive early intervention services that are identified on the child's IFSP as being needed to meet the child's developmental needs, and that nothing under Part C of the Act prevents the EIS provider from routinely checking either a hearing aid or external components of a surgically implanted device of an infant or toddler with a disability to determine whether they are functioning properly. This clarification in proposed § 303.16(c)(1)(iii) would be similar to the provision in 34 CFR 300.34(b)(2) of the Part B regulations (71 FR 46760).

Proposed § 303.16(c)(2), regarding devices necessary to control or treat a medical condition would be clarified by adding the following examples of devices that are necessary to control or treat a medical condition: heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps.

The note following current § 303.13 would be removed as unnecessary. The statement in the note regarding the distinction between health services required under Part C of the Act and services that are not required under Part C of the Act would be reflected in proposed § 303.16. The discussion regarding medical and other services the child needs or is receiving through other sources that are neither required nor funded under Part C of the Act would be included in the child's IFSP and addressed in proposed § 303.344(e).

Proposed § 303.17 (*Homeless children*) would incorporate the definition of homeless children from section 602(11) of the Act and would clarify that, for purposes of Part C of the Act, references to homeless children include only homeless children under the age of three.

Proposed § 303.18 (*Include; including*) would remain substantively unchanged from current § 303.15.

Proposed § 303.19(a) and (b), which provides the definitions of *Indian* and *Indian tribe*, respectively, would incorporate the definitions of these terms in section 602(12) and 602(13) of the Act. In addition, proposed § 303.19(c) would clarify that the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior, which is only authorized to provide funding to Federally Recognized tribes, is not required to provide funding to a State Indian tribe for which the BIA is not responsible.

Section 602(13) of the Act defines *Indian tribe* to include ''any Federal or State Indian tribe'' and does not exclude State Indian tribes that are not Federally Recognized tribes. The list of Indian entities recognized as eligible to receive services from the United States is published in the **Federal Register**, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a–1. The Federal government does not maintain a list of other State Indian tribes. Under section 634(1) of the Act, the lead agency in the State is responsible for ensuring that early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State.

Proposed § 303.20 (*Individualized family service plan* or *IFSP*) would incorporate the language from current § 303.340(b) and would clarify, consistent with the Act, that the IFSP must be implemented as soon as possible once parental consent to the early intervention services on the IFSP is obtained consistent with proposed § 303.420. The definition of *IFSP* also would provide that an IFSP is based on the evaluation and assessment described in proposed § 303.320, that it would include the content in proposed § 303.344, and that it would be developed under the IFSP procedures in proposed §§ 303.342, 303.343, and 303.345.

Proposed § 303.21(a) and (b) (*Infant or toddler with a disability*) would remain substantively unchanged from current § 303.16 and would reflect the statutory definition of the term in section 632(5) of the Act. In addition, the following examples of diagnosed conditions, listed in Note 1 following current § 303.16, would be included in proposed § 303.21(a)(2)(ii) as follows: chromosomal abnormalities, genetic or congenital disorders, severe sensory impairments, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome. With this change, Note 1 following current § 303.16 would be removed from the regulations. Note 2 following current § 303.16 would also be removed as the examples of at-risk infants or toddlers with disabilities would be incorporated into proposed § 303.5, the definition of *at-risk infant or toddler*.

Proposed § 303.21(b) would be substantively the same as current

§ 303.16(b), and would cross-reference the definition of an *at-risk infant or toddler* in proposed § 303.5.

Proposed § 303.21(c) would incorporate the language from section 632(5)(B) of the Act that an infant or toddler with a disability may include, at the State's discretion, children with disabilities who are ages three and older who are eligible for services under section 619 of the Act and who previously received Part C services.

Proposed § 303.22 (*Lead agency*) would be added to make clear that the lead agency is the State agency designated by the Governor to administer Part C of the Act in the State and would incorporate language from section 635(a)(10) of the Act.

Proposed § 303.23 (*Local educational agency* or *LEA*) would be added to incorporate the definitions of *LEA* and *educational service agency* under sections 602(19) and 602(5) of the Act, respectively. We would include these definitions because these terms are relevant to the State option to make early intervention services available to children ages three and older under sections 632 and 635(c) of the Act. In addition we would incorporate the applicable 1997 definition of the *intermediate educational unit* (*IEU*) in order to create a freestanding document and assist those lead agencies that are not SEAs.

Proposed § 303.24 (*Multidisciplinary*) would modify the definition in current § 303.17 to clarify that the term *multidisciplinary* is used with respect to an evaluation and assessment of a child, an IFSP team, or IFSP development, and means the involvement of two or more individuals from separate disciplines or professions, or one individual who is qualified in more than one discipline or profession.

Proposed § 303.25(a)(1) (*Native language*) would incorporate the definition of native language from section 602(20) of the Act and current § 303.401(b). Proposed § 303.25(a)(2) would provide that in all direct contact with the child, the native language is that normally used by the child in the home or the learning environment. This addition would be consistent with the definition of this term in 34 CFR 300.29 of the Part B regulations (71 FR 46759–46760) and is appropriate here because it would clarify the language an EIS provider must use when providing services to the child. Proposed § 303.25(b) would reflect the requirements in current § 303.403(c)(3) and would clarify that, when used in connection with an individual with deafness or blindness or with no written language, ''native language'' refers to the mode of communication that is normally used by that individual, such as sign language, Braille, or oral communication.

Proposed § 303.26 (*Natural environments*) would remain substantively unchanged from current § 303.18, and would add that the natural environment may include the home, and must be consistent with proposed § 303.126.

Proposed § 303.27 (*Parent*) would modify the regulatory definition of that term in current § 303.19 to reflect the revised statutory definition of *parent* in section 602(23) of the Act, and to be consistent with the definition of *parent* in 34 CFR 300.30 of the Part B regulations (71 FR 46760). Proposed § 303.27(a)(2) would recognize that State law may prohibit a foster parent from being considered a parent, but also would recognize that similar restrictions may exist in State regulations or in contractual agreements between a State or local entity and the foster parent, and should be accorded similar deference.

Proposed § 303.27(b)(1) would provide that the biological or adoptive parent would be presumed to be the parent for purposes of the regulations. If the biological or adoptive parent were attempting to act as the parent under proposed § 303.27 and more than one person is qualified to act as a parent under Part C of the Act, the biological or adoptive parent would be presumed to be the parent unless that person does not have legal authority to make decisions for the infant or toddler regarding early intervention services, or there is a judicial order or decree specifying some other person to act as the parent under Part C of the Act. Proposed § 303.27(b)(2) would provide that if a judicial order or decree specifies a person or persons to act as the parent, that person would be the parent under Part C of the Act. Proposed § 303.27(b)(2), however, would exclude an agency involved in providing early intervention services or care of the infant or toddler from serving as a parent, consistent with the statutory prohibition that applies to surrogate parents in section 639(a)(5) of the Act. The provisions in proposed § 303.27(b) are intended to assist EIS providers and public agencies in identifying the appropriate person to serve as the parent under Part C of the Act, especially in those difficult situations in which more than one caretaker is available to provide consent for evaluation or the provision of early intervention services and to make other decisions under Part C of the Act.

Proposed § 303.28 (*Parent training and information center*) would provide that a *parent training and information center* means a center assisted under section 671 or 672 of the Act, in accordance with the statutory definition in section 602(25) of the Act.

Proposed § 303.29 (*Personally identifiable*) would remain substantively unchanged from current § 303.401(c).

Proposed § 303.30 (*Public agency*) would remain substantively unchanged from current § 303.21.

Proposed § 303.31 (*Qualified personnel*) would remain substantively unchanged from the definition of *qualified* in current § 303.22. In addition, the note following current § 303.22 would be removed because the content of that note would be addressed in proposed § 303.13(c) regarding the types of qualified personnel who provide early intervention services and proposed § 303.119 regarding the requirement that statewide systems have policies and procedures in place relating to personnel standards.

Proposed § 303.32 (*Secretary*) would incorporate the definition of *Secretary* from section 602(28) of the Act.

Proposed § 303.33 (*Service coordination services* (*case management*)) would replace current § 303.23. Proposed § 303.33(a) would provide a definition of *service coordination services* and explain that these services include, consistent with current § 303.23(a), coordinating all services required under Part C of the Act across agency lines (*i.e.*, coordinating Part C services provided by agencies other than the lead agency). Proposed § 303.33(a)(2) would clarify that: service coordinators must assist parents of infants and toddlers with disabilities in gaining access to and coordinating the provision of early intervention services and coordinating other services not provided under Part C of the Act that are needed by the infant or toddler with a disability and that child's family and that are identified on the IFSP in accordance with proposed § 303.344(e). Proposed § 303.33 would not require service coordinators to be responsible for identifying funding sources for those services not covered under Part C of the Act and identified as ''other services'' on the IFSP under proposed § 303.344(e).

Proposed § 303.33(a)(3) and (b) would continue to reflect that service coordinators are responsible for serving as the single point of contact for carrying out the responsibilities under proposed § 303.33(b). Proposed § 303.33(b) would require service coordinators to be responsible for coordinating the performance of evaluations and assessments, facilitating

and participating in the development of IFSPs, assisting families in identifying available Part C services, coordinating and monitoring the delivery of early intervention services required under Part C of the Act, informing families of their rights and procedural safeguards and related resources, coordinating the funding sources for early intervention services, and facilitating the development of a transition plan from the Part C program to other services. Proposed § 303.33(c) would incorporate the language from Note 2 following current § 303.23 to clarify that the lead agency's or an EIS provider's use of the term *service coordination* or *service coordination services* does not preclude characterization of the services as case management or any other service that is covered by another payor (including Medicaid), for purposes of claims in compliance with the requirements of proposed § 303.510 regarding the payor of last resort. With this clarification, Note 2 following current § 303.23 would be removed.

Current § 303.23(c) (Employment and assignment of service coordinators) and (d) (Qualification of service coordinators) would not be included in proposed § 303.33 because, under proposed § 303.13(a)(7), service coordination services must be provided by qualified personnel as that term is defined in proposed § 303.31. Under the definition of *qualified personnel*, personnel are qualified if they have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing early intervention services. Some States, for example, have developed qualified personnel criteria under Part C of the Act for an ''early interventionist'' who is able to provide service coordination services and other Part C services. Consistent with the content of Note 1 following current § 303.23, and as addressed elsewhere in this preamble in the discussion related to proposed § 303.119, the requirements for a service coordination system that includes the qualifications, employment, and assignment of service coordinators is best left to the States to decide. With this clarification Note 1 would be removed.

Proposed § 303.34 (*State*) would remain substantively unchanged from current § 303.24, and would reflect the definition of this term in section 602(32) of the Act.

Proposed § 303.35 (*State educational agency* or *SEA*) would be defined to distinguish it clearly as the State agency that receives funds under Part B of the Act and that is responsible for administering Part B of the Act (in contrast to the lead agency which may or may not be the SEA and which is responsible for implementing Part C of the Act in the State).

Proposed § 303.36 (*Ward of the State*) would be added to these regulations to reflect the definition in section 602(36) of the Act. Proposed § 303.36(b), regarding an exception to the *ward of the State*, would be added to clarify that a *ward of the State* does not include a foster child who has a foster parent who meets the definition of a *parent* in proposed § 303.27.

Current § 303.20, which provides the definition of *policies*, would be removed because the requirements for State policies are contained in the State application requirements for a grant under Part C of the Act and proposed §§ 303.201 through 303.212.

Subpart B—State Eligibility for a Grant and Requirements for a Statewide System

Proposed subpart B would incorporate the Secretary's general authority to make grants to States under section 633 of the Act, the State eligibility provisions under section 634 of the Act, and the requirements for a statewide system under section 635 of the Act. Section 633 of the Act gives the Secretary the authority to make grants to States. In order to be eligible for a grant under this subpart, section 634(1) of the Act requires a State to provide assurances that it has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families. Section 634 of the Act requires a State to provide assurances that its statewide system includes the components listed in section 635 of the Act; section 634 of the Act no longer requires States to submit to the Department policies and procedures that demonstrate each of the components. Other specific State application requirements (policies, procedures, certifications, descriptions, and assurances) in section 637 of the Act would be incorporated into subpart C of these regulations.

General Authority and Eligibility

Proposed § 303.100 would incorporate the language of section 633 of the Act, providing for the Secretary's authority to make grants to States to maintain and implement a statewide system to provide early intervention services for infants and toddlers with disabilities and their families.

Proposed § 303.101 would identify the conditions that States must meet to be eligible for a grant under Part C of the Act and would replace current §§ 303.100 and 303.140. Proposed § 303.101(a)(1) would incorporate the language from section 634 of the Act, which requires each State receiving funds under Part C of the Act to assure that the State has adopted a policy that early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers on reservations in the State, and infants and toddlers who are homeless and their families, and infant and toddlers who are wards of the State. Proposed § 303.101(a)(2) would modify current § 303.100(a)(2) and require each State to assure that the State has in effect a statewide system of early intervention services that meets the requirements of section 635 of the Act, including, at a minimum, the components required in proposed §§ 303.111 through 303.126.

The requirement in current § 303.100(b) that States have policies or procedures on file with the Secretary would be removed consistent with section 634 of the Act, which requires that States submit assurances regarding the statewide system requirements under section 635 of the Act. Consistent with this approach, all other provisions in current subpart B that require the policies and procedures to be on file with the Secretary would be removed.

Proposed § 303.101(b) would identify other information and assurances that States would be required to provide to the Secretary, consistent with section 637 of the Act, to demonstrate that the State meets the State application requirements in proposed §§ 303.200 through 303.212.

Current § 303.101, regarding how the Secretary disapproves a State's application, would be substantively included in proposed § 303.230.

Current §§ 303.110 and 303.111, regarding requirements and timelines for public participation and notice of public hearings and opportunity to comment, respectively, would be substantively included in proposed § 303.208.

Current § 303.112, regarding public hearings, would be substantively included in proposed § 303.208(a)(1).

Current § 303.113, regarding the review of public comments by the lead agency prior to adopting the State's application, would be removed because it is not specifically addressed in section 637 of the Act.

Current § 303.120(b) and (c) would be removed because the application requirements under Part C of the Act, including the assurances that meet the

requirements in section 637(b) of the Act, are referenced in proposed § 303.101(b). The assurance requirements in section 637(b) of the Act would be reflected in proposed §§ 303.221 through 303.227.

State Conformity With Part C of the Act and Abrogation of State Sovereign Immunity

Proposed § 303.102, consistent with section 608(a)(1) of the Act, would require each State that receives funds under Part C of the Act to ensure that any State rules, regulations, and policies relating to this part conform to the purposes and requirements of the part.

Proposed § 303.103 would incorporate the provisions of section 604 of the Act regarding abrogation of State immunity. Proposed § 303.103(a) would provide that a State is not immune under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of Part C of the Act. This is the longstanding position of the Department and is consistent with section 604 of the Act and Federal Circuit Courts' decisions interpreting this language. *See, e.g., Pace* v. *Bogalusa City Sch. Bd.*, 403 F.3d 272 (5th Cir., 2005), *cert. denied*, 126 S.Ct. 416 (2005); *M.A. ex rel E.S.* v *State-Operated Sch. Dist.*, 344 F.3d 335 (3rd Cir. 2003); *Little Rock Sch. Dist.* v. *Mauney*, 183 F.3d 816 (8th Cir. 1999); *Marie O.* v. *Edgar,* 131 F.3d 610 (7th Cir. 1997).

Proposed § 303.103(b) would incorporate the requirements of section 604(b) of the Act regarding remedies in a suit against a State for a violation.

Proposed § 303.103(c), which incorporates section 604(c) of the Act, would provide that proposed § 303.103(a) and (b) applies to violations that occur in whole or in part after October 1990.

Equipment and Construction

Proposed § 303.104 would incorporate language from section 605 of the Act, relating to the acquisition of equipment, construction or alteration of facilities. This section would provide guidance to lead agencies regarding the use of funds for facility construction impacted by Part C of the Act.

Positive Efforts To Employ and Advance Qualified Individuals With Disabilities

We are proposing to add new section § 303.105 to reflect the provisions in section 606 of the Act, which require the Secretary to ensure that each grant recipient under IDEA make positive efforts to employ and advance in employment, qualified individuals with disabilities in programs assisted under IDEA.

Minimum Components of a Statewide System

Proposed § 303.110 would be substantively the same as current § 303.160, which refers to the minimum components of a statewide system, and would specifically reference the requirements in proposed §§ 303.111 through 303.126, which align with section 635(a)(1) through (16) of the Act.

Proposed § 303.111 would align with section 635(a)(1) of the Act and would replace current §§ 303.161 and 303.300. Proposed § 303.111 would require the statewide system to include a rigorous definition of *developmental delay* in order to appropriately identify infants and toddlers with disabilities who need early intervention services, consistent with section 635(a)(1) of the Act and proposed §§ 303.10 and 303.203(c).

Proposed § 303.111(a) would generally retain current § 303.300(a)(1) and would require the State to include in its definition of *developmental delay* the evaluation and assessment procedures that would be used to measure an infant's or toddler's development. References to informed clinical opinion as one of the procedures used to measure an infant's or toddler's development in current § 303.300(a)(1) would be moved to proposed § 303.320(b)(2).

Proposed § 303.111(b) would generally retain the requirements of current § 303.300(a)(2) and would require the State to describe the level of developmental delay in functioning or other comparable criteria that could constitute a developmental delay.

Current § 303.300(c) requires States that serve at-risk infants and toddlers to describe the criteria and procedures used to identify those infants and toddlers. Current § 303.300(c) would be removed because proposed § 303.320(b)(2) would clarify that qualified personnel must use their informed clinical opinion to evaluate a child's present level of functioning in each of the developmental areas identified in proposed § 303.21(a)(1) and that informed clinical opinion may be used by qualified personnel to establish a child's eligibility for services under Part C of the Act even when other instruments do not establish eligibility.

The note following current § 303.300(c), regarding the required use of informed clinical opinion to determine an infant's or toddler's eligibility for services, would be moved to proposed § 303.320 regarding evaluation requirements and is addressed in the discussion of subpart D of these regulations.

Proposed § 303.112 would be added to incorporate the language from section 635(a)(2) of the Act and would require each statewide system to have a State policy in effect that ensures that early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, and infants and toddlers with disabilities and their families who are homeless.

Proposed § 303.113, which would align with section 635(a)(3) of the Act, would replace current § 303.166, and would require each statewide system to ensure a timely, comprehensive, multidisciplinary evaluation of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each infant's or toddler's family to assist appropriately in the development of the infant or toddler. Proposed § 303.113(b) would cross-reference the provisions in proposed § 303.320. These cross-references are necessary because the specific requirements for evaluations would be included in proposed § 303.320.

Proposed § 303.114 would generally retain the provisions in current § 303.167(a) and (b) and would require each statewide system to develop an IFSP for each infant or toddler with a disability in the State, consistent with section 635(a)(4) of the Act. Current § 303.167(c) would be removed because the requirements regarding IFSPs and natural environments would be included in proposed §§ 303.13(a)(8), 303.26, and 303.344(d)(1)(ii).

Proposed § 303.115, regarding a comprehensive child find system, would align with section 635(a)(5) of the Act and would replace current § 303.165. The provisions in current § 303.321 regarding a comprehensive child find system would be incorporated in proposed §§ 303.301 through 303.303, which would be cross-referenced in proposed § 303.115. Proposed § 303.115 would require each statewide system to have a comprehensive child find system that meets the requirements in proposed §§ 303.301 through 303.303; these requirements include that a State's comprehensive child find system be consistent with Part B of the Act and that it ensures rigorous standards to identify infants and toddlers with disabilities for services under Part C of the Act that will reduce the need for future services.

Proposed § 303.116, regarding public awareness, would align with section 635(a)(6) of the Act and would replace current § 303.164. Proposed § 303.116, consistent with section 635(a)(6) of the Act, would set forth the requirements for the statewide system's public awareness program, which would focus on early identification of infants and toddlers with disabilities and provide information to parents of infants and toddlers through primary referral sources.

Proposed § 303.117, regarding the requirements for a central directory, would align with section 635(a)(7) of the Act and would combine the requirements of current §§ 303.162 and 303.301(a). The provisions in current § 303.301(c) requiring the central directory to be up-to-date and accessible to the general public generally would be included in the introductory text of proposed § 303.117. Proposed § 303.117, however, would also clarify that the lead agency must ensure that the central directory is accessible through the lead agency's Web site and other appropriate means as the requirement in current § 303.301(d) that the lead agency arrange for copies of the directory to be available in each geographic region of the State is no longer necessary, as the vast majority of States maintain the directory on their Web sites. Current § 303.301(b), which includes the details of the content of the central directory and current § 303.301(d), which includes the locations and manners of accessibility, would be removed. Most States now maintain this information on their Web site and can easily update it more quickly than is required under current § 303.301.

The note following current § 303.301, which gives examples of appropriate groups that provide assistance to infants and toddlers with disabilities and families, would be removed as unnecessary. Proposed § 303.117 would include language regarding appropriate groups that would provide assistance to infants and toddlers with disabilities and their families, including public and private early intervention services, resources and experts available in the State, and parent support and training and information centers such as those funded under the Act.

Proposed § 303.118, regarding the comprehensive system of personnel development (CSPD), would replace current §§ 303.168 and 303.360 to parallel the requirements and order of section 635(a)(8) of the Act. The introductory paragraph of proposed § 303.118 would combine the provisions in current § 303.360(b)(3) and (4), and would require each statewide system to include a CSPD that addresses the training of paraprofessionals and primary referral sources with respect to the basic components of early intervention services in the State.

Proposed § 303.118(a) would replace current § 303.360(c)(1), (2), and (4), and would, consistent with section 635(a)(8)(A) of the Act, list the training that now must be included in the CSPD. Proposed § 303.118(a)(1) would retain the language in current § 303.360(c)(1) regarding training on innovative strategies to recruit and retain EIS providers. Proposed § 303.118(a)(2) would retain the language in current § 303.360(c)(2) regarding promoting the preparation of EIS providers who are fully and appropriately qualified. Under current § 303.360(c)(1) and (2), including this training in the CSPD was permissive. Consistent with section 635(a)(8)(A) of the Act, however, the training in proposed § 303.118(a)(1) and (2) would be required to be included in the CSPD.

Proposed § 303.118(a)(3), regarding training personnel to coordinate transition services, would generally retain the language in current § 303.360(c)(4) and would reference a preschool program under Part B of the Act, Head Start, Early Head Start, and an elementary school under Part B of the Act as programs to which children receiving services under Part C of the Act may transition to, consistent with sections 635(a)(8)(A)(iii) and 637(a)(10) of the Act. Consistent with sections 635(a)(8)(A) and (c) and 637(a)(10) of the Act, including this training in the CSPD would now be mandatory.

Proposed § 303.118(b)(1) would retain current § 303.360(c)(3) and would allow (but not specifically require, consistent with section 635(a)(8)(B)(i) of the Act) training for personnel to work in rural and inner-city areas. Proposed § 303.118(b)(2) would replace current § 303.360(b)(4)(ii) and would allow training of personnel in the emotional and social development of infants and toddlers, consistent with section 635(a)(8)(B)(ii) of the Act. Proposed § 303.118(b)(3) would replace current § 303.360(b)(4)(iii) and would clarify that States may train personnel to support families to participate fully in the development and implementation of their child's IFSP.

References in current § 303.360(b)(3) and (c)(2) to training a variety of personnel needed to meet the requirements of the regulations, including the training of service coordinators, would be removed as redundant. Proposed § 303.119(a) requires States to have policies and procedures to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.

Current § 303.360(b)(1), regarding consistency with the CSPD under Part B of the Act, would be removed because Part B of the Act was revised to eliminate references to a CSPD. Current § 303.360(b)(2), requiring that preservice and inservice training be conducted on an interdisciplinary basis, to the extent appropriate, would be removed because whether to conduct preservice and inservice training that includes an interdisciplinary methodology or other methodology, is a decision best left to the States because each State determines the qualifications needed for personnel providing services under Part C of the Act.

Proposed § 303.119, regarding personnel standards, would combine current § 303.169 and relevant provisions in current § 303.361 to parallel the requirements of section 635(a)(9) of the Act.

Proposed § 303.119(a) would substantively retain language from current § 303.361(b)(1) to clarify that each system must include policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel are appropriately and adequately trained.

Consistent with section 635(a) of the Act and current § 303.361(b)(2), proposed § 303.119(b) would require the establishment and maintenance of qualification standards, to be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements, and to apply to the profession, discipline, or area in which personnel are providing early intervention services.

Current § 303.361(a), (c), (d), and (e) would be removed, consistent with statutory changes that removed the requirement that State's policies and procedures include the steps for retraining or hiring personnel when the State's personnel standards are not based on the State's requirements for these personnel.

Proposed § 303.119(c), allowing the use of appropriately trained and supervised paraprofessionals and assistants to assist in the provision of early intervention services, would replace and substantively be the same as current § 303.361(f).

Proposed § 303.119(d), which allows a State to adopt a policy to hire the most qualified individuals available who are making satisfactory progress toward completing applicable coursework necessary to meet the State's personnel standards, would be the same as current

§ 303.361(g), except that the requirement that those persons work to complete the necessary course work in three years would be removed because of the removal of this three-year requirement from section 635(a)(9) of the Act.

The note following current § 303.361 would be removed because the first paragraph in the note addresses the requirement that personnel standards be based on the State's highest standard, which was removed from the Act. The second paragraph in the note following current § 303.361, regarding a State's ability to establish standards, would be removed as unnecessary because the licensure and other standards for occupational categories have always been subject to State, not Federal, standards, and States have always had the flexibility to establish standards higher than Federal standards in this area.

Proposed § 303.120, regarding supervision, monitoring, funding, interagency coordination, and other lead agency responsibilities would combine current §§ 303.171, 303.500, and 303.501 to parallel the organization and content of section 635(a)(10) of the Act.

The introductory paragraph in proposed § 303.120 would incorporate the requirement in section 635(a)(10) of the Act and current § 303.500 that each statewide system include a single line of responsibility in a lead agency designated or established by the Governor.

Proposed § 303.120(a)(1) through (a)(2)(iv) would remain substantively unchanged from current § 303.501(a) and (b)(1) through (b)(4), except that proposed § 303.120(a)(2)(iv), regarding the correction of noncompliance identified through monitoring, would add that the correction must be made as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance. We are proposing that the correction be made as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance because, based on our monitoring activities, we have determined that correction of noncompliance does not always occur in a timely manner. Proposed § 303.120(a)(2)(iv) would align with proposed § 303.700(e) to clarify expectations regarding the timely correction of noncompliance. It is important to correct noncompliance in a timely manner to ensure that infants and toddlers with disabilities and their families receive appropriate early intervention services. Correction of noncompliance means that the State required the EIS program or EIS provider to revise any noncompliant policies, procedures and/or practices and the State has verified through follow-up review of data, other documentation and/or interviews that the noncompliant policies, procedures and/or practices have been revised and the noncompliance has been corrected. We believe that one year is a reasonable amount of time for the State to verify the correction of policies, procedures and/or practices.

Proposed § 303.120(a)(2)(v), regarding the activities related to monitoring agencies, would reference the monitoring and enforcement requirements in proposed §§ 303.700 through 303.707 that the lead agency must meet in implementing the requirements of proposed § 303.120(a)(2)(i) through (iv).

Proposed §§ 303.700 through 303.706 would align with 34 CFR 300.600 through 300.606 of the Part B regulations (71 FR 46800–46802). Proposed § 303.707 would reference the authority under GEPA for monitoring and enforcement, including the imposition of special conditions in 34 CFR § 80.12. Proposed § 303.708 would clarify continued State flexibility to use other available authorities to monitor and enforce the requirements of Part C of the Act.

Proposed § 303.120(b), which would require the lead agency to identify and coordinate all available resources for early intervention services in the State, would incorporate the language in section 635(a)(10)(B) of the Act and would be the same as current § 303.522(a)(1). Proposed § 303.120(c) through (f) would reference requirements in proposed subpart F regarding use of funds and would be added to conform to section 635(a)(10)(C) through (F) of the Act.

Proposed § 303.120(f) would indicate that in addition to formal interagency agreements, there may be other written methods of establishing financial responsibility consistent with proposed § 303.511 because proposed § 303.511(a)(3) would clarify that appropriate written methods may be used for establishing financial responsibility, as determined by the Governor of the State, or the Governor's designee, and approved by the Secretary through the review and approval of the State's application.

Proposed § 303.121, regarding contracting or otherwise arranging for services, would replace the requirements in current §§ 303.175 and 303.526, consistent with section 635(a)(11) of the Act. Proposed § 303.121 would require each statewide system to include a policy for contracting or making other arrangements with public or private providers for services. Proposed § 303.121(a) would incorporate the provision in current § 303.526(a) regarding the State policy including a requirement that all early intervention services meet State standards and be consistent with Part C of the Act.

Proposed § 303.121(b) would add a reference to the requirements found in part 80 of the Education Department General Administrative Regulations (EDGAR). This is not a new requirement because current § 303.5 already provides that EDGAR requirements, including part 80, apply to grant recipients under Part C of the Act. Current § 303.526(b) and (c) would be removed as redundant because these requirements are found in EDGAR provisions in 34 CFR part 80, and compliance with 34 CFR part 80 would be required by proposed § 303.121.

The note following current § 303.526, regarding the option to continue using public and private personnel who meet the requirements of Part C of the Act as service providers, would be removed because proposed § 303.12 (the definition of *EIS provider*) would clarify that States may use public or private entities or individuals to provide early intervention services. The content of the note following current § 303.526 would not provide additional information or clarity to proposed § 303.12.

Proposed § 303.122, regarding reimbursement procedures, would incorporate language from section 635(a)(12) of the Act and would remain substantively unchanged from current § 303.528, with cross-references updated.

Proposed § 303.123, which would incorporate language from section 635(a)(13) of the Act, would replace current § 303.170 and would require each statewide system to meet the procedural safeguard requirements in subpart E of these proposed regulations.

Proposed § 303.124, regarding data collection procedures, would incorporate the requirements of section 635(a)(14) of the Act and would adopt by reference the Part C data requirements in sections 616 and 618 of the Act that are reflected in proposed §§ 303.700 through 303.702 and proposed §§ 303.720 through 303.724. Proposed § 303.124 would require States to adopt data systems for reporting the data to the Secretary and would generally include the language in current §§ 303.176 and 303.540.

Consistent with the reporting requirements in sections 616 and 618 of the Act, proposed § 303.124(a) would

include language indicating that the statewide system must compile and report data that are timely and accurate to align with the reporting requirements in §§ 303.700 through 303.702 and 303.720 through 303.724. The references to timely and accurate reporting on State data in proposed § 303.124(a) are necessary for the Department to implement section 616 of the Act. The requirements regarding disproportionality in section 618(d) of the Act do not apply to Part C of the Act because the findings in section 601(c)(12) of the Act make clear that these provisions were enacted to reflect concerns under Part B of the Act, not Part C of the Act.

Proposed § 303.124(b) would require the data collection process to include a description of the sampling methods, if used by the State to collect data in accordance with proposed §§ 303.701(c)(2) and 303.722(b).

Proposed § 303.125, regarding the Council, would incorporate the language in section 635(a)(15) of the Act and current § 303.141 and would require the statewide system to include a Council. This section also would cross-reference subpart G of these proposed regulations, which would contain the specific requirements for the Council.

Proposed § 303.126, regarding the provision of early intervention services in natural environments to the maximum extent appropriate, would align with section 635(a)(16) of the Act and would generally remain substantively unchanged from current §§ 303.12(b) and 303.344(d)(1)(ii).

Proposed § 303.126(b) would add language from section 635(a)(16) of the Act requiring that, when early intervention cannot be achieved satisfactorily in a natural environment, it must be provided in a setting that is most appropriate, as determined by the parent and the IFSP team. Proposed § 303.126 would not change the longstanding requirements regarding the provision of early intervention services in an infant's or toddler's natural environment and would be read in conjunction with proposed § 303.344(d)(1)(ii)(B), which would clarify that any justification for providing an early intervention service in a setting other than the infant's or toddler's natural environment must be based on the child's outcomes identified by the IFSP team in the infant's or toddler's IFSP.

Subpart C—State Application and Assurances

Proposed subpart C would contain the specific State application content requirements that are reflected in section 637 of the Act.

Proposed § 303.200(a) would require each application to contain the specific requirements in proposed §§ 303.201 through 303.212, which would incorporate, respectively, the requirements in section 637(a)(1) through (11) of the Act. Proposed § 303.200(b) would require each application to contain assurances that the State has met the requirements under proposed §§ 303.220 through 303.227, which would incorporate, respectively, the assurance requirements in section 637(b)(1) through (7) of the Act.

Application Requirements

Proposed § 303.201 would require each application to include a designation of the lead agency in the State responsible for the administration of funds. The proposed regulation would be the same as current § 303.142, consistent with section 637(a)(1) of the Act.

Proposed § 303.202 would require each application to include a certification that the arrangements to establish financial responsibility for the provision of services under Part C of the Act among appropriate public agencies under proposed § 303.511 and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services meet the requirements in proposed §§ 303.500 through 303.521 and are current as of the date of submission of the certification. Proposed § 303.202 would replace current § 303.143, consistent with section 637(a)(2) of the Act. Proposed § 303.202 cross-references proposed §§ 303.500 through 303.521 and requires the arrangements to establish financial responsibility for the provision of Part C services to be current as of the date of the certification, consistent with a change to section 637(a)(2) of the Act.

Proposed § 303.203 would require each application to include: (a) A description of the services to be provided; (b) the State's policies on funding sources (including any system of payments); and (c) the State's rigorous definition of developmental delay, as required under proposed §§ 303.10 and 303.111 and section 637(a)(3)(A) of the Act. These three elements are key variables in State Part C systems and the Department needs this information in the application to understand each State's Part C system and interpret data from each State under sections 616, 618, and 642 of the Act.

Proposed § 303.204, which aligns with section 637(a)(4) of the Act, would require each State that provides services to at-risk infants and toddlers with disabilities to include the State's definition of at-risk infants and toddlers with disabilities in its State application. This information is necessary to appropriately interpret child find and other data required to be reported by States under sections 616, 618, and 642 of the Act. Proposed § 303.204(b) would require each application to include, consistent with section 637(a)(4) of the Act, a description of the early intervention services to be provided to at-risk infants and toddlers with disabilities if the State elects to serve such children.

Proposed § 303.205(a) would be substantively the same as current § 303.145(a) and would continue to require each application to include a description of the use of funds, presented separately for the lead agency and the Council.

Proposed § 303.205(b) would require lead agencies, other than SEAs, to identify the total amount the lead agency will retain for State administration. Additionally, proposed § 303.205(b) would require those lead agencies, other than SEAs, to include the total number of full time equivalent administrative positions and the total salaries, including benefits, for these positions, rather than position-specific descriptions and detailed itemized salary information as in current § 303.145(b). SEAs are excluded from this requirement because the Department is the cognizant Federal agency for SEAs for purposes of determining the State's restricted indirect cost rate under Parts B and C of IDEA. However for lead agencies that are not SEAs, the Department often does not obtain any other information about the lead agency's administrative expenses. This proposed change to report on aggregated administrative expenses would reduce the burden on States when reporting costs, positions, and salaries for State administration.

Proposed § 303.205(c) would generally be the same as current § 303.145(c) and would require each application to include a description of each major activity and the funds to be spent on each activity, consistent with proposed § 303.501. Proposed § 303.205(d) would generally be the same as current § 303.145(d)(1) and (2)(ii), with updated cross-references, and would require each State application to include a description of any direct services the State expects to provide using Federal Part C funds and the approximate amount of funds to be used for the provision of each direct service.

Proposed § 303.205(e) would be the same as current § 303.145(f) and would require the application to include information on other agencies expected to receive funds under this part. This information is required in the application because of interagency funding provisions and the interagency coordination provisions in sections 635(a)(10)(B) and (F), and 637(a)(3) and (5) of the Act.

Proposed § 303.206 would be added to align with section 637(a)(6) of the Act. Proposed § 303.206 would require each application to include the State's policies and procedures that require the referral for early intervention services of a child under the age of three who is involved in a substantiated case of child abuse or neglect or is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure, consistent with proposed § 303.302. This requirement has applied to State agencies receiving funds under the Child Abuse Prevention and Treatment Act (CAPTA) in 42 U.S.C. 5106a since June 2003. A comparable requirement was added to section 637(a)(6) of the Act for Part C lead agencies, effective July 1, 2005.

Proposed § 303.207, which would align with section 637(a)(7) of the Act, would require that each application include a description of the procedure used to ensure that resources are available for all geographic areas within the State and would be substantively the same as current § 303.147.

Proposed § 303.208 would incorporate language from section 637(a)(8) of the Act and would combine requirements in current §§ 303.110, 303.112, 303.113(b), and 303.146. Proposed § 303.208(a)(1) would generally be the same as current § 303.110 and would require public hearings, adequate notice of hearings, and an opportunity for comment to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities, prior to the State's adoption of any new or revised policy or procedure under Part C of the Act.

Proposed § 303.208(b) would clarify that policies, procedures, and methods that are subject to the public participation requirements in proposed § 303.208 and are required to be submitted to the Secretary under subparts B and C of these proposed regulations must be approved by the Secretary prior to implementation.

The remaining specific requirements in current §§ 303.111 through 303.113 would be eliminated because States are required to comply with the public participation requirements of proposed § 303.208(a) and GEPA and obtain approval by the Secretary for specific application requirements that are subject to the public participation requirements in proposed § 303.208. These requirements provide sufficient opportunities for public comment.

Proposed § 303.209, regarding the transition of children from services under Part C of the Act to preschool and other programs, would incorporate language from section 637(a)(9) of the Act, and would be similar to current § 303.148. The note following current § 303.148, regarding matters that should be considered in developing policies and procedures to ensure a smooth transition of children from one program to the other, would be removed because it is covered by proposed § 303.209 and section 637(a)(9) of the Act, which identify the specific early childhood transition requirements.

Proposed § 303.209(a)(1) would require each State application to include a description of the policies and procedures the State will use to ensure a smooth transition for toddlers with disabilities leaving the early intervention program to attend preschool, school, or other appropriate services, or exit the program, and their families. Proposed § 303.209(a)(1) would add language to ensure a smooth transition from the early intervention program to preschool, school, or other appropriate services for toddlers receiving services as a result of the State's election to make available early intervention services to children with disabilities ages three and older in accordance with proposed § 303.211.

Proposed § 303.209(a)(2) would add language requiring States to describe how they would meet each of the requirements related to toddlers transitioning from services under Part C of the Act to preschool and other programs in proposed § 303.209(b) through (d).

Proposed § 303.209(a)(3)(i) would revise the language in current § 303.148(c) to require all States (not just those in which the SEA is not the lead agency) to establish an interagency or intra-agency agreement between the programs under Part C and Part B of the Act.

Proposed § 303.209(a)(3)(ii) would clarify that the agreement must contain provisions for how the lead agency and the SEA will meet the requirements of Part C of the Act in proposed § 303.209(b) through (d), regarding LEA notification and transition conferences and plans. In addition, the agreement must contain provisions for how the lead agency and the SEA will meet the requirements in proposed § 303.344(h), regarding IFSP content and transition steps and services, and the following Part B regulations: 34 CFR 300.124 (Transition of children from the Part C program to preschool programs) (71 FR 46766), 34 CFR 300.321(f) (Initial IEP Team meeting for child under Part C) (71 FR 46788), and 34 CFR 300.323(b) (IEP or IFSP for children aged three through five) (71 FR 46789).

Proposed § 303.209(a)(3)(ii) would also require a State to have an interagency agreement to ensure a seamless transition between services under Part C of the Act to services under Part B of the Act.

Proposed § 303.209(a)(4) would require that the State application must include any policy adopted by the State under proposed § 303.401(e).

Proposed § 303.209(b)(1) would include the requirement in current § 303.148(a) that each application include a description of how families will be included in the transition plan.

Proposed § 303.209(b)(2) would be similar to current § 303.148(b)(1) but would clarify, consistent with section 637(a)(9)(A)(ii)(II) of the Act, the timeline applicable to transition requirements. Proposed § 303.209(b)(2)(i) would require that each State include in its application a description of how the lead agency will notify, at least nine months before the toddler's third birthday, the LEA for the area in which the toddler resides—or, if appropriate, the SEA—that the toddler on his or her third birthday will reach the age of eligibility for preschool or school services under Part B of the Act.

Proposed § 303.209(b)(2)(ii) would also clarify that, if a toddler is referred for early intervention services under Part C of the Act within the nine-month period before the toddler's third birthday, the lead agency, as soon as possible after determining the child's eligibility, will notify the LEA for the area in which the toddler resides—or, if appropriate, the SEA—that the toddler on his or her third birthday will reach the age of eligibility for preschool or school services under Part B of the Act. Proposed § 303.209(b)(3) would clarify that if a State adopts a policy under proposed § 303.401(e), the lead agency's notification obligations under proposed § 303.209(b)(2)(i) and (ii) must be consistent with the policy. Proposed § 303.401(e) are discussed in subpart E of this preamble.

Proposed § 303.209(c) would retain the requirement in current § 303.148(b)(2)(i) that the State lead agency convene, with the approval of the family, a conference among the lead agency, the family, and the LEA to discuss any services under Part B of the

Act that the toddler with a disability may receive.

Proposed § 303.209(c)(1), similar to current § 303.148(b)(2)(i) would require that, for a toddler with a disability who is potentially eligible under Part B of the Act, the transition conference is to be convened not fewer than 90 days before the toddler's third birthday. Current § 303.148(b)(2)(i) allows the conference, at the discretion of the parties, to be held up to six months before the child is eligible for preschool services. Proposed § 303.209(c)(1) would change this time period to not more than nine months before the toddler's third birthday, consistent with changes in section 637(a)(9) of the Act.

Proposed § 303.209(c)(2) would substantively be the same as current § 303.148(b)(2)(ii) and would require the lead agency, for the toddler with a disability who may not be eligible for services under Part B of the Act, to make reasonable efforts to convene a conference with the lead agency, the family, and providers of other appropriate services to discuss services the toddler may receive.

Proposed § 303.209(d)(1) would substantively include the provisions in current § 303.148(b)(3) and would require a review of the toddler with a disability's program options for the period from the toddler's third birthday through the remainder of the school year.

Proposed § 303.209(d)(2) would require the lead agency to establish a transition plan, as in current § 303.148(b)(4). Proposed § 303.209(d)(2) would also clarify that the transition plan be established in the IFSP not fewer than 90 days (and at the discretion of all parties, not more than nine months) before the toddler's third birthday to align with the LEA notification and transition conference timelines.

Proposed § 303.209(d)(3) would add a requirement that the transition plan include steps for the toddler with a disability and his or her family to exit from the program, consistent with section 637(a)(9) of the Act, and also specify that the transition plan must include any transition services needed, consistent with section 636(a)(3) of the Act.

Proposed § 303.210 would be added to require each application to describe State efforts to promote collaboration among Early Head Start programs, early education and child care programs, and early intervention services, consistent with section 637(a)(10) of the Act and would also reference Head Start in the list of early education programs.

Proposed § 303.211 would incorporate the language in section 635(c) of the Act providing States the option to make early intervention services available to children beginning at three years of age until the children enter, or are eligible under State law to enter, kindergarten or elementary school. Proposed § 303.211(a)(1) would allow a State to elect to include in its Part C application, a State policy developed jointly by the lead agency and the SEA, to make early intervention services available to certain children with disabilities. If a State elects to include such a policy, children who are eligible for services under section 619 of the Act, and who were previously receiving early intervention services under Part C of the Act, would continue to receive early intervention services, if their parents choose to continue those services.

Proposed § 303.211(a)(2) would clarify that States may choose to serve a subset of children between age three and the age at which the children enter, or are eligible to enter, kindergarten or elementary school. This provision would take into consideration States that have preschool programs for many or all children starting at age four, and would give those States the flexibility to provide early intervention services until the beginning of the school year following the child's third, fourth or fifth birthday. Although proposed § 303.211(a)(2) would allow States to serve a subset of children between age three and the age at which children enter, or are eligible to enter, kindergarten or elementary school, the option would not extend to serving only a specific disability group.

Proposed § 303.211(b)(1) would require States that choose to provide early intervention services to children under this proposed section to ensure, consistent with section 635(c)(2)(A)(i) and (ii) of the Act, that the parents of children with disabilities served under this option would be provided with an annual notice that includes: a description of the rights of the parents to elect to receive early intervention services under Part C of the Act or preschool services under Part B of the Act; an explanation of the differences between early intervention services provided under Part C of the Act and preschool services provided under Part B of the Act, including the types of services and the locations at which the services are provided; the procedural safeguards that apply; and possible costs, if any, to parents of infants or toddlers with disabilities receiving early intervention services. Proposed § 303.211(b)(2) would incorporate the requirement in section 635(c)(2)(B) of the Act that early intervention services provided to children with disabilities under this proposed section include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills.

Proposed § 303.211(b)(3) would incorporate section 635(c)(2)(C) of the Act and would require the statewide system to ensure that the State policy would not affect the right of any child to receive FAPE under Part B of the Act instead of early intervention services under Part C of the Act.

Proposed § 303.211(b)(4) would require, consistent with section 635(c)(2)(D) of the Act, that all early intervention services outlined in the child's IFSP be continued while any eligibility determination is being made for services under proposed § 303.211, and clarify that this provision is subject to the pendency provision in proposed § 303.430(e).

Proposed § 303.211(b)(5) would incorporate the requirement in section 635(c)(2)(E) of the Act that the State obtain informed consent from the parents of any child to receive early intervention services, where practicable, before the child reaches three years of age.

Proposed § 303.211(b)(6) would provide, consistent with section 635(c)(2)(F) of the Act, that the transition timeline requirements in proposed § 303.209(c)(1) and (d)(2) regarding the transition conference and plan do not apply with respect to a child who is receiving early intervention services under proposed § 303.211 until not fewer than 90 days—and, at the discretion of the parties to the conference, not more than nine months—before the time the child is expected to no longer receive early intervention services. The transition conference and plan would occur between the time that the child is three years old and the time the child enters, or is eligible to enter, kindergarten, depending on how long the State made those services available under proposed § 303.211.

Proposed § 303.211(b)(7) would require a referral for evaluation for early intervention services of a child under the age of three who experiences a substantiated case of trauma due to exposure to family violence, as defined in section 320 of the Family Violence Prevention and Services Act, consistent with section 635(c)(2)(G) of the Act. Proposed § 303.211(b)(7) would clarify that such referral is dependent upon parental consent. Parental consent would be required to balance the need to protect the safety needs of the parent

seeking shelter because of family violence, as defined in section 320 of the Family Violence Prevention and Services Act, 42 U.S.C. 10401 *et seq.*, with the child find mandate under Part C of the Act.

Proposed § 303.211(c) would incorporate language from section 635(c)(3) of the Act and would require each State that provides early intervention services to children ages three and older to report to the Secretary the number and percentage of children who are eligible for services under section 619 of the Act, but whose parents choose to continue early intervention services for their child. Consistent with section 635(c)(4) of the Act, proposed § 303.211(d) would require States that choose to provide early intervention services to children ages three and older to describe the funds that will be used to ensure that this option is available to eligible children and families who provide consent. The description must include the Federal, State, or local funds that will be used and the fees, if any, to be charged to families with public or private insurance under a State's system of payments adopted under section 632(4)(B) of the Act and proposed §§ 303.520 and 303.521.

Proposed § 303.211(e)(1) would incorporate the language in section 635(c)(5)(A) of the Act that provides that when a statewide system includes a policy to provide early intervention services to a child with a disability who is eligible for services under section 619 of the Act, it is not required to provide the child FAPE under Part B of the Act for the period of time during which the child is receiving early intervention services.

Proposed § 303.211(e)(2) would incorporate the language in section 635(c)(5)(B) of the Act that clarifies that a provider of early intervention services is not required to provide a child receiving early intervention services with FAPE.

Proposed § 303.212, which requires each application to include any other information and assurances that the Secretary may reasonably require, would be added to incorporate the provisions in section 637(a)(11) of the Act. This regulation would provide for the Secretary to require the States to submit other reasonable information and assurances in the State's application for funds under Part C of the Act, and would be enforced as any other requirement in this part in order for a State to receive a grant under section 633 of the Act.

Assurances

The assurances in proposed §§ 303.221 through 303.227 would follow the order of the assurance requirements in section 637(b) of the Act.

Proposed § 303.220 would specify that each State application must include the assurances required in proposed §§ 303.221 through 303.227, which would reflect the requirements in section 637(b)(1) through (7) of the Act.

Proposed § 303.221, regarding the expenditure of funds, would reflect section 637(b)(1) of the Act and would retain the substance of current § 303.127, with cross-references updated.

Proposed § 303.222, requiring the State to comply with the payor of last resort requirements in subpart F of these proposed regulations, would replace current § 303.126. Current § 303.126(a) and (b), which reference the requirements on non-substitution of funds and non-reduction of other benefits, would now be incorporated into proposed § 303.510.

Proposed § 303.223, regarding control of funds and property, is generally the same as and would replace current § 303.122 and incorporate the statutory provision in section 637(b)(3) of the Act. Proposed § 303.224, regarding reports and records, would substantively include the language in current § 303.121.

Proposed § 303.225, regarding the prohibition against commingling and supplanting, would combine current §§ 303.123 and 303.124 and the requirements in section 637(b)(5) of the Act. Proposed § 303.225(a) would replace current § 303.123 to require that a State ensure that funds under Part C of the Act are not commingled with State funds, and would add the definition of commingle from the note following current § 303.123. The remainder of the current note, regarding a clear audit trail for each source, would be removed because it is redundant of requirements under the Single Audit Act (31 U.S.C. 7501 *et seq.*), which applies to Part C of the Act.

Proposed § 303.225(b)(1) would substantively include the language in current § 303.124(a) and (b). Proposed § 303.225(b)(1)(i) would require that Federal funds be used to supplement, and, in no case, supplant State and local funds. Proposed § 303.225(b)(1)(ii) would require that the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for infants and toddlers with disabilities and their families must be at least equal to the total amount of State and local funds actually expended in the most recent preceding fiscal year for those services.

Proposed § 303.225(b)(2)(i) through (iv) would incorporate the language in 34 CFR 300.204(a) through (d) of the Part B regulations (71 FR 46780), regarding exceptions to maintenance of effort; and would allow a Part C lead agency's maintenance of effort to be temporarily reduced in an individual year due to: a decrease in the number of infants and toddlers who are eligible to receive early intervention services; the termination of costly expenditures for long-term purchases, such as the acquisition of equipment and cost of construction of facilities; the departure of personnel either voluntarily or for just cause; and the termination of the obligation to make early intervention services available to an exceptionally costly IFSP program for a particular infant or toddler with a disability. Proposed § 303.225(c) would incorporate the indirect cost requirements under Part C of the Act and under 34 CFR part 76.

Proposed § 303.226, which requires certain fiscal control and fund accounting procedures, would replace and substantively include the language in current § 303.125. Proposed § 303.227, which requires policies and practices to ensure that traditionally underserved groups are meaningfully involved in the planning and implementation of the requirements under Part C of the Act, would include the language in current § 303.128, except that children with disabilities who are wards of the State would be added to the list of traditionally underserved groups, consistent with section 637(b)(7) of the Act.

Subsequent Applications and Modifications, Eligibility Determinations, and Standard of Disapproval

Proposed § 303.228 would incorporate the language in section 637(d), (e), and (f) of the Act and is substantively the same as current § 303.100(b), (c), and (d). Proposed § 303.229 would add a provision that the Secretary notify the State if the Secretary determines a State is eligible to receive a grant under section 637 of the Act. Proposed § 303.230 regarding the standard for disapproval of an application, would replace current § 303.101, and would provide, consistent with section 637(c) of the Act, that the Secretary does not disapprove an application under this part unless the Secretary determines, through the notice and opportunity for hearing procedures in proposed

§§ 303.231 through 303.236, that an application fails to comply with the requirements of this part.

Department Procedures

Proposed §§ 303.231 through 303.236 would set forth the specific notice and hearing procedures that would apply before the Secretary determines a State is not eligible to receive a grant under this part. These proposed regulations would incorporate the language in 34 CFR 300.179 through 300.184 of the Part B regulations (71 FR 46776–46778). We propose to adopt these regulations in order to encourage greater consistency between Part B and Part C program operations.

Subpart D—Child Find, Evaluations and Assessments, and Individualized Family Service Plans

Proposed subpart D would incorporate the requirements from section 636 of the Act regarding evaluations and assessments and IFSPs. Proposed subpart D of these proposed regulations would also incorporate the comprehensive child find system requirements because they overlap with evaluation requirements and because the new statutory child find requirements are contained in sections 612, 631, 632, 634, 635, 637 and 641 of the Act, which do not readily relate to a corresponding subpart in these proposed regulations.

Public awareness, child find, referral and screening procedures would be in proposed §§ 303.300 through 303.303. Evaluation and assessment requirements would be combined in proposed § 303.320 to incorporate the relevant provisions in section 636(a)(1) and (2) of the Act.

IFSP provisions would be primarily unchanged in proposed §§ 303.340 through 303.345. Section 636(e) of the Act, regarding parental consent for IFSPs, would not be addressed in subpart D of these proposed regulations. It would instead be included with other parental consent provisions in proposed § 303.420, to align with section 639 of the Act regarding procedural safeguards.

Identification—Public Awareness, Child Find, and Referral

Proposed § 303.300(a) and (b), regarding a public awareness program, would incorporate language from current § 303.320 that requires a public awareness program that provides for information to be prepared and disseminated to primary referral sources to inform parents of infants and toddlers about the child find system, central directory, and the availability of preschool services under section 619 of the Act. Proposed § 303.300(a) would also cross-reference proposed § 303.116, which would require a statewide system to have a public awareness program consistent with the provisions in proposed § 303.300. Consistent with section 635(a)(6) of the Act, proposed § 303.300(a)(1)(ii) would add a specific reference to parents of premature infants, or infants with other physical risk factors associated with learning or developmental complications.

Proposed § 303.300(a)(2) would add a requirement that the statewide system have procedures for assisting primary referral sources to disseminate information to parents of infants and toddlers with disabilities, consistent with section 635(a)(6) of the Act. This proposed provision would replace current § 303.321(d)(2)(iii), which was removed, consistent with section 635(a)(6) of the Act. Proposed § 303.300(a)(2) would cross-reference proposed § 303.302(c) which defines the term *primary referral sources* for the purposes of subpart C. Notes 1 and 2 following current § 303.320, which include the components for an effective public awareness program, would be removed, as they do not reflect regulatory requirements and are therefore not necessary.

Proposed § 303.301, regarding a comprehensive child find system, would incorporate the requirements from current § 303.321 and would also emphasize the applicability of the child find system for the specific subpopulations referred to in many sections of the Act. Proposed § 303.301(a)(1) and (2) would incorporate language from section 635(a)(5) of the Act, which requires a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources. Proposed § 303.301(a)(3) would incorporate statutory language from section 635(a)(5) of the Act that requires rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under Part C of the Act that would reduce the need for future services. Proposed § 303.301(a)(4) would require the comprehensive child find system to meet the requirements in paragraphs (b) and (c) of this section and proposed § 303.302, regarding referral procedures, and proposed § 303.303, regarding screening procedures.

Proposed § 303.301(b) would address the scope of child find by identifying specific subpopulations of children that were added in the 2004 amendments to Part C of the Act. Current § 303.321(a)(2) would be removed as redundant with proposed § 303.301(b) and (c), regarding the lead agency's responsibilities for administering the child find system under Part C of the Act, and proposed § 303.604(a)(3), regarding the Council's advisory role.

Proposed § 303.301(b) would incorporate current § 303.321(a)(2), which identifies the lead agency as the agency responsible for implementing a comprehensive child find system. Proposed § 303.301(b)(1)(i) and (ii) would add references to children who are residing on a reservation located in a State, homeless, in foster care, and wards of the State to incorporate sections 612(a)(3)(A), 634(1) and 635(a)(2) of the Act and to align with the child find provisions in 34 CFR 300.111 of the Part B regulations (71 FR 46764). Proposed § 303.301(b)(1) would cross-reference the provisions in proposed § 303.731(e)(1)) to ensure coordination by lead agencies with tribes, tribal organization, and consortia located in the State to ensure the timely identification of Indian infants and toddlers with disabilities.

Proposed § 303.301(b)(2) would replace current § 303.321(b)(2) and would clarify that child find includes methods for determining which children are in need of early intervention services and which children are not in need of those services.

Proposed § 303.301(c) would incorporate the requirements of current § 303.321(c) and would add language requiring child find coordination with the following programs and agencies, to align with sections 634(1), 635(c)(2)(G), and 637(a)(6) and (10) of the Act: early education programs in the State, including Head Start and Early Head Start programs under section 645A of the Head Start Act; child protection programs including the foster care program and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA); child care programs in the State; and the programs that provide services under the Family Violence Prevention and Services Act for States electing to make available early intervention services to children with disabilities, in accordance with section 635(c) of the Act and proposed § 303.211.

Proposed § 303.302, regarding referral procedures, would require that the referral of a child under proposed § 303.302(a)(2)(i) be as soon as possible after the child has been identified. This is a change from the requirement in current § 303.321(d)(2)(ii), which requires the referral to occur within two

working days. The 2004 Amendments require lead agencies to conduct child find for additional subpopulations, which has substantially increased the number of referrals, making the two-day period impractical. A change in referral timeline is needed because we have found that the two-day referral is often not practical when some primary referral sources of these additional subpopulations are working with the lead agency and reviewing all information available about the child in order to determine whether the child may be suspected of having a disability and may need referral for evaluation under Part C of the Act. In addition, the Department has limited ability to enforce such a timeline given that primary referral sources include private physicians and other individuals and entities that are not EIS providers. Recognizing the importance of referring and identifying children potentially eligible for early intervention services as soon as possible, we are seeking comment on the proposed change in proposed § 303.302(a)(2)(i), specifically, regarding whether a different timeframe or approach is more appropriate.

Proposed § 303.302(b), regarding referral of specific at-risk children, would incorporate language from section 637(a)(6) of the Act, which requires States to have policies and procedures for the referral of early intervention services under Part C of the Act for an infant or toddler under the age of three who is involved in a substantiated case of child abuse or neglect; or is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure.

Proposed § 303.302(b)(1) would require the referral of a child under the age of three who is involved in a substantiated case of child abuse or neglect. This provision is consistent with CAPTA, which was amended in June 2003 to require States receiving CAPTA funds to have policies regarding the referral to the Part C program of children under the age of three who were involved in a substantiated case of abuse or neglect. In coordinating with the U.S. Department of Health and Human Services, which administers CAPTA, the Department has confirmed that neither Part C of the Act nor CAPTA requires the referral of a child other than the child who is the subject of a proceeding resulting in substantiation. Therefore, proposed § 303.302(b)(1) would not require a sibling to be referred or screened unless that sibling is a child under the age of three who has been the subject of a substantiation proceeding.

Proposed § 303.302(c) would incorporate the definition of ''primary referral sources'' in current § 303.321(d)(3), but would add to the definition: schools, clinics, public agencies and staff in the child welfare system including child protective service and foster care, homeless family shelters, and domestic violence shelters and agencies for States electing to make services under Part C of the Act available to children after the age of three in accordance with section 635(c)(2)(G) of the Act and proposed § 303.211. This would implement the intent of Congress, as expressed in note 290 of the Conf. Rpt., to ensure that the comprehensive child find system ''includes a broad range of referral sources such as homeless family shelters, clinics and other health service related offices, public schools and officials and staff in the child welfare system.'' The timelines for public agencies to act on referrals in current § 303.321(e) would be replaced by those in proposed § 303.320(e). The Note following current § 303.321 would be removed as it does not reflect a regulatory requirement and is therefore not necessary.

Proposed § 303.303 would clarify the responsibilities of the lead agency regarding when screening may be used once a child is referred for early intervention services under Part C of the Act. These screening provisions would be added because we have determined them to be necessary. Although section 639(a)(4) of the Act has always referenced ''screening,'' the new child find provisions in the Act require lead agencies and primary referral sources to determine how best to efficiently identify, from the increased number of potential referrals, those children experiencing developmental delays or potentially eligible for early intervention services under Part C of the Act. Many States have already adopted screening procedures to accomplish this.

Proposed § 303.303(a)(1) would expressly permit States to have procedures for the screening of a child, when appropriate, to determine if the child is suspected of having a disability, and would clarify that if the State lead agency elects to adopt screening procedures to determine if a child is suspected of having a disability, those screening procedures must meet the requirements of proposed § 303.303. States would not be required to adopt screening procedures, but if States adopt such procedures, those procedures would have to meet the requirements in proposed § 303.303.

Proposed § 303.303(a)(2) would clarify that, if the screening indicates that the child is suspected of having a disability, the lead agency must conduct an evaluation under proposed § 303.320 to determine the eligibility of the child. This provision would be added because, if the lead agency were to conduct a screening that indicated the child is suspected of having a disability, such screening results would provide the lead agency with information that the infant or toddler may be experiencing developmental delays. If the lead agency believes, based on the screening and other available information, that a child is not suspected of having a disability, then proposed § 303.303(a)(3), consistent with current § 303.403, would require the lead agency to provide the parent with notice under proposed § 303.421 that it is declining to conduct an evaluation. The notice requirement in proposed § 303.303(a)(3) would be added because it is the Department's experience that many States were not aware of the need to provide notice under these circumstances.

Proposed § 303.303(a)(4) would require the lead agency to conduct an evaluation if a parent requests an evaluation after the lead agency determines a child is not suspected of having a disability after completing a screening. These proposed regulations provide this clarification because most States that have adopted screening procedures after the June 2003 CAPTA amendments and the IDEA 2004 amendments have found that permitting the parent to request an evaluation is necessary to ensure appropriate identification of eligible children. In addition, the Department's experience indicates that parents often can identify or suspect developmental delays in their children that may not be identified through a screening. Further, research in the early childhood community demonstrates that parents are often in the best position to observe and know their infant's or toddler's developmental status.

Proposed § 303.303(b)(1) would define screening procedures as activities that are carried out by a public agency, EIS provider, or designated primary referral source (except for parents) to identify infants and toddlers suspected of having a disability and in need of early intervention services at the earliest possible age. Proposed § 303.303(b)(2) would clarify that the screening procedures include the administration of appropriate instruments by qualified personnel that can assist in making the identification described in proposed § 303.303(a)(1).

Proposed § 303.303(c) would clarify that for every child who is referred to the Part C program or receives a screening, the lead agency is not required to provide an evaluation and assessment of a child, unless the child is suspected of having a disability or the parent requests an evaluation under proposed § 303.303(a)(4). This clarification is consistent with note 303 of the Conf. Rpt., which provides that every child who is referred for early intervention services under Part C of the Act, or who is screened is not required to receive an evaluation unless the child is suspected of having a disability and is not required to receive early intervention services under Part C of the Act unless that child is eligible.

The Department notes that screening has long been part of States' child find and public awareness systems under Part C of the Act. The proposed regulations on screening would not apply to screenings conducted: (1) prior to a child's referral for services under Part C of the Act; (2) when a child's eligibility has already been determined; or (3) to siblings of children in substantiated cases of abuse or neglect.

As part of the child find and public awareness systems, primary referral sources and other community agencies often conduct routine agency screenings of infants and toddlers and other children. The proposed Part C regulations would not apply to screenings that are routinely conducted by primary referral sources and are not used by the lead agency to determine whether a child is suspected of having a disability.

In addition, children already determined to be eligible (such as a child with a diagnosed condition who has medical records that the lead agency can use to establish eligibility) would not need to be screened, because the purpose of screening is to determine whether a child is suspected of having a disability.

Finally, neither Part C of the Act nor CAPTA requires the referral or screening of siblings of a child, other than the child who is the subject of the proceeding resulting in substantiated abuse or neglect or who is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, unless that sibling is under the age of three and has also been the subject of a substantiation proceeding. However, under Part C of the Act, States may establish broader policies to permit or require the referral or screening of these siblings.

Evaluation and Assessment of the Child and Family and Assessment of Service Needs

Proposed § 303.320 would combine the requirements from current §§ 303.300(b), 303.322, and 303.323 and section 636(a)(1) and (2) of the Act. Proposed § 303.320(a)(1) would require the lead agency to ensure that a timely, comprehensive, and multidisciplinary evaluation and an assessment are performed for each child under three who is referred for an evaluation and is suspected of having a disability. Proposed § 303.320(a)(2)(i) would clarify that an evaluation is the method used to review the assessments of the child and the family to determine a child's initial and continuing eligibility consistent with the definition of *infant or toddler with a disability* in proposed § 303.21. Proposed § 303.320(a)(2)(ii) would clarify that in conducting an evaluation, no single procedure may be used as the sole criterion for determining the child's eligibility for Part C services. Proposed § 303.320(a)(2)(iii) would clarify that the use of a child's medical and other records may be used to establish eligibility (without conducting an assessment of the child and the family) if those records contain information, required under proposed § 303.320, regarding the child's level of functioning in the developmental areas identified in proposed § 303.21(a)(1). The nondiscriminatory procedures in current § 303.323 would be incorporated into proposed § 303.320(a)(3).

Proposed § 303.320(b)(1) would incorporate the procedures for the assessment of a child found in current §§ 303.322(b)(2), 303.322(c)(2), and 303.323(c). Proposed § 303.320(b)(1) would clarify that an assessment of a child means reviewing the child's pertinent records that relate to the child's current health status and medical history and conducting personal observation and assessment of the child to identify the child's unique strengths and needs and present level of developmental functioning. This clarification is necessary because States have not consistently required that the assessment of a child's need for early intervention services be based on personal observation and assessment of the child by qualified personnel. Proposed § 303.320(b)(1) and (2) would clarify that the assessment of the child's unique strengths and needs includes an identification of the child's level of functioning in each of the following developmental areas: Cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development based on objective criteria, which include informed clinical opinion.

Proposed § 303.320(b)(2) would expressly require that the lead agency allow qualified personnel to use their informed clinical opinion to assess a child's present level of functioning in each of the developmental areas identified in proposed § 303.21(a)(1) and to establish a child's eligibility, even when other instruments fail to establish eligibility. This is consistent with the Department's monitoring experience, which has indicated confusion in States that do not expressly allow the use of informed clinical opinion as a separate basis to establish eligibility. This is necessary because instruments may not adequately capture the extent of the developmental delay. Thus, informed clinical opinion may be used to establish a child's eligibility under this part even when other instruments do not establish eligibility. However, under proposed § 303.320(b)(2), informed clinical opinion cannot be used to negate eligibility established through the use of other appropriate assessment instruments.

As provided in the note following current § 303.300, the use of informed clinical opinion in establishing eligibility for early intervention services under Part C of the Act is especially important when standardized instruments are unavailable, unreliable or inappropriate for use in measuring developmental delay (as they often are for children under the age of three) or for evaluating a diagnosed condition such as autism spectrum disorder or pervasive developmental delay. Although the language of the note would be removed by these proposed regulations, the use of informed clinical opinion in establishing eligibility continues to be necessary and would therefore be included in proposed § 303.320(b)(2) as previously discussed.

With respect to the procedures for the assessment of a family, proposed § 303.320(c) would combine the requirements of section 636(a)(2) of the Act and current §§ 303.322(b)(2)(ii) and 303.322(d), and would require that family information be assessed not just through the use of an assessment tool, but through a voluntary personal interview with the family. In addition to the parent, the family assessment can include other family members for the purposes of identifying the child's needs. This proposed language would permit States to avoid unnecessary, time-consuming, and costly evaluations,

if existing records contain reliable information, and establish eligibility for services under Part C of the Act.

Proposed § 303.320(d) would clarify, consistent with section 636(a)(1) of the Act and current § 303.322(c)(3)(iii), that the assessment of service needs must identify the early intervention services needed to meet the unique strengths and needs of each infant or toddler with a disability. The service needs of the family under current § 303.322(d) and sections 635(a)(3) and 636(a)(2) and (d)(2) of the Act have been longstanding requirements, which have clarified that family assessments must be family directed and designed to determine the resources, priorities and concerns of the family and the identification of supports and services to meet the developmental needs of the child. Under proposed § 303.320(d), the assessment of the service needs of each infant or toddler with a disability and that child's family must include a review of the evaluation (including the assessment of the child and family) and available pertinent records and conducting personal observation and assessment of the infant or toddler with a disability in order to identify the early intervention services appropriate to meet the child's unique needs in each of the five developmental areas identified in proposed § 303.320(b)(1).

Current §§ 303.321(a) and 303.321(e)(1) and (2), require that a child's evaluation, assessment, and initial IFSP meeting occur within 45 days from the date the public agency receives the referral. The Department believes this imposes an unnecessary burden on Part C agencies. Because the public agency cannot initiate these actions without parental consent, a refusal or late consent may drastically reduce the time available for the agency to perform evaluations and prepare for the IFSP meeting. Proposed § 303.320(e)(1) would retain the 45-day timeline requirement, but the timeline would start with the date the public agency obtained parental consent for the evaluation, not the date the public agency receives the referral.

This change in how the 45-day timeline is calculated may result in some delays in the evaluation process, since the public agency may be less motivated to obtain timely consent. However, there are situations in which the lead agency is unable to obtain the requisite consent in a timely manner because the parents do not respond. In those cases, the delays in obtaining parental consent affect the State's ability to conduct evaluations, assessments, and the initial IFSP meetings within the 45-day period; potentially increase costs due to the need to pay overtime to staff; and make the State vulnerable to due process complaints based on its not complying with the 45-day timeline requirement.

The Department believes the change in starting date for the 45 days to when parental consent is obtained would provide a more realistic start time for conducting evaluations, assessments and the initial IFSP meeting and improve the ability of States to manage the development of IFSPs. This proposed change also would eliminate the possibility that States will be penalized for a lack of timeliness in due process complaints in which parents were responsible for delays because they did not provide timely consent or did not respond. The timeline change reflected in proposed § 303.320(e) is consistent with section 636(c) of the Act, which requires that the IFSP be developed within a reasonable time after the assessment is completed.

The Department is seeking comment on whether the proposed change to the starting date for evaluation, assessment, and initial IFSP in proposed § 303.320(e) is reasonable and necessary. Another option to consider is for the starting date to remain the same with an increase in the length of time to complete evaluations, assessments, and holding the initial IFSP meeting.

Individualized Family Service Plans (IFSPs)

The definition of IFSP in current § 303.340 would be incorporated into the definition of IFSP in proposed § 303.20. Proposed § 303.340 would cross-reference the definition in proposed § 303.20 and would require that the IFSP for an infant or toddler with a disability meet the requirements in proposed §§ 303.342 through 303.345.

Proposed § 303.342(a) through (d), regarding procedures for IFSP development, review, and evaluation would be substantively unchanged from current § 303.342(a) through (d), with the cross-references updated. Proposed § 303.342(e) would be substantively unchanged from current § 303.342(e), except that the substantive requirements regarding a parent's ability to consent or decline consent at any time would be addressed in proposed § 303.420. The note following current § 303.342 would be removed as it does not reflect a regulatory requirement and is therefore not necessary.

Proposed § 303.343, regarding IFSP team meetings and periodic reviews, would be substantively unchanged from current § 303.343 except that the title of the section would be changed. IFSP participants would be referred to as the ''IFSP team'' to align with the reference to a ''multidisciplinary team'' in section 636(a)(3) of the Act. Proposed § 303.343(a)(1)(iv) would remove, as unnecessary, language defining which service coordinators must participate in the initial and annual IFSP meetings. The change would be made to alleviate burden on the State to have additional people at the IFSP meeting. In most States, the service coordinator at the time of the IFSP meeting is the service coordinator who is most knowledgeable about the child and family and this service coordinator generally attends the IFSP meeting.

Proposed § 303.344(a), regarding content of an IFSP, would be substantively unchanged from current § 303.344(a), except that proposed § 303.344(a) would clarify that the IFSP content regarding present levels of functioning in each developmental area must be based on the child's evaluation and assessment under proposed § 303.320, to align with section 636(d)(1) of the Act, which requires that the child's present levels of development be based on objective criteria. Accordingly, current § 303.344(a)(2), which refers to professionally acceptable objective criteria, would be removed. Proposed § 303.320 would require that objective criteria be used to determine the infant or toddler's present levels of functioning in the developmental areas identified.

Proposed § 303.344(b) would be substantively unchanged from current § 303.344(b). Proposed § 303.344(c) would incorporate language from section 636(d)(3) of the Act, which requires the IFSP to contain a statement of the ''measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child.'' Because the term ''measurable'' modifies both ''results'' and ''outcomes,'' proposed § 303.344(c) would clarify that the IFSP must contain measurable results or measurable outcomes. In addition to being required by the statute, including pre-literacy and language skills as examples of measurable results or measurable outcomes is consistent with the current practices of most States for including on the IFSP, communication or social and emotional developmental goals. These goals would meet the requisite pre-literacy and language skills that are developmentally appropriate for infants and toddlers with disabilities.

Proposed § 303.344(d)(1) would incorporate language from section 636(d)(4) of the Act, which requires that

specific early intervention services contained in the IFSP be based on peer-reviewed research, to the extent practicable. This requirement is not intended to impose any additional recordkeeping or IFSP content burden but rather to ensure that each early intervention service is based on the child's developmental needs and reflects current standards of research-based practices.

Proposed § 303.344(d)(1)(i) would be consistent with section 636(d)(4) and (6) of the Act, and would require the IFSP to contain a statement of the frequency, intensity, length, duration, and method of delivery of services.

Proposed § 303.344(d)(1)(ii)(A), concerning natural environments, would be amended to align with sections 635(a)(16)(A) and 636(d)(5) of the Act. Proposed § 303.344(d)(1)(ii)(B), regarding the determination of the appropriate setting for providing early intervention services, would align with section 635(a)(16)(B) of the Act.

Proposed § 303.344(d)(1)(ii)(B) would specify that if a particular early intervention service cannot be provided satisfactorily in a natural environment, a justification that describes the setting in which the service will be provided and an explanation that supports the decision as to how the setting will assist the infant or toddler achieve the IFSP outcomes is required on the IFSP. This incorporates a longstanding Department policy that a justification for not providing early intervention services in a natural environment should be based on the child's IFSP outcomes. Note 295a of the Conf. Rpt. states ''that there may be instances when a child's Individualized Family Service Plan cannot be implemented satisfactorily in the natural environment. The Conferees intend that in these instances, the child's parents and other members of the individualized family service plan team will together make this determination and then identify the most appropriate setting in which early intervention services can be provided.''

In addition, proposed § 303.344(d)(2) would define the terms *frequency and intensity, method, length,* and *duration* for purposes of proposed § 303.344(d)(1)(i). Proposed § 303.303(d)(2)(i) regarding the definition of *frequency and intensity* would be substantively the same as current § 303.344(d)(2)(i) except that proposed § 303.344(d)(2)(iii) would include a definition of *length,* consistent with section 636(d)(6) of the Act. Proposed § 303.303(d)(2)(ii), regarding the definition of *method,* would incorporate current § 303.344(d)(2)(ii). Proposed § 303.344(d)(2)(iv), regarding the definition of *duration,* would clarify that duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).

Proposed § 303.344(d)(3), regarding the definition of *location,* would incorporate the language in current § 303.344(d)(3).

Proposed § 303.344(d)(4) would add a new requirement that IFSPs include, for children who are at least three years of age, an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills to align with sections 632(5)(B)(ii) and 635(c) of the Act, and 34 CFR 300.323(b) of the Part B regulations (71 FR 46789), regarding the allowable use of IFSPs under section 619 of the Act.

Proposed § 303.344(e) would remove the requirement in current § 303.344(e)(1)(ii) that the IFSP identify funding sources for the medical and other services not required by Part C of the Act. Current § 303.344(e)(1)(ii) would be removed, as it is overly burdensome to require IFSP teams, including service coordinators, to identify funding for services not required under Part C of the Act, because service coordinators may have limited knowledge about funding for services that are provided by other programs. In addition, proposed § 303.344(e) would incorporate current § 303.344(e)(i) regarding the requirement that other services needed or received by the child or family also be identified on the IFSP. Identifying these other services ensures that the IFSP identifies all of the services available to the child and family, and would avoid duplicative services and enhance coordination among the various agencies and organizations that are providing or may provide such services, and would ensure that Part C funds are not being used to pay for duplicate services. As indicated in Note 3 following current § 303.344, while listing the non-required services in the IFSP does not mean that those services must be provided, their identification is helpful to the child's family, the service coordinator, and EIS providers because the IFSP provides a comprehensive picture of the child's total service needs (including medical and health services), as well as early intervention services (including transition services).

Current § 303.344(e)(2) would be removed as unnecessary. The substance of current § 303.344(e)(2) would be included in proposed § 303.16(c)(3), in the definition of *health services.* Proposed § 303.344(f) would be substantively unchanged from current § 303.344(f) and would require the IFSP team to include on the IFSP, the projected date for initiation of each service, which date must be as soon as possible after the IFSP meeting, and the anticipated duration of each service.

Current § 303.344(g)(1) and (3) would be retained in proposed § 303.344(g). Proposed § 303.344(g)(1) is intended to provide guidance to the State in the identification of the service coordinator on the IFSP. Current § 303.344(g)(2) would be removed, to align proposed § 303.344(g) with section 636(d)(7) of the Act, and to reduce the burden on States. Although the service coordinator must serve as the single point of contact under current § 303.23 and proposed § 303.33(a)(3), there is not a requirement that the service coordinator be the same individual throughout the child's participation in the Part C system. Current § 303.344(g)(3) would be renumbered as proposed § 303.344(g)(2).

Proposed § 303.344(h)(1), regarding the IFSP identifying the programs to which children may transition from services under Part C of the Act, would be substantively unchanged, except that subsections (ii) and (iii) would be added to expressly identify the following additional programs: (1) elementary school or preschool services (for children participating under proposed § 303.211); and (2) early education, Head Start and Early Head Start or child care programs to incorporate the coordination provisions in section 637(a)(10) of the Act.

Proposed § 303.344(h)(2)(iv) would incorporate the provisions in section 636(a)(3) of the Act to add a reference to transition services and would remain substantively unchanged from current § 303.344(h). The remainder of current § 303.344(h) would be amended and renumbered consistent with section 636 of the Act. The notes following current § 303.344 would be removed, as they do not reflect regulatory requirements, but are explanatory or provide examples, and are therefore not necessary, except for Note 3, which would be incorporated into proposed § 303.344(e).

Proposed § 303.345 would be substantively unchanged from current § 303.345, with cross-references updated. The first part of the note after current § 303.345 regarding the purpose of interim IFSPs would be removed as unnecessary because it provides only one example of when interim IFSPs may be used, namely when a child's eligibility under Part C of the Act is clear (i.e. due to a diagnosed condition such as cerebral palsy). However, interim IFSPs are available whenever an immediate need for an early

intervention service is identified for an infant or toddler with a disability and the other conditions of proposed § 303.345 are met, regardless of how a child is eligible under Part C of the Act. In addition, the second part of this note, regarding the applicability of the 45-day timeline, would be removed, because proposed § 303.345(c) would continue to apply the 45-day timeline for the timely completion of evaluations and assessments, even when an interim IFSP is used.

Proposed § 303.346 would retain current § 303.346, regarding the responsibility and accountability of agencies and persons who have a direct role in the provision of early intervention services. Personnel training and standards in current §§ 303.360 and 303.361 would be moved to subpart B of the proposed regulations in §§ 303.118 and 303.119 to align with section 635 of the Act. The note following current § 303.361, regarding State flexibility to identify specific occupation categories, would be removed as unnecessary, because proposed §§ 303.118 and 303.119 would adequately clarify that State personnel standards would continue to be determined by States.

Subpart E—Procedural Safeguards

Proposed subpart E would incorporate the procedural safeguard provisions from sections 615 and 639 of the Act.

General

Proposed § 303.400(a) would substantially retain the language in current § 303.400(a), but would identify the major components of procedural safeguard requirements in proposed subpart E, including: confidentiality; parental consent and notice; surrogate parents; mediation; dispute resolution options; and due process hearing procedures under sections 639 and 615 of the Act. Proposed § 303.400(b) would be substantially the same as current § 303.400(b), and would indicate that the lead agency is responsible for ensuring the effective implementation of the safeguards by each EIS provider in the State that is involved in the provision of early intervention services.

The confidentiality provisions in proposed §§ 303.401 through 303.417, would implement sections 617(c) and 639(a)(2) and (4) of the Act and would primarily incorporate the language of the confidentiality protections under 34 CFR 300.610 through 300.627 of the Part B regulations (71 FR 46802–46804), and the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and its implementing regulations in 34 CFR part 99.

The parental consent, notice, and surrogate parent provisions in proposed §§ 303.420 through 303.422, would implement section 639(a)(3), (5), (6), and (7) of the Act, regarding parental consent, parental notice, and surrogate parent provisions and would replace current §§ 303.403 through 303.406.

The dispute resolution options in proposed §§ 303.430 through 303.439, would implement section 639(a)(1) and (8), and 639(b) of the Act. To make these regulations a freestanding document, the due process hearing procedures for resolving individual child complaints in proposed §§ 303.440 through 303.449 would include language from section 615(b)(6) and (7), (c)(2), (e)(2)(F), (f), (h), (i), (l), and (o) of the Act.

Confidentiality

Proposed § 303.401 would combine current §§ 303.402 and 303.460 to clarify when the confidentiality provisions in Part C of the Act apply, to mandate very limited disclosure between specific agencies for purposes of child find activities, to make other changes to conform to the Act, and to allow a lead agency to establish procedures that would inform parents of a potential referral and provide an opportunity to object prior to the disclosure. The note following current § 303.460 regarding the confidentiality requirements and the provisions of FERPA, would be removed because the substance of the applicable language is included in proposed §§ 303.401 and 303.402.

Proposed § 303.401(b) would remain substantively unchanged from current § 303.402, except that, instead of referencing the confidentiality provisions from Part B of the Act, proposed § 303.401(b) references proposed §§ 303.402 through 303.417, which would include the language of these requirements as modified to apply to lead agencies and EIS providers under Part C of the Act. Proposed § 303.401(b)(1) would clarify that the Part C confidentiality provisions are consistent with, but broader than, the provisions under FERPA.

Proposed § 303.401(c) would clarify that the Part C confidentiality provisions apply, when the child is referred for early intervention services under Part C of the Act and continue to apply until the time when the lead agency, public agency or EIS provider is no longer required to maintain or maintains such information under applicable Federal and State laws. The proposed provisions would clarify that as long as the lead agency, public agency or EIS provider is required to maintain, or maintains such records under Part C of the Act, the confidentiality provisions would apply to ensure appropriate privacy of Part C early intervention records.

Proposed § 303.401(d) would be added to incorporate the child find requirements from sections 612(a), 635(a)(6), and 637(a)(9) of the Act and require the very limited disclosure of personally-identifiable information during child find activities. This provision incorporates existing Department policy.

Proposed § 303.401(e) would permit States to adopt a policy to require any public agency or EIS provider, prior to the limited disclosure, to inform the parent of the intended disclosure required under proposed §§ 303.401(d) and 303.209(b)(2), and would allow the parent an opportunity to object to the disclosure in writing. Permitting States to adopt this policy would balance the privacy interests of parents of children receiving services under Part C of the Act, with the lead agency's and SEA's responsibilities to identify children potentially eligible for services under IDEA. Consistent with proposed § 303.209, if the State adopted such an ''opt-out'' policy, that policy must be on file with the Secretary as part of the State's application under Part C of the Act.

Additional Confidentiality Requirements

Proposed §§ 303.402 through 303.417 would be added in order to create freestanding regulations that can be easily used by parents, lead and public agencies, and EIS providers and that would include the confidentiality requirements from 34 CFR 300.610 through 300.627 of the Part B regulations (71 FR 46802–46804) that apply to Part C of the Act under current §§ 303.402 and 303.460. These confidentiality requirements would be amended, where appropriate, to apply to Part C lead agencies and EIS providers to ensure confidentiality of Part C records but would not be substantively changed from the corresponding provisions in the Part B regulations. For example, proposed § 303.405(a), regarding access rights, requires the agency to comply with a request no more than 20 days after a request has been made, whereas the corresponding requirement in 34 CFR 300.613(a) of the Part B regulations (71 FR 46803) requires a response no more than 45 days after the request. The variance in the timelines is to accommodate the 30-day timeline for due process hearings under Part C of the Act, as opposed to the 45-day timeline in Part B of the Act.

In addition, proposed § 303.414(d) would codify an express exception to the general parental consent requirement for release of personally identifiable information in early intervention records to reflect the role of Protection and Advocacy (P&A) systems under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act). Under the DD Act, which is administered by the Department of Health and Human Services, a P&A system may need access to early intervention records in specific circumstances.

Proposed § 303.414(d)(1) would cross-reference the requirement in section 143(a)(2)(I)(iii)(III) of the DD Act, that authorizes P&A systems under the DD Act to obtain access to contact information (including the name, address and telephone number) of the parent or legal guardian or representative of an infant or toddler with a disability in cases where they have probable cause to believe that such a child is an individual with a developmental disability who has been subject to abuse or neglect. 42 U.S.C. 15043(a)(2)(I)(iii). Proposed § 303.414(d)(1) would enable the lead agency or participating agency to disclose to the P&A system this contact information that would otherwise be considered personally identifiable information under Part C of the Act when the P&A system expressly requests this information under section 143(a)(2)(I)(iii) of the DD Act.

Proposed § 303.414(d)(2) would expressly also permit the lead agency or participating agency to disclose personally identifiable information in early intervention records in order to provide the P&A system access to the early intervention record of an infant or toddler with a disability when the P&A system requests access under either section 143(a)(2)(I)(iii) or section 143(a)(2)(J) of the DD Act. Under section 143(a)(2)(I)(iii) of the DD Act, the P&A system is authorized to have access where the P&A system has probable cause to believe that an individual with a developmental disability has been subject to abuse or neglect, it has contacted the parents to offer assistance, and the parents have refused to act. Under Section 143(a)(2)(J)(ii) of the DD Act, the P&A system is authorized to have immediate access to the early intervention records of an infant or toddler with a disability who is an individual with a developmental disability without that child's parental consent in a case where a P&A system has probable cause to believe that the health and safety of that individual are in serious and immediate jeopardy.

Parental Consent and Notice

Proposed § 303.420(a) and (b), regarding parental consent and notice, would be substantively unchanged from current § 303.404 and would add ''and ability to decline service'' in the heading to better align the regulation with section 639(a)(3) of the Act. Proposed § 303.420(a) would specifically indicate that the lead agency must ensure that parental consent is obtained before an evaluation and assessment of a child would be conducted under proposed § 303.320, before the provision of early intervention services, prior to the use of the parent's public or private insurance under proposed § 303.520, and prior to the exchange of personally identifiable information consistent with proposed § 303.401.

The term ''initial'' in current § 303.404(a)(1) would not be included in proposed § 303.420(a)(1) in order to clarify, consistent with Part B in section 614(c)(3) of the Act and the practice in the vast majority of Part C State early intervention programs, that parental consent is required not only for the initial evaluation but also for reevaluation of a child under Part C of the Act. Because the Part C parental consent provisions in section 639(a)(3) of the Act are broader (and more appropriate for the parents of infants and toddlers with disabilities) than the consent provisions under Part B in section 614(c) of the Act, the exceptions to requiring the public agency to obtain parental consent in section 614(c)(3) of the Act and 34 CFR 300.300(c) of the Part B regulations (71 FR 46784) do not apply to Part C of the Act.

Proposed § 303.420(b) would be unchanged from current § 303.404(b) regarding the lead agency's responsibilities if the parent does not provide consent.

Proposed § 303.420(c) would be added to include the language of Note 2 following current § 303.404 to clarify that a lead agency may, but is not required to, use the due process hearing procedures to challenge the parent's refusal to consent to an evaluation and assessment of the child. The term ''initial'' in Note 2 would not be incorporated into proposed § 303.420(c) because the lead agency may, but is not required to, use due process hearing procedures to override parental refusal to provide consent for any evaluation, not just the initial evaluation. The substance of Note 1, regarding parental consent, following current § 303.404 would be included where applicable in proposed § 303.420; and the substance of Note 1, regarding personably identifiable information, would be included in proposed § 303.401(c).

Proposed § 303.420(d) would incorporate the requirements in section 639(a)(3) of the Act and current § 303.405, and clarify the parent's right to accept or decline any early intervention service at any time.

Proposed § 303.421, regarding prior written notice, would be substantively unchanged from current § 303.403 and would incorporate section 639(a)(6) and (7) of the Act. Proposed § 303.421(c) would be substantively unchanged from current § 303.403(c) except that the provisions in current § 303.403(c)(3) would be moved to the definition of *native language* in proposed § 303.25.

Surrogate Parents

Proposed § 303.422, regarding surrogate parents, would be substantively unchanged from current § 303.406, except proposed §§ 303.422(b)(2), 303.422(c)(2)(i) and 303.422(e), would contain new language. Additionally, we used the statutory word ''locate'' in proposed § 303.422(a)(2), rather than the term ''discover the whereabouts'' used in current § 303.406(a)(2). ''Locate'' as used in proposed § 303.422(a)(2), regarding a lead agency's efforts to locate the child's parent, means that a lead agency makes reasonable efforts to discover the whereabouts of a parent, as defined in proposed § 303.27, before assigning a surrogate parent.

Proposed § 303.422(b)(2) would clarify that in implementing the provisions for determining when a surrogate parent is needed and assigning one for an infant or toddler who is a ward of the State or placed in foster care, the lead agency must consult with the public agency to which care of the infant or toddler has been assigned. This provision would be added due to the potential increase in the number of infant or toddler referrals under CAPTA and from child protective service agencies, recognizing that lead agencies may not have current updated data on families. However, this consulting requirement is not intended to be a burden, and consultation can occur by telephone, e-mail, or other means established by the lead agency and consistent with the interagency confidentiality requirements.

Proposed § 303.422(c)(2)(i) would incorporate the language from section 639(a)(5) of the Act, and would prohibit the assignment of a surrogate parent who is an employee of the lead agency or any other public agency or EIS provider that provides early intervention or other services to the child or any family member of the child.

Current § 303.406(d)(1) would be removed because it would be redundant with proposed § 303.422(c)(2)(i). Proposed § 303.422(e) would be substantively unchanged from current § 303.406(e), and would clarify that the surrogate parent has the same rights as a parent for all purposes under this part.

Dispute Resolution Options

Proposed § 303.430(a) would require each State system to make available dispute resolution options under Part C of the Act that would include mediation, due process hearing procedures, and State complaint procedures in current §§ 303.419, 303.420 through 303.425, and 303.510 through 512, respectively.

Proposed § 303.430(b) would clarify that each lead agency must make mediation available as required in proposed § 303.431, and would incorporate language from sections 615(e) and 639(a)(8) of the Act and current § 303.419.

Proposed § 303.430(c) would be aligned with the Part B administrative complaint procedures in 34 CFR 300.151 through 300.153 of the Part B regulations (71 FR 46770–46771) and would continue to require, as set forth in current § 303.510, that each lead agency adopt written State complaint procedures that meet the requirements in proposed §§ 303.432 through 303.434 to resolve any complaints filed by any party regarding any violation of this part.

Proposed § 303.430(d) would continue to allow lead agencies the option of using the Part C due process hearing procedures under proposed §§ 303.435 through 303.439, or the Part B due process hearing procedures under proposed §§ 303.440 through 303.449 (with the option of adopting either a 30-day or 45-day timeline).

Proposed § 303.430(e)(1) and (2) would incorporate the pendency language in section 639(b) of the Act and current § 303.425 regarding the services that must be provided during the pendency of a due process complaint. Proposed § 303.430(e)(1) would further clarify that the child must continue to receive those early intervention services that are identified on the IFSP to which the parent has provided consent and in the settings identified on the IFSP, unless the lead agency and parent otherwise agree.

Proposed § 303.430(e)(3)(i) would clarify that if a child turns three and the child's eligibility under Part B of the Act has not yet been determined in a State that has adopted the option to provide Part C services beyond age three, then the lead agency must continue to provide Part C services to that child under proposed § 303.211(b)(4). Proposed § 303.430(e)(3)(ii) would clarify that once a child turns three and has been determined ineligible for services under Part B of the Act and proposed § 303.211, Part C pendency does not apply and the lead agency is not required to provide Part C services to that child during the pendency of any due process hearing procedure challenging the determination of ineligibility.

Mediation

Proposed § 303.431, regarding mediation, would remain substantively unchanged from the current § 303.419 but would include several mediation provisions based on revisions in section 615(e) of the Act, which applies to Part C through section 639(a)(8) of the Act. Each lead agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process, as indicated in proposed § 303.431(a). Proposed § 303.431(b) would include the requirements in current § 303.419(b).

Additionally, proposed § 303.431(b)(5) and (b)(6) would incorporate the requirements in sections 615(e) and 639(a)(8) of the Act and require that if mediation results in resolution of a complaint, the parties must execute a legally binding agreement that describes the resolution of the matter and states that discussions that occurred during mediation shall be confidential and not used as evidence in any subsequent due process hearing or civil proceeding. The proposed regulation would require that the agreement be signed by the parent and a lead agency representative who has authority to bind the agency, and state that the agreement would be enforceable in any State court of competent jurisdiction or in a district court of the United States.

Proposed § 303.431(c) would provide requirements for the impartiality of the mediator consistent with sections 615(e)(2) and 639(a)(8) of the Act. Proposed § 303.431(d), regarding a meeting to encourage mediation, would incorporate the language in current § 303.419(c). Current § 303.419(b)(6), regarding the requirement that parties sign a confidentiality pledge, would be removed to align with section 615(e) of the Act.

State Complaint Procedures

Proposed § 303.432, regarding the requirement for the lead agency to adopt written State complaint procedures, would be substantively unchanged from current § 303.510 except that the provision in current § 303.510(a)(1)(ii), regarding the option for a local public agency to resolve a complaint, would be removed. This provision would be removed because, under Part C of the Act, (unlike Part B of the Act) virtually all States utilize only the lead agency for the resolution of complaints. In addition, because relatively few State complaints are filed under Part C of the Act eliminating this option would not create any additional burden for States. During Federal fiscal year 2004 the average number of State complaints filed under Part C of the Act was less than 2.0 per State.

Proposed § 303.433, regarding the requirements for minimum State complaint procedures, would remain substantively unchanged from current § 303.512.

Proposed § 303.433(a)(3) would clarify that a lead agency's State complaint procedures must provide the lead agency, public agency, or EIS provider with an opportunity to respond to a complaint filed under proposed § 303.430(c), including, at a minimum, an opportunity for a parent who has filed a complaint and the lead agency, public agency, or EIS provider to voluntarily engage in mediation, consistent with proposed § 303.430(b). Proposed § 303.433(b)(1)(ii) regarding time extensions for filing a State complaint, would clarify that it would be permissible to extend the 60-day timeline if the parent (or individual or organization, if mediation is available to the individual or organization under State procedures) and the lead agency, public agency or EIS provider agree to engage in mediation, consistent with proposed § 303.433(a)(3)(ii). Proposed § 303.433(c)(3) would incorporate the provisions in current § 303.512(c)(3).

Proposed § 303.434, regarding filing a complaint, would remain substantively unchanged from current § 303.511 except proposed § 303.434(b)(3) and (4) would require a parent filing a State complaint to provide the lead agency, public agency, or EIS provider with information about the child who is the subject of the complaint, which may allow the lead agency, public agency, or EIS provider to attempt to resolve the complaint at the earliest opportunity. In addition, proposed § 303.434(c) would amend the language in current § 303.511(b) to require that the complaint must allege that a violation

occurred not more than one year prior to the date the complaint is received, and would remove references to longer periods for continuing violations to ensure expedited resolution for public agencies and children.

Proposed § 303.434(d) would require that the party filing a complaint forward a copy of the complaint to the public agency or EIS provider serving the child at the same time the party files the complaint with the lead agency. This provision would ensure that the public agency or EIS provider involved has knowledge of the issues, and an opportunity to resolve them directly with the complaining party.

States That Choose To Adopt the Part C Due Process Hearing Procedures Under Section 639 of the Act

Proposed §§ 303.435 through 303.439, regarding due process hearing procedures under Part C of the Act, would remain substantively unchanged from current §§ 303.420 through 303.425, except that the references to ''impartial procedures'' would be replaced with ''due process hearing'' to distinguish these procedures from the State administrative complaint procedures in proposed §§ 303.432 through 303.434 and in proposed § 303.430(c). Note 1 following current § 303.420, regarding the adoption of Part C impartial procedures for resolving individual child complaints, would be removed because it is substantively incorporated into proposed §§ 303.435 through 303.439. Also, the complaint procedures in Note 1 following current § 303.420 would be substantively incorporated into proposed §§ 303.432 through 303.434. Note 2 following current § 303.420, indicating that the administrative procedures developed by a State should be designed to result in speedy resolution of complaints, because an infant's or toddler's development is so rapid that undue delay could be potentially harmful, would not be included in these proposed regulations because the process for the resolution of due process hearing procedures, including timelines, is addressed in proposed §§ 303.435 through 303.449.

Proposed § 303.435, regarding appointment of an impartial due process hearing officer, would remain substantively unchanged from the current § 303.421.

Proposed § 303.436, regarding parental rights in due process hearing procedures, would remain substantively unchanged from the current § 303.422.

Proposed § 303.437, regarding convenience of hearings and timelines, would remain substantively unchanged from the current § 303.423.

Proposed § 303.438, regarding civil actions, would remain substantively unchanged from current § 303.424.

States That Choose To Adopt the Part B Due Process Hearing Procedures Under Section 615 of the Act

Proposed §§ 303.440 through 303.448 would incorporate the due process hearing procedures for resolving individual child complaints under section 615 of the Act and 34 CFR 300.507, 300.508, and 300.510 through 300.516 of the Part B regulations (71 FR 46793–46796), and proposed § 303.449 would align with section 615(e)(2)(F) of the Act. These regulations are included to make these proposed Part C regulations a freestanding document to assist families, EIS providers, and lead agencies in accessing the provisions of the Part B due process hearing procedures under section 615 of the Act, which a Part C lead agency may choose to adopt under proposed § 303.430(d).

The note following current § 303.423 would not be included in the proposed regulations because the procedures for resolving Part B due process complaints under section 615 of the Act would be substantively included in proposed §§ 303.440 through 303.449, except that the portion of the note regarding the State being encouraged (but not required) to accelerate the timeline for the due process hearing because the needs of children in the birth-through-two age range change rapidly, would be removed because the process for the resolution of impartial individual child complaints, including timelines, is addressed in proposed §§ 303.440 through 303.449.

Proposed § 303.440(a) would reflect the change in 34 CFR 300.507(a) of the Part B regulations (71 FR 46793), regarding initiating a due process hearing on matters regarding the identification, evaluation, or placement of a child, or the provision of appropriate early intervention services, to specify that a party could ''file a due process complaint,'' as opposed to ''initiate,'' a hearing on these matters.

Proposed § 303.440(a)(2) would reflect the requirement in section 615(b)(6)(B) of the Act concerning the time period for filing a request for a due process hearing after the alleged violation has occurred. Proposed § 303.440(b), consistent with the revision to 34 CFR 300.507(b) of the Part B regulations (71 FR 46793), would include information regarding the responsibility of the lead agency, under certain circumstances, to provide information about available free or low-cost legal or other relevant services to parents.

Proposed § 303.440(c) would clarify that the lead agency may adopt a 30- or a 45-day timeline, subject to proposed § 303.447(a), for the resolution of due process complaints and must specify in its written policies and procedures under proposed § 303.123 and in its prior written notice under proposed § 303.421, the specific timeline that it has adopted.

Proposed § 303.441 would substantively include language from 34 CFR 300.508 of the Part B regulations (71 FR 46793–46794) regarding due process complaints. Additionally, proposed § 303.441(a), (b), and (c) would incorporate new language from section 615(b)(7) of the Act. Proposed § 303.441 would include language concerning the obligation to provide a due process complaint to the other party, the required content of the complaint notice, and the requirement that a due process hearing may not be held until the party, or the attorney representing the party, files the due process complaint. These changes should help clarify that the complaint and complaint notice would be the same document, which should aid in smooth implementation of these new provisions.

Proposed § 303.441(a)(2) would require the party requesting the hearing to forward a copy of the due process complaint to the lead agency to align with section 615(b)(7)(A)(i) of the Act. Proposed § 303.441(b) would address the contents of the due process complaint and would align with section 615(b)(7)(A)(ii) of the Act. Proposed § 303.441(c), regarding the notice required before a hearing on a due process complaint, would include language from section 615(b)(7)(B) of the Act. Proposed § 303.441(d) and (e) would incorporate the new language from section 615(c)(2) of the Act concerning due process complaint sufficiency and response to a due process complaint. Proposed § 303.441(e) would address the lead agency's or EIS provider's responsibility to send a parent a response to the due process complaint if the lead agency had not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint. Proposed § 303.441(e)(1) would outline what information must be contained in the response.

Proposed § 303.442 would substantively include language from 34 CFR 300.510 of the Part B regulations (71 FR 46794) regarding the resolution process. Additionally, proposed § 303.442(a)(4) would be added to

include the substance of note 212 of the Conf. Rpt. that the parent and the lead agency must determine the relevant members of the IFSP team to attend the resolution meeting. Proposed § 303.442(b)(2) would clarify that the regulatory timeline for issuing a final due process hearing decision begins at the end of the 30-day resolution period that starts when the due process complaint is received. This provision is based on the language in section 615(f)(1)(B)(ii) of the Act stating that the applicable timelines for a due process hearing commence at the end of this 30-day period. Proposed § 303.442(b)(3) would provide, however, that the resolution process and due process hearing would be delayed until the resolution meeting is held if a parent filing a due process complaint fails to participate in the resolution meeting. Proposed § 303.442(b)(3) is based on H. Rep. No. 108–77, p. 114 that provides: ''[If] the parent and the State or lead agency mutually agree that the meeting does not need to occur, the resolution session meeting does not need to take place. However, unless such an agreement is reached, the failure of the party bringing the complaint to participate in the meeting will delay the timeline for convening a due process hearing until the meeting is held.''

Proposed § 303.442(c) would incorporate the requirement from section 615(f)(1)(B) of the Act, regarding the conducting of resolution meetings, unless waived by joint agreement of the parties prior to the opportunity for an impartial due process hearing. Proposed § 303.442(d) includes language from section 615(f)(1)(B)(iii) of the Act regarding the contents of a legally binding written settlement agreement. Proposed § 303.442(e) includes language from section 615(f)(1)(B)(iv) of the Act regarding the ability of a party who executed a settlement agreement to void the agreement within three business days.

Proposed § 303.443 would substantively include language from 34 CFR 300.511 of the Part B regulations (71 FR 46794–46795) regarding impartial due process hearings. Additionally, proposed § 303.443(a) and (b) would incorporate the language from section 615(f)(1)(A) of the Act regarding impartial due process hearings. Proposed § 303.443(b) would include the language from section 615(f)(1)(A) of the Act, and would indicate that the lead agency directly responsible for the early intervention services of the infant or toddler, as determined under State statute, be responsible for conducting the due process hearing. Proposed § 303.443(c)(1) would include the language regarding qualifications of hearing officers from section 615(f)(3)(A) of the Act. Proposed § 303.443(c) would incorporate the regulatory language in 34 CFR 300.511(c) of the Part B regulations (71 FR 46795) regarding the non-employee status of the hearing officer and the requirement for the public agency to keep a list of hearing officers and their qualifications. Proposed § 303.443(d), (e), and (f) would include the requirements in section 615(f)(3)(B), (C), and (D) of the Act concerning the subject matter of the due process hearings, timelines for requesting hearings and exceptions to the timelines, respectively.

Proposed § 303.444(a), (b), and (c) would incorporate the due process hearing rights addressed in section 615(f)(2) and (h) of the Act and in 34 CFR 300.512 of the Part B regulations (71 FR 46795). In addition, proposed § 303.444(a)(4) and (5) would include the language from section 615(h)(3) and (4) of the Act indicating that parents would have a right to obtain copies of a written, or, at the option of the parents, electronic, verbatim record of the hearing and copies of findings of fact and decisions, and public agencies would remain responsible for ensuring that these rights are effectively implemented. The language in 34 CFR 300.512(c)(3) of the Part B regulations (71 FR 46795) concerning providing the record of the hearing and decision at no cost to the parents is included in proposed § 303.444(c)(3).

Proposed § 303.445 would substantively include language from 34 CFR 300.513 of the Part B regulations (71 FR 46795) regarding hearing decisions. Proposed § 303.445(a) would include the language in section 615(f)(3)(E) of the Act concerning the nature of hearing officer decisions, including the requirement that decisions be made on substantive grounds, and the standards for when procedural violations can be found to deny appropriate identification, evaluation, placement, or provision of early intervention services, and would clarify that a hearing officer can order an EIS provider to comply with procedural requirements.

Proposed § 303.445(b) would incorporate the construction clause from section 615(f)(3)(F) of the Act. In addition, proposed § 303.445(b) would clarify language in note 225 of the Conf. Rpt., which indicates that the statutory reference to a complaint was intended to address a State-level administrative appeal process, if available in that State.

Proposed § 303.445(c) would incorporate the requirement from section 615(o) of the Act that nothing prevents a parent from filing a separate due process complaint on an issue separate from the due process complaint that has already been filed. However, note 220 of the Conf. Rpt. states that: ''the Conferees intend to encourage the consolidation of multiple issues into a single complaint where such issues are known at the time of the filing of the initial complaint.''

Proposed § 303.445(d) would include the language from section 615(h)(4)(A) of the Act concerning the availability of hearing decisions to the public. This is also consistent with the requirements of section 617(b) of the Act relating to the confidentiality of data.

Proposed § 303.446, on finality of decision, appeal, and impartial review, and proposed § 303.447, regarding timelines and convenience of hearings and reviews, would substantively include 34 CFR 300.514 and 300.515, respectively, of the Part B regulations (71 FR 46795–46796), with cross-references updated to include the proposed regulations under Part C of the Act.

Proposed § 303.447(a) also would be revised to start the 45-day timeline from the expiration of the 30-day period for resolution under proposed § 303.442, rather than from the date when the agency receives a due process complaint. This change is based on revised language in section 615(f)(1)(B)(ii) of the Act providing that the timelines for a due process hearing commence at the expiration of the resolution period.

Proposed § 303.448(a) through (e), regarding civil actions, incorporates the language from section 615(i)(2), (i)(3)(A), and (l) of the Act and would substantively include language in 34 CFR 300.516 of the Part B regulations (71 FR 46796). Additionally, the requirement in section 615(i)(2)(B) of the Act is included in proposed § 303.448(b), which provides for a time limit of 90 days from the date of the final State administrative decision to file a civil action, or if the State has an explicit time limitation for bringing a civil action under Part C of the Act, in the time allowed by that State law. Proposed § 303.449 would include language from section 615(e)(2)(F) and (f)(1)(B) of the Act regarding the State's use of other mechanisms to enforce mediation.

Subpart F—Use of Funds and Payor of Last Resort

Proposed subpart F would incorporate provisions in sections 632, 635, 638, and 640 of the Act regarding use of Part

C funds, payor of last resort provisions, and system of payments requirements.

General

Proposed § 303.500 would require each statewide system to have written policies and procedures that meet the fiscal and interagency requirements set forth in the system of payments, interagency, use of funds, confidentiality, and payor of last resort provisions in sections 632(4)(B), 635(a)(10), 635(a)(12), 638, 639(a)(2), and 640 of the Act. Proposed § 303.500 would clarify that a State's written policies and procedures must include the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of the Act within the State and would incorporate the requirements in current §§ 303.173 and 303.174 and in sections 634, 635 and 640 of the Act.

Use of Funds

Proposed § 303.501, regarding permissive use of funds by the lead agency would incorporate the provisions in section 638 of the Act and the provisions in current §§ 303.3 and 303.560, modified to reflect statutory changes. The major substantive change from the current regulations is in proposed § 303.501(d). Proposed § 303.501(d) would incorporate the language from section 638(4) of the Act regarding the permissive use of Part C funds to make early intervention services available to children ages three and older consistent with proposed § 303.211.

Payor of Last Resort

Proposed § 303.510, regarding payor of last resort requirements, reflects the provisions in section 640(a) and (c) of the Act, and would remain substantially unchanged from the provisions in current § 303.527. Proposed § 303.510(b), regarding interim payments when reimbursement is delayed, would be substantively the same as the language in current § 303.527(b)(2)(i) through (iii) and (b)(3).

Proposed § 303.511, regarding establishing financial responsibility for and methods of ensuring services, would combine many of the provisions in current §§ 303.520 through 303.528 with modifications to reflect the statutory provisions in section 640(b) of the Act. Section 640(b) of the Act provides that a State may meet certain fiscal and interagency coordination requirements regarding provision of services under Part C of the Act by using one of three methods: (1) State law or regulations, (2) interagency or intra-agency agreements that identify the responsibilities of each agency, or (3) other appropriate written methods (once approved by the Secretary). Proposed § 303.511(a)(1) through (3) would identify these three options.

Proposed § 303.511(b) would require, consistent with section 640(b)(1)(A) of the Act and current § 303.523, that each method define the financial responsibility of each agency for paying for early intervention services or other functions authorized under Part C of the Act, including child find and evaluations and assessments, consistent with State law and the requirements of Part C of the Act.

Proposed § 303.511(c)(1) would require, consistent with section 640(b)(1)(A)(ii) of the Act and current §§ 303.523(c) and 303.528, that each method must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention service program. Those proposed procedures would require a mechanism for resolution of intra-agency disputes within agencies and for the Governor, Governor's designee, or the lead agency to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.

Proposed § 303.511(c)(2) would clarify that the method must permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and include the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

Proposed § 303.511(c)(3) would incorporate the Note following current § 303.523 regarding interagency dispute resolution to require that if, during the lead agency's resolution of the dispute, the Governor, Governor's designee, or lead agency determines that the assignment of financial responsibility under proposed § 303.511 was inappropriately made, the Governor, Governor's designee or lead agency must reassign the responsibility to the appropriate agency; and the lead agency must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

Proposed § 303.511(d), regarding the delivery of services in a timely manner, would incorporate these requirements from current § 303.525 and require that the methods adopted by the State under proposed § 303.511 must include a mechanism to ensure that no services that a child is entitled to receive under Part C of the Act are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and must be consistent with the written funding policies adopted by the State under proposed § 303.511.

Proposed § 303.511(e) would require that each method must include any additional components necessary to ensure effective cooperation and coordination among, and the lead agency's general supervision (including monitoring) of, all public agencies and early intervention service providers involved in the State's early intervention service programs.

Use of Insurance, Benefits, Systems of Payment, and Fees

Proposed § 303.520, regarding policies related to use of insurance for payment for services, and proposed § 303.521, regarding a system of payments and fees, would incorporate certain requirements in current §§ 303.520 and 303.521.

Public Insurance and Benefits and Private Insurance

Proposed § 303.520(a) and (b), regarding policies related to use of public insurance or benefits and private insurance for payment for services, would clarify when public insurance or benefits and private insurance may be used to pay for services pursuant to sections 632(4)(B), 635(a)(10), and 640 of the Act.

Proposed § 303.520(a)(1)(i), consistent with sections 632(4)(B) and 639(a)(2) of the Act, would allow a State to access a parent's public insurance or benefits when the parent is already enrolled if the parent provides consent to disclose personally identifiable information in accordance with proposed § 303.414.

Proposed § 303.520(a)(1)(ii) would clarify that a lead agency may use public insurance or benefits, without first obtaining parental consent under proposed §§ 303.7, 303.414, and 303.420(a)(3), for children in foster care when these children are eligible under the State's Medicaid plan. This provision was added because the Act places significant emphasis on finding children in foster care, and it is important to clarify for lead agencies the circumstances under which they may access public insurance or benefits for these children. Moreover, the provisions in existing laws deem virtually all children receiving foster care assistance under section 472 of the Social Security Act to be automatically eligible for

Medicaid under Title XIX of the Social Security Act.

Proposed § 303.520(a)(1)(iii) would clarify that a State may access a parent's public insurance or benefits program when the parent is not already enrolled in a public insurance or benefits program if the parent provides consent under proposed §§ 303.7, 303.414, and 303.420(a)(3), to enroll in such a program. This provision would be added to clarify existing confidentiality requirements. This provision also is necessary to ensure parents are aware of the opportunity to enroll, and provide informed consent prior to enrollment, in a public insurance or benefits program because enrollment in a public insurance or benefits program can potentially have significant negative impact on an individual's insurability, credit rating, immigration status, and status under other Federal assistance programs.

Proposed § 303.520(a)(2) would clarify that, if a State requires parents to pay the costs incurred as a result of participating in a public insurance or benefits program (such as co-payments, premiums or deductibles or the required use of private insurance as the primary insurance), these costs must be identified in the State's policies regarding its system of payments under proposed § 303.521.

Proposed § 303.520(a)(3) would clarify that when obtaining parental consent under proposed § 303.520(a), the lead agency must provide parents with a copy of the State's system of payments policies that identify potential costs that the parent may incur while enrolled in a public insurance or benefits program and to ensure that the consent is informed. Proposed § 303.520(a)(3) is being added to ensure that parents would be informed of those costs as part of consenting to the use of public insurance or benefits to pay for early intervention services.

Proposed § 303.520(b)(1)(i) would permit States to use private insurance to pay for early intervention services if the State obtains parental consent as defined in proposed § 303.7 and in accordance with proposed §§ 303.414 and 303.420(a)(3) prior to accessing the parent's private insurance.

Proposed § 303.520(b)(1)(ii) would require that any types of costs (including co-payments, premiums or deductibles) that may be charged to the parent as a result of using the parent's private insurance be identified in the State's system of payments policies under proposed § 303.521. Proposed § 303.520(b)(1)(iii) would require that a copy of this policy be provided to parents when obtaining consent.

Proposed § 303.520(b)(1)(iv) would incorporate requirements in current § 303.520(b)(3) that, if a parent or family is determined unable to pay under the State's definition of inability to pay that is required in proposed § 303.521(a)(3) and does not provide consent under proposed § 303.520(b)(1)(i), the lack of consent may not be used to delay or deny any Part C services to the child or family.

Proposed § 303.520(b)(2) would provide a specific exception to the parental consent requirements in proposed § 303.520(b)(1) for those States that have adopted specific statutes requiring private insurance companies and other entities to provide coverage for Part C early intervention services. This exception would only apply if the State statute ensures that—(1) lifetime coverage caps for the infant or toddler with a disability and parents are not triggered by the use of health insurance benefits to pay for Part C early intervention services; (2) the health insurance coverage of the infant or toddler with a disability and his or her family may not be discontinued due to the use of the health insurance to pay for Part C services; and (3) health insurance premiums and costs for the infant or toddler with a disability or his or her family may not be increased solely due to use of the health insurance to pay for Part C services.

Proposed § 303.520(b)(3) would clarify that if a State has enacted a State statute regarding private health insurance coverage that meets the requirements in proposed § 303.520(b)(2) for early intervention services under Part C of the Act that ensures that the use of private health insurance to pay for Part C services, the State may reestablish, for nonsupplanting purposes, in the next Federal fiscal year following the effective date of the statute, a new baseline of State and local expenditures under proposed § 303.225(b). This provision would be added to ensure that States that enacted protective statutes as part of the State's system of payments to ensure funding for Part C services would be able to factor in the change in funding sources for nonsupplanting purposes under Part C of the Act.

Proposed § 303.520(c)(1) and (2), regarding the treatment of public and private insurance proceeds and reimbursements from public benefits under 34 CFR 80.25, would remain substantively unchanged from current § 303.520(d). However, given the Federal interest in ensuring the use of overall Federal funds (including Part C and Medicaid funds) to increase the availability of services to children with disabilities, the Department seeks comment on whether funds from public benefits (such as Medicaid reimbursements) should continue to be excluded from treatment as program income under 34 CFR 80.25. Specifically, the Department invites comment on the potential estimated cost to States in characterizing these funds as program income (and the concomitant requirement that such funds be used for Part C purposes) as well as the potential estimated benefits to the Federal program and children served under Part C.

Proposed § 303.520(c)(3) would add that if the State spends funds from a State public insurance or benefits program or the State portion of a Federal public benefits program (such as the State portion of Medicaid costs) for services under this part, those funds may, but are not required to, be considered State or local funds under proposed § 303.225(b). This proposed provision would also add however that, if a State has elected to include such funds for purposes of nonsupplanting provisions in proposed § 303.225(b), it must continue to aggregate such amounts for all future years. Proposed § 303.520(c)(4) would add that if the State spends funds from private insurance for services under this part, those funds are considered neither State nor local funds for nonsupplanting purposes under proposed § 303.225.

Proposed § 303.520(d)(1) and (2) would clarify that funds received from a parent or family under a State's system of payments are ''program income'' under 34 CFR 80.25, would not need to be deducted from the total allowable costs charged under Part C of the Act, and must be used for the State's Part C early intervention services program, consistent with 34 CFR 80.25(g)(1) and (2). Proposed § 303.520(d)(3) would clarify that these funds would not be considered either State or local funds for non-supplanting purposes under proposed § 303.225(b).

System of Payments and Fees

Proposed § 303.521(a), regarding a State's system of payments and fees, would incorporate language from current § 303.521(a) regarding a schedule of sliding fees and would further require States to identify in their system of payments policies: (1) Any cost participation fees (such as co-pays or deductible amounts) required to be paid under Federal, State, local or private insurance or benefits programs for which the infant or toddler with a disability or family is enrolled, that meet the requirements of proposed §§ 303.520 and 303.521; and (2) which

functions or services will be subject to the system of payments, including any fees charged to the family as a result of using the family's public or private insurance.

Proposed § 303.521(a)(3) would require a State to include in its system of payments policies the State's definition of inability to pay (including its definition of income and family expenses). Proposed § 303.521(a)(4) would be substantively unchanged from current § 303.520(b)(3) except that proposed § 303.521(a)(4)(iii) would require States to assure that families will not be charged more than the actual cost of the services and families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.

Thus, when read together, under proposed §§ 303.520(b) and 303.521, a Part C lead agency would continue to be able to require parents either to pay the costs of providing early intervention services or to provide their consent for use of their public insurance or benefits or private insurance. Parents would have the option under proposed § 303.520(a) and (b) to allow the State to use their public insurance or benefits or private insurance or to pay the fees established by the State according to any system of payments established by the State under proposed §§ 303.520 and 303.521.

Proposed § 303.521(a)(5) would specify that a State's system of payments policies must include provisions that failure to provide the requisite income information and documentation may result in a charge of a fee and specify the fee that may be charged to the parent. Proposed § 303.521(a)(6) would clarify that the system of payments policies must include provisions that a lead agency may, but is not required to, use Part C funds or other funds to pay for costs or fees to be paid by a parent under proposed §§ 303.521(a)(1) and 303.520(a)(2) (use of public insurance or benefits) or (b)(1)(ii) (use of private insurance). However, for a parent determined unable to pay under proposed § 303.521(a)(4)(ii), proposed § 303.521(a)(6) would clarify that, consistent with current requirements, the lead agency must use Part C funds or other funds to cover the costs for the Part C services provided to the child of the parent.

Proposed § 303.521(b), regarding functions not subject to fees, would remain unchanged from current § 303.521(b). Proposed § 303.521(c) regarding States with FAPE mandates, or that use Part B funds to serve infants or toddlers with disabilities under age three, would incorporate the longstanding requirements in current § 303.521(c) that if a State is required by law to provide FAPE to infants or toddlers with a disability under the age of three, those services that constitute FAPE must be provided at no cost and must comport with the requirements of Parts B and C of the Act.

Specific sections of the Act permit States to use Part B funds for infants or toddlers with a disability under Part C of the Act and do not require the provision of FAPE. These are:

—Section 611(e)(2)(C)(i), which allows States to use Part B funds for direct and support services (which can include child find for children with disabilities under Part B of the Act);
—Section 611(e)(1)(D), which allows States to use State administrative set-aside funds under section 611 of the Act for Part C administration if the SEA is the lead agency;
—Section 619(f)(1), which allows States to use Part B section 619 funds for support services (including mediation) for children under three and above five if the services primarily benefit three through five year olds;
—Section 619(f)(6), which allows Part B section 619 funds to be used to provide service coordination or case management for families receiving services under Part C of the Act; and
—Sections 611(e)(7) (regarding the ability to use funds available under Part B of the Act in sections 611(e)(1)(A), 619(f)(5), and 643(e) (regarding funds under Part C of the Act), which provisions allow the use of specific Part B and Part C funds for providing Part C services to children in States that elect to serve children under section 635(c) of the Act and proposed § 303.211.

In addition, section 619(a)(2) of the Act provides that Part B section 619 funds can be used to pay for the provision of special education and related services for two year olds who will turn three during the school year. However, these special education and related services (that constitute FAPE for the two-year old) would be required to be provided at no cost to the family, consistent with the requirements of Part B of the Act.

Proposed § 303.521(d)(1) would clarify that family fees collected under a State's system of payments are considered program income under EDGAR, 34 CFR 80.25. Under this provision, a State would be permitted to add these fees to its Part C grant funds rather than deducting the program income from the State's Part C grant (which the Department has the discretion to authorize under 34 CFR 80.25). Under this provision, any family fees collected must be used by the State for the purposes of the Part C grant. Proposed § 303.521(d)(2) would clarify that, under EDGAR, family fees collected under a State's system of payments would be considered neither State nor local funds under proposed § 303.225(b).

Subpart G—State Interagency Coordinating Council

Proposed subpart G would incorporate the provisions of section 641 of the Act, regarding the State Interagency Coordinating Council (Council), which are in current subpart G.

Proposed § 303.600 would retain the provisions in current § 303.600 regarding the establishment of the Council.

Proposed § 303.601(a)(1)(i) and (ii) would retain the requirements in current § 303.601(a)(1)(i) and (ii) regarding parent membership on the Council. Proposed § 303.601(a)(1)(iii) would incorporate the first paragraph in the note following current § 303.600 to require that, to avoid a potential conflict of interest, a parent member may not be an employee of a public or private agency involved in providing early intervention services. The second paragraph in the note following current § 303.600, suggesting that consideration be given to maintaining an appropriate balance between the urban and rural communities of the State, would be removed as duplicative of proposed § 303.600(b).

Proposed § 303.601(a)(2) through (6) regarding the composition of the Council would reflect the statutory provisions in section 641(b)(1)(A) through (F) of the Act and would remain substantively unchanged from current § 303.601(a)(2) through (6). Proposed § 303.601(a)(7) and (11) through (13) would reflect the provisions in section 641(b)(1)(G) and (K) through (M) of the Act, which provide for additional members to be included on the Council. Proposed § 303.601(a)(7) would provide for at least one member to be from the agency responsible for the State Medicaid program in accordance with section 641(b)(1)(G) of the Act. Proposed § 303.601(a)(8) and (9), regarding members from Head Start or Early Head Start and the State agency responsible for child care, would reflect the statutory provisions in section 641(b)(1)(H) and (I) of the Act and would be substantively unchanged from

current § 303.601(a)(8) and (9). Proposed § 303.601(a)(10), regarding the member from the agency responsible for the State regulation of health insurance, would remain essentially the same as current § 303.601(a)(7) except that ''State governance'' would be replaced with ''State regulation'' to incorporate the language in section 641(b)(1)(J) of the Act. Proposed § 303.601(a)(11) would provide for at least one member to be from the Office of the Coordination of Education of Homeless Children and Youth, consistent with section 641(b)(1)(K) of the Act. Proposed § 303.601(a)(12) would provide for the Council to include a member from the State child welfare agency responsible for foster care, consistent with section 641(b)(1)(L) of the Act and proposed § 303.601(a)(13) would provide that at least one member be from the agency responsible for children's mental health, consistent with section 641(b)(1)(M) of the Act.

Proposed § 303.601(b) would be added to clarify that the Governor may appoint one member to represent more than one agency listed under proposed § 303.601(a)(7) through (a)(13). Proposed §§ 303.601(c) and (d) would retain the provisions in current §§ 303.601(b) and 303.604, respectively, and reflect the requirements of section 641(b)(2) and (f) of the Act, respectively. Proposed § 303.601(d) would also incorporate the language in section 641(f) of the Act that no member may cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

Proposed § 303.602, regarding Council meetings, would revise current § 303.603 to incorporate minor wording changes in section 641(c) of the Act. Proposed § 303.602(a) would revise current § 303.603(a) to be consistent with the language in section 641(c) of the Act, including clarifying that the Council must meet, at a minimum, on a quarterly basis. Proposed § 303.602(b)(3) would remain substantively unchanged from current § 303.603(c) requiring meetings to have interpreters, as needed, and permitting the use of Part C funds for interpreter services at those meetings.

Proposed § 303.602(b)(1), requiring that Council meetings be announced in advance, would substantively be the same as current § 303.603(b)(1). Additionally, proposed § 303.602(b)(2) is substantively unchanged from current § 303.603(b)(2), requiring that, to the extent appropriate, meetings be open and accessible to the general public.

Proposed § 303.603, regarding how the Council may use Part C funds, would incorporate the provisions of current § 303.602 and the provisions in section 641(d) of the Act. Proposed § 303.603(a) and (b) would retain the provisions in current § 303.602(a)(1) through (5) regarding the use of funds and in current § 303.602(b) regarding the requirement that Council members must serve without compensation from funds available under Part C of the Act, except as provided in proposed § 303.603(a).

Proposed § 303.604 regarding the functions of the Council, would combine and revise current §§ 303.650 through 303.653, consistent with the requirements in section 641(e) of the Act. Proposed § 303.604(a) would retain the provisions in current §§ 303.651 and 303.652 except that proposed § 303.604(a)(3) would remove references to interagency agreements and refer instead to ''methods'' (which can include interagency agreements) as specified in section 640(b)(3) of the Act. Proposed § 303.604(a)(3) also specifically references the proposed regulatory sections that require interagency coordination and collaboration regarding child find, monitoring, transition, financial responsibility, and provision of early intervention services. Proposed § 303.604(a)(4) would retain the provisions of current § 303.652 regarding the Council's function to assist the lead agency in the preparation of applications and amendments to those applications.

Proposed § 303.604(b) would include the language from current § 303.653 that the Council must also advise and assist the lead agency regarding transition of toddlers with disabilities to preschool and other appropriate services.

Proposed § 303.604(c)(1), in accordance with section 641(e)(1)(D) of the Act, would retain the provisions in current § 303.654(a) regarding the Council's responsibility to annually report to the Governor and to the Secretary on the status of early intervention programs operated within the State. Proposed § 303.604(c)(2) would also retain the provision in current § 303.654(b), that each annual report must contain the information required by the Secretary for the year for which the report is made.

Proposed § 303.605(a) would reflect the provisions in current §§ 303.650(b) permitting the Council to advise and assist the lead agency and SEA in the provision of appropriate services for children with disabilities from birth through age five including the transition from services under Part C of the Act to other appropriate services.

Proposed § 303.605(b) would incorporate current language from current § 303.650(c) permitting the Council to advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

Subpart H—Federal Administration and Allocation of Funds

Proposed subpart H would incorporate provisions from sections 642 and 643 of the Act. Section 642 of the Act provides that the requirements in section 616 of the Act regarding monitoring and enforcement and the requirements in section 618 of the Act regarding data collection are applicable to Part C of the Act.

The requirements in section 616 of the Act would be reflected in proposed §§ 303.700 through 303.708 and the requirements in section 618 of the Act would be reflected in proposed §§ 303.720 through 303.724. The provisions in section 643 of the Act regarding procedures for allocating grant funds to States would be reflected in proposed §§ 303.730 through 303.734.

Monitoring, Technical Assistance, and Enforcement

Proposed §§ 303.700 through 303.708 regarding monitoring and enforcement would incorporate the statutory requirements under section 616 of the Act, which apply to Part C of the Act under section 642 of the Act. The proposed regulatory requirements adopt the statutory language with appropriate modifications to include the provisions of Part C of the Act.

Proposed § 303.700(a) would include the new provisions in section 616(a)(1)(C) of the Act, which sets forth the responsibility of States to monitor, enforce, and annually report on the implementation of the Part C program by EIS programs, as defined in proposed § 303.11. In addition, proposed § 303.700(a) would require the lead agency to make determinations annually about the performance of each EIS program using the categories identified in proposed § 303.703. Also, proposed § 303.700(a) would require the State to report annually on the performance of the State under the State's performance plan as provided in proposed § 303.702.

Proposed § 303.700(b) would reflect the new statutory requirement in section 616(a)(2) of the Act that the primary focus of monitoring is on improving early intervention results and functional

outcomes for infants and toddlers with disabilities.

Proposed § 303.700(c) would reflect new requirements in section 616(a)(3) of the Act that States measure performance in monitoring priority areas using quantifiable indicators and such qualitative indicators as are needed to adequately measure performance. Proposed § 303.700(c) would clarify that these indicators are established by the Secretary in the context of informing States of the requirements under the State's performance plan.

Proposed § 303.700(d) lists the priority areas States must monitor under Part C of the Act. These areas are early intervention services in natural environments and State exercise of general supervision.

Proposed § 303.700(e) would clarify that the State, in exercising its monitoring responsibilities under proposed § 303.700(d), must ensure that when it identifies noncompliance with the requirements of Part C of the Act by EIS programs and EIS providers, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification. The language in this section would align with the addition of the language in proposed § 303.120(a)(2)(iv).

We propose to add § 303.700(e) because, based on our monitoring activities, we have determined that correction of noncompliance does not always occur in a timely manner. Proposed § 303.700(e) would clarify expectations regarding the timely correction of noncompliance. It is important to correct noncompliance in a timely manner to ensure that infants and toddlers with disabilities and their families receive appropriate early intervention services. Correction of noncompliance means that the State required the EIS program or EIS provider to revise any noncompliant policies, procedures and/or practices and the State has verified through follow-up review of data, other documentation and/or interviews that the noncompliant policies, procedures and/or practices have been revised and the noncompliance has been corrected. We believe that one year is a reasonable amount of time for the LEA to correct noncompliant policies, procedures and/or practices and for the State to verify the correction.

Proposed § 303.701 would reflect new statutory language in section 616(b) of the Act requiring States to have a performance plan that evaluates their efforts to implement the requirements and purposes of Part C of the Act and describes how the State will improve implementation. Under proposed § 303.701(a) the plan must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in proposed § 303.700(d). Consistent with the new statutory language, proposed § 303.701(b) would require States to review their performance plans at least once every six years and submit any amendments to the Secretary.

Proposed § 303.701(c)(1) would require, consistent with section 616(b) of the Act, that each State collect valid and reliable information on all the indicators in the performance plan to include in the State's annual report to the Secretary. Proposed § 303.701(c)(2) would clarify that States may use, if the Secretary permits it for a particular indicator, the option to collect data through State monitoring or sampling. Proposed § 303.701(c)(2) would further clarify that, if the State collects data for a particular indicator through State monitoring or sampling, the State must collect and report data on those indicators for each EIS program at least once during the six-year period of the State performance plan. The use of monitoring or sampling data, if valid and reliable, can be an effective means of data collection, reducing burden on State lead agencies, while providing meaningful information on the performance of EIS programs. Proposed § 303.702(b)(1)(ii) also would align with 34 CFR 300.602(b)(1)(ii) of the Part B regulations (71 FR 46801).

Proposed § 303.701(c)(3) would also incorporate the statutory requirements from section 616(b)(2)(B)(ii) of the Act regarding data collection and specify that nothing in the Act or the regulations authorizes the development of a nationwide database of personally identifiable information on individuals involved in studies or other data collections.

Proposed § 303.702(a) would reflect the statutory language in section 616(b)(2)(C) of the Act requiring States to use the targets established in their performance plans and the priority areas in proposed § 303.700(d) to analyze the performance of each EIS program in the State. Under proposed § 303.702(b), which would largely incorporate the language in section 616(b)(2)(C) of the Act, States would be required to report annually to the public on the performance of each EIS program in the State on the targets in the State performance plan and make the State performance plan available to the public. Notes 253 through 258 of the Conf. Rpt. explain that the expectation is that the State performance plans, indicators and targets are to be developed with broad stakeholder input and public dissemination. To ensure that EIS program performance reports are disseminated in a timely manner, proposed § 303.702(b)(1)(i)(A) would require that EIS program performance be reported to the public no later than 60 days following the State's submission of its annual performance report to the Secretary and would prescribe the minimal methods for that public dissemination.

Proposed § 303.702(b)(1)(i)(B) would include the statutory requirements from section 616(b)(2)(C) of the Act that a State make its performance plan publicly available. In addition, to ensure that the State's annual performance reports and the reports on the performance of each EIS program in the State are widely disseminated, proposed § 303.702(b)(1)(i)(B) would require that States make these reports available through public means, including posting the reports on the Web site of the lead agency and distributing them to the media and to EIS programs.

Proposed § 303.702(b)(1)(ii) would add that, if the State, in meeting the requirements of proposed § 303.702(b)(1)(i), collects performance data through State monitoring or sampling, the State must include the most recently available performance data on each EIS program and the date the data were obtained in its report on the performance of EIS programs.

Proposed § 303.702(b)(2) would reflect the language in section 616(b)(2)(C) of the Act requiring each State to report annually to the Secretary on the performance of the State under its performance plan. Under proposed § 303.702(b)(3), however, the State would not be required to report to the public or the Secretary any information on performance that would disclose personally identifiable information about individual children or any data if the available data are insufficient to yield statistically reliable information.

Proposed § 303.703(a) and (b)(1) would reflect new language in section 616(d) of the Act requiring the Secretary to review annually the State's annual performance report and, based on information in the annual performance report, or information obtained through monitoring visits or other public information, determine if the State: (1) meets the requirements and purposes of Part C of the Act, (2) needs assistance in implementing the requirements of Part C of the Act, (3) needs intervention in implementing the requirements of Part C of the Act, or (4) needs substantial intervention in implementing the requirements of Part C of the Act.

Proposed § 303.703(b)(2) would reflect the language from section

616(d)(2)(B) of the Act that provides States with notice and an opportunity for a hearing for determinations under proposed § 303.703(b)(1)(iii) and (b)(1)(iv). Proposed § 303.703(b)(2)(ii) would clarify that the hearing would consist of an opportunity to meet with the Assistant Secretary for the Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination. We propose this provision to meet the hearing requirement because the Department has determined that this type of hearing would provide the appropriate amount of process due a State prior to one of these determinations. Should specific enforcement action subsequently be contemplated, as provided for in section 616(e) of the Act, other hearing procedures may be applicable, as provided for in proposed §§ 303.705, 303.231 through 303.236, and in the General Education Provisions Act as amended, 20 U.S.C. 1221 *et seq.* (GEPA).

Proposed § 303.704, regarding enforcement, would reflect new requirements in section 616(e) of the Act that set forth the various actions the Secretary may take with respect to each State's level of compliance as determined by the Secretary's review of the State's annual performance report under proposed § 303.703. Thus, proposed § 303.704 would identify, consistent with section 616(e) of the Act, the specific enforcement actions that the Secretary may take if the Secretary determines that a State needs assistance, needs intervention, or needs substantial intervention.

For example, if it is determined that a State needs substantial intervention, the Secretary would take one or more of the actions described in proposed § 303.704(c), including recovering funds under section 452 of GEPA, withholding in whole or in part any further payments to the State under Part C of the Act, referring the case to the Office of Inspector General at the Department, or referring the matter for appropriate enforcement action, which may include referral to the Department of Justice.

Under proposed § 303.704(d), the Secretary would be required to report to appropriate congressional committees within 30 days of taking an enforcement action against a State under proposed § 303.704, including in the report a description of the specific action that was taken, and the reasons why it was taken.

Proposed § 303.705(a) would reflect the language in section 616(e)(4)(A) of the Act regarding reasonable notice and the opportunity for a hearing prior to withholding of any Part C funds.

Proposed § 303.705(b) would reflect new language from section 616(e)(4)(B) of the Act that, pending the outcome of any hearing to withhold payments, the Secretary may do one or both of the following: Suspend payments to a recipient or suspend the recipient's authority to obligate funds under Part C of the Act provided that the recipient has been given reasonable notice and an opportunity to show cause why future payments or the authority to obligate Part C funds should not be suspended. Proposed § 303.705(c) regarding the nature of withholding actions would reflect the language in section 616(e)(6) of the Act.

Proposed § 303.706 reflects the language in section 616(e)(7) of the Act. Whenever a State receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to proposed § 303.704, the State must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to section 616(e) of the Act and proposed § 303.704 to the attention of the public within the State, including posting such notice on the Web site of the lead agency and distributing the notice to the media and to the EIS programs.

Consistent with the statutory provisions in section 616(g) of the Act, proposed § 303.707 would provide that nothing in subpart H restricts the Secretary from utilizing any authority under GEPA and EDGAR to monitor and enforce the requirements under Part C of the Act. Proposed § 303.708 would be added to clarify that States have the flexibility to use other mechanisms to bring about compliance, just as section 616(g) of the Act and proposed § 303.707 recognize that the Department needs the flexibility to use the authority in GEPA and EDGAR to monitor and enforce the Act in addition to the enforcement program described in section 616(e) of the Act.

Reports—Program Information

Proposed §§ 303.720 through 303.724 regarding data collection by States would incorporate the applicable statutory requirements under section 618 of the Act, which apply to Part C through section 642 of the Act. These statutory requirements were substantively unchanged by the 2004 amendments to the Act except for the requirement that data reported under Part C of the Act be disaggregated by gender and the requirement that States electing under proposed § 303.211 to make early intervention services available to children ages three and older, report data on those children.

Proposed § 303.720(a) would reflect the statutory provisions in section 618(a) of the Act that require each State to report data each year to the Secretary and to the public. Proposed § 303.720(b) would state that the data be submitted in the manner prescribed by the Secretary.

Proposed § 303.721(a) would specify that lead agencies must count the number of infants and toddlers with disabilities receiving early intervention services on any date between October 1 and December 1 of each year and include in this count any children reported to them by tribes, tribal organization, and consortia under proposed § 303.731(e)(1)). Current practices require the infant and toddler count to occur on December 1. The proposed provision would broaden the window for States and would be consistent with the Part B regulations in 34 CFR 300.641(a) (71 FR 46804). Proposed § 303.721(a)(1), (2), and (3) would reflect data collection and reporting requirements described in section 618(a) of the Act.

Proposed § 303.721(b) would reflect the statutory provisions in section 635(c)(3) of the Act. These provisions require that if a State adopts the option under section 635(c) of the Act and proposed § 303.211 to make early intervention services available to children ages three through five, the State must report data on the number and percentage of children with disabilities who are eligible to receive services under section 619 of the Act but whose parents choose to continue to receive early intervention services.

Proposed § 303.721(c) would reflect the statutory provisions in section 618(a)(1)(F) and (H) of the Act. This provision would require the State to report the number of due process complaints filed under section 615 of the Act, the number of hearings conducted and the number of mediations held and the number of settlement agreements reached through such mediations.

Proposed § 303.722(a) would reflect the new provisions in section 618(b)(1) of the Act requiring each State to report data in a manner that does not result in disclosure of personally identifiable information.

Proposed § 303.722(b) regarding sampling, reflects the language in section 618(b)(2) of the Act.

Proposed § 303.723 regarding certification of the annual report of infants and toddlers served, would require that an authorized official of the lead agency certify the accuracy of the data being submitted. This requirement is to ensure that data submitted to the

Secretary are an accurate representation of the infants and toddlers with disabilities in the State.

Proposed § 303.724, regarding other responsibilities of the lead agency related to the annual report of infants and toddlers served, would provide more detail to the provision in current § 303.540(a)(1)(i) that requires the lead agency to include a process for collecting data from various agencies and service providers. To ensure the collection of accurate data in a timely manner, proposed § 303.724 would provide specific steps and procedures for lead agencies to follow in collecting the data to be reported to the Secretary.

Allocation of Funds

Proposed §§ 303.730 through 303.734 would incorporate the provisions in section 643 of the Act regarding allocation of funds under Part C of the Act to States, outlying areas and the Secretary of the Interior. Proposed § 303.730 regarding reservation of funds for the outlying areas would remain substantively unchanged from current § 303.204 except for minor changes to the language in order to conform to section 643(a) of the Act.

Proposed § 303.731 would implement section 643(b)(1) of the Act regarding allocation of funds under Part C of the Act to the Secretary of the Interior. Proposed § 303.731(a) would retain the provisions regarding payment and distribution of funds to tribes and tribal organizations in current §§ 303.180(a), 303.180(b) and 303.203.

Proposed § 303.731(b) would be added to incorporate the provision in section 643(b)(2) of the Act requiring the Secretary of the Interior to distribute amounts to each tribe, tribal organization, or consortium based on the number of infants and toddlers residing on the reservation divided by the total of those children served by all tribes, tribal organizations, or consortia.

Proposed § 303.731(c) would be added to incorporate the provision in section 643(b)(3) of the Act, which clarifies that, in order to receive payment under this section, the tribe, tribal organization, or consortium must submit to the Secretary of the Interior information to determine the amounts to be distributed.

Proposed § 303.731(d) would be added to incorporate section 643(b)(4) of the Act and would state the required and permissible uses of funds under this section.

Proposed § 303.731(e)(1) and (2) would be added to incorporate the provision in section 643(b)(5) of the Act regarding the requirement to submit a biennial report to the Secretary of the Interior in order to be eligible to receive funds. Proposed § 303.731(e)(1) would require that to be eligible to receive a payment under proposed § 303.731(b), a tribe, tribal organization, or consortium must make a biennial report to the Secretary of the Interior of activities undertaken under proposed § 303.731, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the two years following the year in which the report is made. This report would require tribes, tribal organization and consortia to include an assurance that the tribe, tribal organization, or consortium has provided the lead agency in the State child find information (including the names and dates of birth and parent contact information) for infants or toddlers with disabilities who are included in the report in order to meet the child find coordination and child count requirements in sections 618 and 643 of the Act.

Proposed § 303.731(e)(2) would require the Secretary of the Interior to provide the Secretary with a summary of that information on a biennial basis, including confirmation that each tribe, tribal organization, or consortium has provided to it the assurance required under proposed § 303.731(e)(1), along with such other information required of the Secretary of the Interior under Part B or C of the Act. In addition proposed § 303.731(e)(2) would clarify, consistent with section 643(b)(5) of the Act, that the Secretary may require any additional information from the Secretary of the Interior.

Proposed § 303.731(e)(3), regarding reports to the Secretary on payments disbursed under this section, would retain the language in current § 303.180(c).

Proposed § 303.731(f) would mirror section 643(b)(6) of the Act, and would clarify that Part C funds may not be used by the Secretary of the Interior for administrative purposes or the provision of technical assistance.

Proposed § 303.732, regarding the allotment and distribution of funds to the States under this part, generally would retain the language in current §§ 303.200 and 303.202 but would also incorporate additional provisions from section 643(c) of the Act, and track the organization of the Act. Proposed § 303.732(a) would be the same as current § 303.200(a). Proposed § 303.732(b) also would retain the minimum allocation provision in current § 303.202, but would revise current language to clarify that no State may receive less than 0.5 percent of the aggregate amount available under this section or $500,000, whichever is greater.

Proposed § 303.732(c) would incorporate provisions in section 643(c)(3)(A) and (B) of the Act regarding the ratable reduction of allotments to States. Proposed § 303.732(d) would retain the definitions of *aggregate amount*, *infants and toddlers*, and *State* in current § 303.200(b).

Proposed § 303.733, regarding reallotment of funds if a State elects not to receive its allotment reflects the provisions in section 643(d) of the Act and would retain the provisions in current § 303.201.

Proposed § 303.734 would reflect new statutory provisions from section 643(e) of the Act regarding the allocation of Part C funds for incentive grants for States electing to implement the provisions of section 635(c) of the Act and proposed § 303.211 to make Part C services available to children ages three through five. This clarifies that when the appropriations under Part C of the Act exceed $460,000,000, fifteen percent of the amount that exceeds $460,000,000 must be available for allocation under section 643(e) of the Act and proposed § 303.734 for States that elect to serve children under section 635(c) of the Act and proposed § 303.211.

Executive Order 12866

1. Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action. The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently. In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits would justify the costs.

We have also determined that this regulatory action would not unduly interfere with State, local, private, and tribal governments in the exercise of their governmental functions.

Following is an analysis of the costs and benefits of the most significant changes in the regulations implementing Part C of the Act governing the Early Intervention Program for Infants and Toddlers with Disabilities. In conducting this analysis, the Department examined the extent to which changes made by these proposed regulations add to, or reduce the costs

for, State lead agencies and others as compared to the costs of implementing the Part C program under the current regulations. Variation in practice from State to State makes it difficult to predict the effect of these changes. However, based on the following analysis, the Secretary has concluded that the changes reflected in the proposed regulations will not impose significant net costs on the States.

Section 303.211—State Option To Make Part C Services Available to Children Ages Three and Older

Proposed § 303.211, which would incorporate the provisions of section 635(c) of the Act, would allow States to continue to serve children with disabilities ages 3 through 5 under Part C of the Act if those children previously received services under Part C of the Act and would otherwise be eligible for services under section 619 of the Act. Making these services available under Part C of the Act would be a State option, and if the State chooses not to serve children with disabilities ages 3 through 5 under Part C of the Act or to discontinue offering this option, it would still be required to make services to these children available through existing Part B programs.

If a State elects to exercise the option to serve 3 through 5 year olds under Part C of the Act, the lead agency would be responsible for the costs of providing the direct Part C services to children whose families elect to continue services under Part C. In addition, we believe that the State's Part C lead agency could incur some transition costs in implementing this option. For example, if the Part C lead agency is not the SEA, it would need to develop the capacity to serve older children. The intensity and type of services and settings needed for 3 through 5 year olds may be different from children ages birth through 2 and would need to include an educational component. The Part C lead agency may also have to establish relationships with different providers or, at the very least, amend agreements or contracts with existing providers.

Educational agencies responsible for providing services under Part B of the Act would serve fewer children ages 3 through 5 if the State elects to provide services under Part C to children ages 3 through 5, and families elect to continue services under Part C of the Act. A reduction in the number of children to be served under Part B of the Act would result in both administrative and direct service cost savings for the educational agencies responsible for serving these children. However, the State would still be required to maintain its Section 619 preschool system to serve children with disabilities who are 3 through 5 years old. The Part C extension only applies to children who are already receiving services under Part C of the Act and wish to continue, not to children newly entering the system. In addition, parents can choose between Part C or B services.

We have very little information on the number of States that may choose to exercise the voluntary Part C option and the additional costs of implementing this option for States that elect to do so. We are requesting comments from the public on these costs and will address this issue in the final regulations. Specifically, we are interested in information related to the following: Initial costs related to establishing or enhancing the infrastructure in the Part C lead agencies necessary to serve children ages 3 through 5; differences in the costs of providing the services required by IDEA to children with disabilities ages 3 through 5 under Part C of the Act versus Part B of the Act; the benefits to parents and children of receiving continued services under Part C of the Act rather than under Part B of the Act; the extent to which States expect families to choose continuation of Part C services beyond age 2; the extent to which States may choose to exercise the option of serving children with disabilities ages 3 through 5 under Part C of the Act; and possible sources of funding for providing Part C services to these children.

Sections 303.300 Through 303.303—Public Awareness, Comprehensive Child Find System, Referrals, and Screening

Proposed §§ 303.300 through 303.303 would combine the child find and public awareness requirements from section 635(a)(5) and (a)(6) of the Act and incorporate the Act's increased emphasis on specific subpopulations of infants and toddlers with disabilities who may potentially be eligible for and need early intervention services under Part C of the Act. Proposed § 303.301 would require States, consistent with the Act, to identify, locate, and evaluate all eligible infants and toddlers with disabilities, including children who are covered by CAPTA, homeless, in foster care, or wards of the State. The proposed regulations would require the State to have referral procedures to be used by specified primary referral sources and would require such procedures to provide for the referral of certain children covered by CAPTA. This change is consistent with the CAPTA provision that became effective in June 2003, which requires that States receiving CAPTA funds adopt policies providing for the referral to the Part C program of children under the age of 3 who are involved in a substantiated case of child abuse or neglect.

The proposed regulations would also add a requirement for a public awareness program about the availability of early intervention services and specifically require the dissemination of such information to parents with premature infants or infants with other physical risk factors associated with learning or developmental complications.

Since States have been required under the Act to conduct child find activities to identify all infants and toddlers with disabilities since the program began in 1989, and the CAPTA requirements have been in place since June 2003, we are not estimating any increase in costs as a result of these changes. Part C lead agencies should already have the infrastructure needed to meet all of the IDEA child find requirements, including those added relating to children covered by CAPTA and those who are homeless, in foster care, or wards of the State.

In addition, proposed § 303.303 would allow the lead agency to use screening to determine whether a child is suspected of having a disability. The use of screening as a vehicle to identify children potentially eligible for Part C services may reduce the number of evaluations and assessments that would otherwise need to be conducted and, thus, reduce potential evaluation and assessment costs for the State. Proposed § 303.303 also would allow State lead agencies to determine how primary referral sources would work with the lead agencies to administer screenings.

Sections 303.320(e)(1) and 303.342(a)—Timelines

Current §§ 303.321(e)(2), 303.322(e)(1), and 303.342(a) require that a child's evaluation, assessment, and initial IFSP meeting occur within 45 days from the date the public agency receives the referral. Proposed § 303.320(e)(1) would retain the 45-day timeline requirement, but the timeline would not begin until the public agency has obtained parental consent for the evaluation, thereby increasing the amount of time available to the agency for completing these actions.

Allowing the agency additional time to complete a child's evaluation, assessment, and initial IFSP meeting could reduce costs associated with trying to meet the 45-day deadline, such as paying overtime to staff, while improving the ability of States to manage the workflow of their service coordinators. In addition, lack of compliance with the 45-day timeline in

current §§ 303.321(e)(2), 303.322(e)(1), and 303.342(a) resulted in nine States having either special conditions or compliance agreements attached to their Part C grants during fiscal year 2006. To the extent that any of the findings of noncompliance with the 45-day timeline requirement involved cases where the parents did not provide consent or provide consent in a timely manner, the change would assist States to avoid future findings of noncompliance with the IDEA. This change could also reduce the number of complaints related to missed deadlines; however, any savings associated with the resolution of due process complaints are likely to be negligible since there are few requests for due process hearings filed under Part C—only 22 in fiscal year 2003 and 186 in fiscal year 2004'and a missed deadline is not likely to be the sole or primary basis for a complaint.

Since the 45-day deadline would no longer encompass the period between the referral and obtaining parental consent for the initial evaluation, the agencies could take more time in contacting parents for their consent to evaluate the child, particularly in cases where the parents are not aware of the initial referral, and, thereby, delay the evaluation process. While undue delays could be harmful to the child, we have no basis for assuming that agencies will take more time than is needed to contact the parents for consent, based on our experience under the Part B regulations. In most cases, parents will be aware of the referral and will readily provide their consent if they want the child to be evaluated.

Section 303.344(e)—Content of the IFSP

The current regulations in § 303.344(e) require service coordinators to identify on the IFSP those medical and other services that the child needs, but are not required by Part C of the Act, and the funding sources to be used in paying for those services, or the steps that will be taken to secure those services through public or private sources. Proposed § 303.344(e)(2) would retain the requirements for service coordinators to identify on the IFSP medical and other services that the child needs, but are not required by Part C of the Act, and the steps that will be taken to secure those services through public or private sources. However, service coordinators would no longer be required to identify and coordinate funding sources for these services.

Eliminating the requirement that IFSPs identify the funding sources for services not required by Part C of the Act will reduce the burden on service coordinators and will save IFSP teams, including the service coordinator, time during meetings and time preparing the IFSP. The requirement to identify funding for other services is overly burdensome, given that there may be many other services that infants and toddlers with disabilities and their families receive (e.g., foster care, services through individualized safe plans of care, and medical and other services), and service coordinators have limited knowledge about, and ability to coordinate funding for, these services.

While we do not have any data on the number of hours service coordinators spend on this activity, we do know that many children served under Part C of the Act have significant health care needs and that it could take several hours or more to identify and coordinate funding for medical services needed by these children. For purposes of this analysis, we assume that service coordinators spend, on average, a minimum of two hours per year per child identifying and coordinating funding for services not required by IDEA and describing it in the IFSP. Based on an analysis of salaries for early intervention service coordinators employed by public and private agencies and organizations for 7 States [1] and Bureau of Labor Statistics data for fringe benefits costs for health care and social assistance personnel,[2] we estimate average compensation for service coordinators to be approximately $22 per hour. Pursuant to section 637(b)(4) of the Act, each State submits an annual count to the Department of the number of children with disabilities ages birth through 2 served in the State. An analysis of trends in the annual count and in census data for this age range indicates that the States will serve approximately 313,100 children under Part C of the Act in fiscal year 2007. Based on these estimates, we expect savings of approximately $14 million from this change.

Section 303.520(a)—Policies Related to Use of Public Insurance and Benefits for Payment for Services

This proposed section would clarify when a State may access funds from a parent's public insurance or public benefits program. Under proposed § 303.520(a), States would be able to access public insurance or benefits to pay for Part C services—(1) If the parent or child is already enrolled in a public insurance or benefits program and the parent provides consent as defined under proposed § 303.7 and provided for under proposed § 303.414; (2) if the child is in foster care and automatically eligible under the State's Medicaid plan; or (3) if the parent agrees to enroll in a public insurance or benefits program and consents to allow the State to use the public insurance or benefit. Proposed § 303.414 would require consent prior to disclosure of personally identifiable information, which consent requirement is reflected in current §§ 303.402 and 303.460.

The National Early Intervention Longitudinal Study (NEILS) indicates that approximately 44 percent of the families participating in the Part C program participate in a government-assisted health insurance or public benefits program such as Medicaid or the State Children's Health Insurance Program (SCHIP) (*http://www.sri.com/neils*). In addition, the FY 2002 Part C IDEA Annual Performance Reports (APRs) required to be submitted by States to the Department on March 31, 2004 indicated that Federal Medicaid funds represent an average of 23.7 percent of the State's overall Part C early intervention program budget for the 27 States for which Medicaid dollars were reported on a disaggregated basis. Given this information, we believe that it is important for the regulations to be clear about when and how States may access a parent's public insurance or benefits.

The current regulations do not specify the circumstances under which a State may access a parent's public insurance or benefits to obtain reimbursement for Part C services. Some States automatically access reimbursements from public insurance or benefit programs if the parents are enrolled in these programs. Proposed § 303.520(a)(1)(i) would clarify that States may use a parent's public insurance or benefits, if the parent is already enrolled, but only when the parent provides consent. The Department believes that most parents will provide the requisite consent if requested. There may be some costs to obtaining consent; however, they are likely to be minimal because the

[1] Estimate based on an analysis of average salaries for early intervention service coordinators using information from State job postings and an analysis of average early intervention specialist salaries conducted by the PayScale Corporation that looked at median salaries for early interventionists employed by non-profit organizations, school districts, private companies, State and local governments, and colleges and universities.

[2] Table 4, State and local government, by occupational and industry group, last modified March 29, 2007, *http://www.bls.gov/news.release/ecec.t04.htm.*

requests are likely to be made during the already existing intake process, at which time the parents could be asked to sign any consent forms needed by the State. There would also be some loss of revenue to States if parents enrolled in public insurance or benefit programs refuse to provide consent. In this regard, the Department believes that any increased cost to States that may result from this requirement is outweighed by the benefits of protecting the privacy and autonomy of the family and minimizing the potential negative impact on a family's credit rating, immigration status, insurability, and status under other programs.

Proposed § 303.520(a)(1)(ii) would provide that a State may use the public benefits available to a child served under Part C if the child is in foster care and eligible to participate in the public insurance or benefits program. Children in foster care may be automatically eligible for Medicaid under the State's Medicaid plan and section 472 of the Social Security Act. This proposed provision, which would clarify that States would not need to obtain parental consent prior to accessing the public insurance or benefits available to these children, would facilitate State access to public insurance or benefits for these children and would eliminate some costs associated with obtaining consent for the release of personally identifiable information.

Proposed § 303.520(a)(1)(iii) covers circumstances where the parent is not currently enrolled in a public insurance or benefits program. The proposed provision would provide that the State would be required to obtain parent consent to enroll, and, therefore, would not be able to require a parent to enroll in a public insurance or benefits program as a requirement of receiving services. We expect this clarification to have a very limited effect because very few States require eligible families to apply for public insurance or benefits in order to receive Part C services. Data from a survey of the States conducted by the IDEA Infants and Toddlers Coordinators Association (ITCA) indicate that only two of the 21 States that responded reported that they require families to apply for existing third party resources such as Medicaid, SCHIP, and the Children's Special Health Care Needs program. (*http://www.ideainfanttoddler.org*). A review of applications submitted by States indicates that fewer than 5 States currently have systems of payments on file with the Department that have express policies requiring parents to enroll in public insurance or benefits as a condition of receiving services under Part C of the Act and/or permit the Part C lead agency to expressly access a parent's public insurance or benefits without parental consent.

Moreover, we believe that most parents will agree to enroll voluntarily since it is generally to the family's advantage to obtain health insurance for all family members.

To the extent that there may be an increased cost to States that currently require parents to enroll in public insurance or benefits programs due to a potential loss of revenue, this potential cost is outweighed by the benefits of protecting the privacy and autonomy of the family (including minimizing any potential negative impact that use of public insurance or benefits may have on the family). Enrollment in public insurance or benefits programs may negatively affect a parent's immigration status and ability to borrow, or have other legal and financial repercussions. A parent's decision to enroll in public insurance or benefit programs also may be affected by religious concerns, the perceived stigma of public insurance or benefits, and considerations related to family finances.

Since we do not have data on the number or percentage of eligible families participating in the Part C program that refuse to enroll in public insurance or benefits programs or the participation rates in States that require eligible families to enroll in public insurance or benefits programs, we invite commenters to provide this information. We request that commenters identify any relevant research or evidence, if available.

Section 303.520(b)—Policies Related to Use of Private Insurance for Payment for Services

Under proposed § 303.520(b), the State would not be able to access a parent's private insurance to pay for Part C services unless the parent provides informed consent to do so. Proposed § 303.520(b)(2) would provide that the parental consent requirement does not apply if the State has enacted a statute regarding private health insurance coverage for early intervention services under Part C of the Act that provides specific protections. These protections must include ensuring that the use of health insurance to pay for Part C services cannot: (1) Count towards the lifetime coverage caps for the child or family, (2) negatively impact the availability of health insurance for the child and family, (3) result in the discontinuation of health insurance coverage, or (4) be the basis for increasing the child's or family's premiums. We are aware of a few States that have enacted such statutes. These few States are the only States that use private insurance such that it accounts for ten percent or more of their State's Part C budgets. By adopting specific State statutes that provide parental protections to the parent, these States would be exempt from the proposed parent consent requirements.

Under current regulations, Part C services must be provided free of charge unless the State has established a system of payments. In addition, under current §§ 303.402 and 303.460, the lead agency must obtain consent prior to disclosing personally identifiable information. Because the proposed regulations would not represent a significant change from current requirements relating to consent, the proposed changes should not result in increased costs for a State. In addition, we expect the proposed provision in § 303.520(b)(2) to have a limited effect because private insurance funds represent a very limited proportion of States' Part C budgets. Twenty-six States reported in either their fiscal year 2001 or 2002 Part C APRs that they receive funding from private insurance or family fees. For 21 of the 26 jurisdictions reporting income from private insurance or family fees, which could be paid, with parental consent, by private insurance, the average percentage of the State's overall Part C budget that represented funds from private insurance or family fees was 4.9 percent.

Any loss of revenue to States from not being able to access private insurance without the consent of the parents would be offset by the major consequences that use of private insurance might have for families, including jeopardizing eligibility for private insurance policies and lifetime caps on benefits or causing increases in premiums or discontinuation of insurance. In addition, the proposed regulations provide flexibility to both States and parents. States have the flexibility either to establish a system of payments under proposed § 303.521 to recoup the costs of providing early intervention services or to obtain parental consent for use of private insurance. Parents have the option to allow the State to use their private insurance or to pay the fees established by the State according to a system of payments established under § 303.521.

Section 303.521(c)—States With FAPE Mandates or That Use Part B Funds To Provide Services to Infants and Toddlers With Disabilities

This proposed provision would incorporate longstanding policy and requirements under Part B of the Act that, if a State is required under State law to provide FAPE for, or uses Part B funds under section 611 of the Act to pay for, services for infants and toddlers with disabilities or a subset of children with disabilities under the age of three, the State must ensure that those services that constitute FAPE are provided at no cost. For example, if a State has established a system of payments, but has a law extending FAPE down to birth for a particular disability group such as individuals who are blind, the State cannot charge for any services that are part of FAPE for that child or family. Because the proposed change clarifies existing requirements and practice, this change is not expected to result in any change in costs for State agencies or families.

2. Clarity of the Regulations

Executive Order 12866 and the Presidential Memorandum on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a number heading; for example, § 303.209 Transition.)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These proposed regulations would govern only States in their implementation of the Part C early intervention program and States are not considered small entities under the Regulatory Flexibility Act of 1980, as amended. In addition, because Part C does not authorize subgrants no small entities would be directly affected by these proposed regulations. The small entities that would be indirectly affected are local entities that enter into contracts with the State to provide Part C early intervention services. However, the proposed regulations would not have a significant economic impact on these small entities because the proposed regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed regulations would impose minimal requirements, concerning the potential referral of additional children to the Part C program as well as the issue of use of insurance and systems of payments to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

These proposed regulations contain information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these five information collections is given below with an estimate of the annual recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

The proposed regulations include five information collection requirements associated with the following provisions: Proposed §§ 303.21(c)(2), 303.100 through 303.126, 303.200 through 303.227, 303.300, 303.320(e)(2), 303.342(e), 303.431 through 303.449, 303.520(a)(3) and 303.520(b)(1)(iii), 303.701 and 303.702 and 303.720 through 303.724. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has submitted a copy of these sections to OMB for its review. The Department recognizes that information collection requests requiring aggregate data on race and ethnicity do not reflect the 1997 OMB Standards for Data on Race and Ethnicity. The Department anticipates providing guidance to implement those standards in forthcoming collections.

Interested persons are requested to send comments regarding the information collections to the Department of Education within 60 days after publication of these proposed regulations. This comment period does not affect the deadline for public comments associated with these proposed regulations.

Collection of Information: IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR), (Information Collection 1820–0578) for proposed §§ 303.124 and 303.701 and 303.702.

Each statewide system must include a system for compiling and timely reporting accurate data. Each State must have in place, a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part C of the Act and describes how the State will improve implementation. Each State also must report annually to the public on the performance of each EIS provider in the State on the targets in the State's performance plan, and the State must report annually to the Secretary on the performance of the State under the State's performance plan.

Under 44 CFR 1320.11, we requested that OMB review information collection 1820–0578. The 60-day **Federal Register** notice was published on August 10, 2006, the 30-day **Federal Register** notice was published on October 18, 2006, and the information collection was approved by OMB on December 12, 2006, with the understanding that the Department would submit this collection for OMB review in conjunction with this NPRM.

Annual reporting and recordkeeping burden for this collection of information is estimated to be 150 hours annually for each of 56 respondents. The total annual burden to States for this information collection is estimated to be 8,400 hours. Of the total 150 hours, it is estimated that 80 hours will be spent planning the report, 40 hours will be spent writing the report, and 30 hours will be spent typing and compiling the report. The Council reviews, provides comments on, and certifies the lead agency's report, and either agrees or disagrees with the report. The estimated annual burden for the Council is 2 hours to review, certify, and add comments to each report, as needed.

Collection of information: Annual State Application under Part C of the Individuals with Disabilities Education Act, as amended. (Information Collection 1820–0550) §§ 303.100 through 303.126 and §§ 303.200 through 303.227. Under proposed § 303.101

States would be required to submit a statement that they have submitted the new and/or revised State policies, procedures, methods, and descriptions that meet all requirements found under Part C of the Act. Information Collection 1820–0550 has been revised to reflect these proposed regulations.

Under 44 CFR 1320.11, we requested that OMB review Information Collection 1820–0550. The 60-day **Federal Register** notice was published on August 10, 2006, the 30-day **Federal Register** notice was published on October 18, 2006, and the information collection was approved by OMB on December 12, 2006, with the understanding that the Department would submit this collection for OMB review in conjunction with this NPRM.

There are 56 respondents who are required to submit the Part C Annual State Application if they seek to receive Federal Part C funds. The annual data burden for this collection is estimated to average 10 hours per respondent for 56 respondents. Thus, the annual total burden estimate for this information collection is 560 hours.

Collection of Information: Report of Infants and Toddlers Receiving Early Intervention Services in Accordance with Part C; Report of Program Settings Where Early Intervention Services are Provided to Infants and Toddlers with Disabilities and Their Families in Accordance with Part C of the Act: Report on Infants and Toddlers Exiting Part C (Information Collection 1820–0557) was approved by OMB on November 21, 2006 for proposed §§ 303.124 and 303.720 through 303.724. Each lead agency that receives assistance under Part C of the Act must provide data each year to the Secretary and the public on infants and toddlers with disabilities. There are 56 respondents who are required to provide Part C data on infants and toddlers with disabilities. There are three Tables found in this collection. The estimated burden for this collection is 101 hours per State agency or 5,656 hours total.

Collection of Information: (Information Collection 1820–0678) Report of Dispute Resolution Under Part C of the Individuals with Disabilities Education Act Complaints, Mediations, and Due Process Hearings was approved by OMB on November 22, 2006 for proposed §§ 303.431 through 303.449. Under the Act the Secretary obtains data on the dispute resolution processes described in section 615 of the Act. Each State must report the number of due process complaints, number of hearings conducted and the number of mediations held and the number of settlement agreements reached through such mediations. This collection will replace Attachment 1 of the Part C Annual Performance Report (OMB number 1820–0578) beginning with the data collection for the FFY 2005 (2005–2006) period. The data collection form provides instructions and information for States for submitting their dispute resolution data.

There are 56 respondents who are required to submit data regarding the Part C dispute resolution process. The total burden for all States was calculated by multiplying the average number of hours by 56. For lead agencies, the estimated average burden is 60 hours per lead agency, representing a total burden estimate of 3,360 hours. The required number of hours needed to produce these data is expected to decline as systems are expanded to collect all required data elements, personnel are trained on reporting these data, and edits are implemented to automate data cleaning.

Collection of Information: (Information Collection 1820–NEW) State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements under Part C. Proposed §§ 303.21(c)(2), 303.211(b)(1), 303.224(b), 303.300, 303.320(e)(2), 303.430, 303.431(b)(2)(i), 303.432 through 303.434, 303.440(b), 303.342(e), 303.443(c)(3), 303.520(a)(3) and (b)(1)(iii), and 303.724(c) and (e). The Act requires State lead agencies and EIS providers to gather, maintain, report, and disclose various information and data, but the Act does not require this information and data to be submitted to the Department. For the purpose of clarity and efficiency, we have combined these separate collections of information into one collection that reflects all the recordkeeping, reporting, and disclosure activities that must be completed by the State or EIS provider, which do not require reporting to the Department.

Each State lead agency must develop a public awareness program. State lead agencies are also required to keep records to verify the proper disbursement of funds. States must develop procedures to document circumstances when it is impossible to complete the evaluation and assessment of an infant or toddler with a disability within the 45-day timeline.

State lead agencies must also maintain documentation to verify the accuracy of their child count data. The proposed regulations also require the State lead agency to obtain certification from each EIS provider regarding the accuracy of the EIS provider's child count.

Each State lead agency must have on file a list of mediators and the State complaint procedures. If the State lead agency adopts Part B due process hearing procedures, then the public agencies must have on file a list of hearing officers and low-cost legal services information.

Annual reporting and recordkeeping burden for this collection of information is estimated to be approximately 112 hours for 56 respondents (State lead agencies) for a total of 6,272 hours.

With respect to EIS providers, the proposed regulations require that EIS providers make the following disclosures to parents:

1. Written notification of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619 of the Act.

2. If a State decides to make EI services available to children ages three and older, annual notice that contains a description of the rights of parents to elect to receive services under § 303.211 or services under Part B of the Act and an explanation of the differences between these services.

3. A copy of the system of payments policies that identify potential costs that parents may incur while enrolled in a public insurance program or private insurance program.

The proposed regulations also require that EIS providers obtain informed consent from parents prior to the provision of EI services.

Annual reporting and recordkeeping burden for this collection of information is estimated to be approximately 17,392 hours. This burden was calculated by multiplying the number of children (298,150) served by the estimated amount of time to carry out these activities (3 to 4 minutes).

Consistent with the discussion above, the following chart describes the sections of the proposed regulations involving information collections, the information being collected, and the collections the Department will submit to the Office of Management and Budget for approval and public comment under the Paperwork Reduction Act.

Regulatory section	Collection information	Collection
Third Party Disclosure		
§ 303.21(c)(2)	Requires that parents receive a written notification of their rights and responsibilities in determining whether their child will continue to receive services under Part C or participate in preschool programs under section 619 of the Act.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.211(b)(1)	Requires that if a State adopts this policy, parents are provided an annual notice that contains a description of the rights of parents to elect toreceive services pursuant to § 303.211 or under Part B and an explanation of the differences between services provided under § 303.211 and under Part B.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.300	Requires the lead agency to develop a public awareness program.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.520(a)(3) and § 303.520(b)(1)(iii)	Requires the State to provide parents with a copy of the State's system of payments policies that identify potential costs that the parent may incur while enrolled in a public insurance program or private insurance program.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
Recordkeeping Requirements		
§ 303.224(b)	Requires the State to keep records and afford access as the Secretary may find necessary to ensure compliance, correctness and verification of reports, and proper disbursement of funds.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.320(e)(2)	Requires the State to develop procedures to document circumstances when it is impossible to complete the evaluation and assessment within the 45-day timeline.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.724(e)	Requires the lead agency to maintain documentation to enable the State and the Secretary to audit the accuracy of the child count data.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
Other Information Collection Requirements		
§ 303.342(e)	Requires that informed consent be obtained from the parents prior to the provision of EI services, as described in the IFSP.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.724(c)	Requires the lead agency to obtain certification from each EIS provider that is unduplicated and accurate regarding their count of children served.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.430	Requires the State to develop written procedures for the timely administrative resolution of complaints.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.431(b)(2)(i)	Requires the State to maintain a list of qualified mediators.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§§ 303.432 through 303.434	Requires the State to develop procedures for resolving complaints, including the minimum State complaint procedures and the procedures for filing a complaint.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.440(b)	Requires the lead agency to inform parents of any free or low-cost legal and other relevant services available.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.443(c)(3)	Requires the State to maintain a list of hearing officers.	Information collection 1820–NEW ''State and EIS Recordkeeping, Reporting, and Third Party Disclosure Requirements.''
§ 303.124	Requires the State to develop a statewide system for compiling and reporting timely and accurate data.	Information collection 1820–0557 ''Report on Infants and Toddlers Exiting Part C.''
§§ 303.720 through 303.724	Requires the State to annually report to the Secretary and the public on the information required by section 618 of the Act. Requires the annual reporting of children served, protection of identifiable data and certification of the report.	Information collection 1820–0557 ''Report on Infants and Toddlers Exiting Part C.''

Regulatory section	Collection information	Collection
§§ 303.100 through 303.126	Eligibility requirements for a grant and requirements for a statewide system for implementing Part C.	Information collection 1820–0550 ''Annual State Application under Part C of the IDEA.''
§ 303.200 through 303.227	Requirements for each State application and required assurances.	Information collection 1820–0550 ''Annual State Application under Part C of the IDEA.''
§ 303.124	Requirements for a statewide system that includes a system for compiling and reporting timely and accurate data.	Information collection 1820–0578 ''IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR).''
§ 303.701	Requirements for data collection to report annually to the Secretary on the indicators established by the Secretary for the State Performance Plan.	Information collection 1820–0578 ''IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR).''
§ 303.702	Requirements to report annually to the public on the performance of each EIS program in the State on the targets in the State's performance plan; and the requirements to make the State's performance plan, annual performance report and reports on the performance of each EIS program available through public means.	Information collection 1820–0578 ''IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR).''
§§ 303.431 through 303.449	Requires the State to annually report to the Secretary and the public on information required by section 618 of the Act. Requires the annual reporting of the number of due process complaints, the number of hearings conducted, and the number of mediations held, and the number of settlement agreements reached through such mediations.	Information collection 1820–0678 ''Report of Dispute Resolution under Part C of the Individuals with Disabilities Education Act.''

If you want to comment on the proposed information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by e-mail to *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. Commenters need only submit comments via one submission medium. You may also send a copy of these comments to the Department contact named in the **ADDRESSES** section of this preamble.

We consider your comments on these proposed collections of information in—

- Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring 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.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

Requests for copies of the submission for OMB review may be accessed from *http//edicsweb.ed.gov* by selecting the ''Browse Pending Collections'' link. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Request may also be electronically mailed to the Internet address *OCIO-RIMG@ed.gov* or faxed to (202) 245–6621.

If you want to comment on the information collection requirements, please send your comments to Alexa Posny, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, room 4109, Washington, DC 20202–2641.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at 1–800–293–4922; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Number 84.181)

REDESIGNATION TABLE SHOWING EACH CURRENT REGULATORY SECTION IN 34 CFR PART 303 AND THE CORRESPONDING SECTION IN THIS NPRM [3]

A. Current regulatory section number	B. Corresponding section in NPRM
Subpart A—General	
303.1 Purpose of the early intervention program for infants and toddlers with disabilities	303.1.
303.2 Eligible recipients of an award	303.2.
303.3 Activities that may be supported under this part	03.501(a)–(e).
303.4 Limitation on eligible children	Removed.
303.5 Applicable regulations	303.3.
Definitions:	
Note	Removed.
303.6 Act	303.4.
303.7 Children	303.6.
303.8 Council	303.8.
303.9 Days	303.9.
303.10 Developmental delay	303.10.
303.11 Early intervention program	303.11.
303.12 Early intervention services	303.13.
Note to 303.12	303.13(d).
303.13 Health services	303.16.
Note to 303.13	Removed.
303.14 IFSP	303.20.
303.15 Include; including	303.18.
303.16 Infants and toddlers with disabilities	303.21.
Note 1 to 303.16	303.21(a)(2).
Note 2 to 303.16	303.5.
303.17 Multidisciplinary	303.24.
303.18 Natural environments	303.26.
303.19 Parent	303.27.
303.20 Policies	Removed.
303.21 Public agency	303.30.
303.22 Qualified	303.31.
303.23 Service coordination (case management)	303.33.
Note 1 to 303.23	Removed.
Note 2 to 303.23	303.33(c).
303.24 State	303.34.
303.25 EDGAR definitions that apply	303.3.
Subpart B—Eligibility and Requirements for a Statewide System	
General Requirements:	
303.100 Conditions of assistance	303.100, 303.101, 303.228.
303.101 How the Secretary disapproves a State's application or statement of assurances	303.230.
Public Participation:	
303.110 General requirements and timelines for public participation	303.208.
303.111 Notice of public hearings and opportunity to comment	303.208(a).
303.112 Public hearings	303.208(a).
303.113 Reviewing public comments received	303.208.
Statement of Assurances:	
303.120 General	303.220.
303.121 Reports and records	303.224.
303.122 Control of funds and property	303.223.
303.123 Prohibition against commingling	303.225(a).
303.124 Prohibition against supplanting	303.225(b).
303.125 Fiscal control	303.226.
303.126 Payor of last resort	303.222.
303.127 Assurance regarding expenditure of funds	303.221.
303.128 Traditionally underserved groups	303.227.
General Requirements for a State Application:	
303.140 General	303.101 and 303.203(a).
303.141 Information about the Council	303.125.
303.142 Designation of lead agency	303.201.
303.143 Designation regarding financial responsibility	303.202.
303.144 Assurance regarding use of funds	303.221.
303.145 Description of use of funds	303.205.
303.146 Information about public participation	303.208.
303.147 Services to all geographic areas	303.207.
303.148 Transition to preschool programs	303.209.
Note 1 to 303.148	303.209.
Components of a Statewide System—Application Requirements:	
303.160 Minimum components of a statewide system	303.110.
303.161 State definition of developmental delay	303.111.

REDESIGNATION TABLE SHOWING EACH CURRENT REGULATORY SECTION IN 34 CFR PART 303 AND THE CORRESPONDING SECTION IN THIS NPRM [3]—Continued

A. Current regulatory section number	B. Corresponding section in NPRM
303.162 Central directory	303.117.
303.164 Public awareness program	303.116.
303.165 Comprehensive child find system	303.115.
303.166 Evaluation, assessment, and nondiscriminatory procedures	303.113.
303.167 Individualized family service plans	303.114.
303.168 Comprehensive system of personnel development (CSPD)	303.118.
303.169 Personnel standards	303.119.
303.170 Procedural safeguards	303.123.
303.171 Supervision and monitoring of programs	303.120.
303.172 Lead agency procedures for resolving complaints	303.430(c).
303.173 Policies and procedures related to financial matters	303.511.
303.174 Interagency agreements; resolution of individual and disputes	303.120(e) and (f) 303.511.
303.175 Policy for contracting or otherwise arranging for services	303.121.
303.176 Data collection	303.124.
Participation by the Secretary of the Interior:	
303.180 Payments to the Secretary of the Interior for Indian tribes and tribal organizations	303.731.
Subpart C—Procedures for Making Grants to States	
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Education of individuals with disabilities, Grant programs—education, Infants and toddlers, Reporting and recordkeeping requirements.

Dated: April 27, 2007.

Margaret Spellings,

Secretary of Education.

For the reasons discussed in this preamble, the Secretary proposes to amend Title 34 of the Code of Federal Regulations by revising part 303 as follows:

PART 303—EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

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Authority: 20 U.S.C. 1431 through 1445, unless otherwise noted.

Subpart A—General

Purpose and Applicable Regulations

§ 303.1 Purpose of the early intervention program for infants and toddlers with disabilities.

The purpose of this part is to provide financial assistance to States to—

(a) Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(b) Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(c) Enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families;

(d) Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care; and

(e) Encourage States to expand opportunities for children under three years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

(Authority: 20 U.S.C. 1400(d)(2), 1431(a)(5), 1435(b))

§ 303.2 Eligible recipients of an award.

Eligible recipients include the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Secretary of the Interior, and the following jurisdictions: Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(31), 1434)

§ 303.3 Applicable regulations.

(a) The following regulations apply to this part:

(1) The regulations in this part 303; and

(2) The Education Department General Administrative Regulations (EDGAR), including 34 CFR parts 76 (except for § 76.103), 77, 79, 80, 81, 82, 84, 85, and 86.

(b) In applying the regulations cited in paragraph (a)(2) of this section, any reference to State educational agency means the lead agency under this part.

(Authority: 20 U.S.C. 1221e–3)

Definitions Used in This Part

§ 303.4 Act.

Act means the Individuals with Disabilities Education Act, as amended.

(Authority: 20 U.S.C. 1400(a))

§ 303.5 At-risk infant or toddler.

At-risk infant or toddler means an individual under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual. At the State's discretion, *at-risk infant or toddler* may include an infant or toddler who is at risk of experiencing developmental delays because of biological and environmental factors that can be identified such as low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, and a history of abuse or neglect, being directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

(Authority: 20 U.S.C. 1432(1) and 1437(a)(6))

§ 303.6 Child.

Child means an individual under the age of six and may include an infant or toddler with a disability, as that term is defined in § 303.21.

(Authority: 20 U.S.C. 1432(5))

§ 303.7 Consent.

Consent means that—

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.

(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that has occurred before the consent was revoked).

(Authority: 20 U.S.C. 1439)

§ 303.8 Council.

Council means the State Interagency Coordinating Council that meets the requirements of subpart G of this part.

(Authority: 20 U.S.C. 1432(2))

§ 303.9 Day.

Day means calendar day, unless otherwise indicated.

(Authority: 20 U.S.C. 1221e–3)

§ 303.10 Developmental delay.

Developmental delay, when used with respect to a child residing in a State, has the meaning given that term by the State under § 303.111.

(Authority: 20 U.S.C. 1432(3))

§ 303.11 Early intervention service program.

Early intervention service program or *EIS program* means an entity designated by the lead agency for reporting under §§ 303.700 through 303.702.

(Authority: 20 U.S.C. 1416, 1431–1444)

§ 303.12 Early intervention service provider.

(a) *Early intervention service provider* or *EIS provider* means an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under Part C of the Act, whether or not the entity or individual receives Federal funds under Part C of the Act, and may include, where appropriate, the lead agency and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in the State under Part C of the Act.

(b) An EIS provider is responsible for—

(1) Participating in the multidisciplinary team's assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the infant's or toddler's family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the individualized family service plan (IFSP);

(2) Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and

(3) Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

(Authority: 20 U.S.C. 1431–1444)

§ 303.13 Early intervention services.

(a) *General. Early intervention services* means developmental services that—

(1) Are provided under public supervision;

(2) Are selected in collaboration with the parents;

(3) Are provided at no cost, except, subject to §§ 303.520 and 303.521, where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

(4) Are designed to meet the developmental needs of an infant or toddler with a disability and as requested by the family, the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the individualized family service plan team, in any one or more of the following areas, including—

(i) Physical development;

(ii) Cognitive development;

(iii) Communication development;

(iv) Social or emotional development; or

(v) Adaptive development;

(5) Meet the standards of the State in which the services are provided, including the requirements of Part C of the Act;

(6) Include services identified under paragraph (b) of this section;

(7) Are provided by qualified personnel (as that term is defined in § 303.31), including the types of personnel listed in paragraph (c) of this section;

(8) To the maximum extent appropriate, are provided in natural environments, as defined in § 303.26 and consistent with § 303.126; and

(9) Are provided in conformity with an individualized family service plan adopted in accordance with section 636 of the Act and § 303.20.

(b) *Types of early intervention services.* Subject to paragraph (d) of this section, early intervention services include the following services defined in this paragraph:

(1) *Assistive technology devices and services* are defined as follows:

(i) *Assistive technology device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an infant or toddler with a disability. The term does not include a medical device that is surgically implanted, including cochlear implants, or the optimization (*e.g.*, mapping) or the maintenance or replacement of that device.

(ii) *Assistive technology service* means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

(A) The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;

(B) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;

(C) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child's family; and

(F) Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.

(2) *Audiology services* includes—

(i) Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;

(ii) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(iii) Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;

(iv) Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;

(v) Provision of services for prevention of hearing loss; and

(vi) Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(3) *Family training, counseling, and home visits* means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development.

(4) *Health services* has the meaning given the term in § 303.16.

(5) *Medical services* means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.

(6) *Occupational therapy* includes services to address the functional needs of an infant or toddler with a disability

related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include—

(i) Identification, assessment, and intervention;

(ii) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(iii) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(7) *Physical therapy* includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include—

(i) Screening, evaluation, and assessment of children to identify movement dysfunction;

(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(iii) Providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.

(8) *Psychological services* includes—

(i) Administering psychological and developmental tests and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and

(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(9) *Service coordination services* has the meaning given the term in § 303.33.

(10) *Social work services* includes—

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(ii) Preparing a social or emotional developmental assessment of the infant or toddler within the family context;

(iii) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;

(iv) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and

(v) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

(11) *Special instruction* includes—

(i) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the individualized family service plan for the infant or toddler with a disability;

(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(iv) Working with the infant or toddler with a disability to enhance the child's development.

(12) *Speech-language pathology services* includes—

(i) Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or language disorders and delays in development of communication skills;

(iii) Provision of services for the habilitation, rehabilitation, or prevention of communicative or language disorders and delays in development of communication skills; and

(iv) Provision of sign language, cued language, and auditory/oral language services, which, as used with respect to infants and toddlers with disabilities who are hearing impaired, includes services to the infant or toddler with a disability and the family to teach sign language, cued language, and auditory/oral language, as well as to provide oral transliteration services, sign language, and cued language interpreting services.

(13) *Transportation and related costs* includes the cost of travel (e.g., mileage, or travel by common carrier or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services.

(14) *Vision services* means—

(i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(iii) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

(c) *Qualified personnel.* The following are the types of qualified personnel who provide early intervention services under this part:

(1) Audiologists.

(2) Family therapists.

(3) Nurses.

(4) Occupational therapists.

(5) Orientation and mobility specialists.

(6) Pediatricians and other physicians for diagnostic and evaluation purposes.

(7) Physical therapists.

(8) Psychologists.

(9) Registered dieticians.

(10) Social workers.

(11) Special educators, including teachers of children with hearing impairments (including deafness) and teachers of children with visual impairments (including blindness).

(12) Speech and language pathologists.

(13) Vision specialists, including ophthalmologists and optometrists.

(d) *Other services.* The services and personnel identified and defined in paragraphs (b) and (c) of this section do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services. Nothing in this section prohibits the identification on the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified in paragraph (a) of this section or of another type of personnel that may provide early intervention services in accordance with this part, provided such personnel meet the requirements in § 303.31.

(Authority: 20 U.S.C. 1432(4))

§ 303.14 Elementary school.

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law.

(Authority: 20 U.S.C. 1401(6))

§ 303.15 Free appropriate public education.

Free appropriate public education or *FAPE* means special education and related services that—

(a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the standards of the State educational agency (SEA), including the requirements of Part B of the Act;

(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320 through 300.324.

(Authority: 20 U.S.C. 1401(9))

§ 303.16 Health services.

(a) *Health services* means services necessary to enable a child to benefit from the other early intervention services under this part during the time that the child is eligible to receive other early intervention services.

(b) The term includes—

(1) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(2) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include—

(1) Services that are—

(i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);

(ii) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or

(iii) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including cochlear implants.

(A) Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device (e.g. cochlear implant) to receive the early intervention services that are identified on the child's IFSP as being needed to meet the child's developmental outcomes.

(B) Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly.

(2) Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition.

(3) Medical-health services (such as immunizations and regular ''well-baby'' care) that are routinely recommended for all children.

(Authority: 20 U.S.C. 1432(4))

§ 303.17 Homeless children.

Homeless children means children under the age of three years who meet the definition given the term *homeless children and youths* in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 *et seq.*

(Authority: 20 U.S.C. 1401(11))

§ 303.18 Include; including.

Include; including means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(Authority: 20 U.S.C. 1221e–3)

§ 303.19 Indian; Indian tribe.

(a) *Indian* means an individual who is a member of an Indian tribe.

(b) *Indian tribe* means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*).

(c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian Tribe that is not listed in the **Federal Register** list of Indian entities recognized as eligible to receive services from the United States, published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a–1.

(Authority: 20 U.S.C. 1401(12)–(13))

§ 303.20 Individualized family service plan.

Individualized family service plan or *IFSP* means a written plan for providing early intervention services to an infant or toddler with a disability under this part and the infant's or toddler's family that—

(a) Is based on the evaluation and assessment described in § 303.320;

(b) Includes the content specified in § 303.344;

(c) Is implemented as soon as possible once parental consent to early intervention services on the IFSP is obtained (consistent with § 303.420); and

(d) Is developed in accordance with the IFSP procedures in §§ 303.342, 303.343, and 303.345.

(Authority: 20 U.S.C. 1401(15), 1435(a)(4), 1436)

§ 303.21 Infant or toddler with a disability.

(a) *Infant or toddler with a disability* means an individual under three years of age who needs early intervention services because the individual—

(1) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(i) Cognitive development.

(ii) Physical development, including vision and hearing.

(iii) Communication development.

(iv) Social or emotional development.

(v) Adaptive development; or

(2) Has a diagnosed physical or mental condition that—

(i) Has a high probability of resulting in developmental delay; and

(ii) Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; severe sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

(b) *Infant or toddler with a disability* also may include, at a State's discretion, an at-risk infant or toddler (as defined in § 303.5).

(c) *Infant or toddler with a disability* also may include, at a State's discretion, a child with a disability who is eligible for services under section 619 of the Act and who previously received services under this part until the child enters, or is eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this part serving the child must include—

(1) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and

(2) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under this

part or participate in preschool programs under section 619 of the Act.

(Authority: 20 U.S.C. 1401(16), 1432(5))

§ 303.22 Lead agency.

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of the Act and § 303.120 that receives funds under section 643 of the Act to administer the State's responsibilities under Part C of the Act.

(Authority: 20 U.S.C. 1435(a)(10))

§ 303.23 Local educational agency.

(a) *General. Local educational agency* or *LEA* means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) *Educational service agencies and other public institutions or agencies.* The term includes the following:

(1) *Educational service agency,* defined as a regional public multiservice agency—

(i) Authorized by State law to develop, manage, and provide services or programs to LEAs; and

(ii) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

(2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under State law.

(3) Entities that meet the definition of *intermediate educational unit* or *IEU* in section 602(23) of the Act, as in effect prior to June 4, 1997. Under that definition an *intermediate educational unit* or *IEU* means any public authority other than an LEA that—

(i) Is under the general supervision of a State educational agency;

(ii) Is established by State law for the purpose of providing free appropriate public education on a regional basis; and

(iii) Provides special education and related services to children with disabilities within the State.

(c) *BIA funded schools.* The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

(Authority: 20 U.S.C. 1401(5), 1401(19))

§ 303.24 Multidisciplinary.

Multidisciplinary, with respect to evaluation and assessment of a child, an IFSP team, or IFSP development under subpart D of this part, means the involvement of two or more individuals from separate disciplines or professions or one individual who is qualified in more than one discipline or profession.

(Authority: 20 U.S.C. 1221e–3, 1435(a)(3), 1436(a)(1), 1436(a)(3))

§ 303.25 Native language.

(a) *Native language,* when used with respect to an individual who is limited English proficient, means the following:

(1) The language or mode of communication normally used by that individual, or, in the case of a child, the language or mode of communication normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.

(2) In all direct contact with a child (including evaluation of the child), the language or mode of communication normally used by the child in the home or learning environment.

(b) For an individual with deafness or blindness, or for an individual with no written language, the term *native language* means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

(Authority: 20 U.S.C. 1401(20))

§ 303.26 Natural environments.

Natural environments means settings that are natural or normal for an infant or toddler without a disability, may include the home, and must be consistent with the provisions of § 303.126.

(Authority: 20 U.S.C. 1435, 1436)

§ 303.27 Parent.

(a) *Parent* means—

(1) A biological or adoptive parent of a child;

(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State);

(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(5) A surrogate parent who has been appointed in accordance with § 303.422 or section 639(a)(5) of the Act.

(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make health, educational or early intervention services decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (a)(4) of this section to act as the ''parent'' of a child or to make health, educational, or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the ''parent'' for purposes of Part C of the Act, except that an EIS provider or public agency that provides early intervention or other services to a child or any family member of that child may not act as the parent.

(Authority: 20 U.S.C. 1401(23), 1439(a)(5))

§ 303.28 Parent training and information center.

Parent training and information center means a center assisted under section 671 or 672 of the Act.

(Authority: 20 U.S.C. 1401(25))

§ 303.29 Personally identifiable.

Personally identifiable means information that contains—

(a) The name of the child, the child's parent, or other family member;

(b) The address of the child or child's family;

(c) A personal identifier, such as the child's or parent's social security number or student number; or

(d) A list of personal characteristics or other information that would make the child's or parent's identity easily traceable.

(Authority: 20 U.S.C. 1415, 1439)

§ 303.30 Public agency.

Public agency includes the lead agency and any other agency or political

subdivision of the State that is responsible for providing early intervention services to infants and toddlers with disabilities under this part and their families.

(Authority: 20 U.S.C. 1435(a)(10))

§ 303.31 Qualified personnel.

Qualified personnel means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing early intervention services.

(Authority: 20 U.S.C. 1432(4))

§ 303.32 Secretary.

Secretary means the Secretary of Education.

(Authority: 20 U.S.C. 1401(28))

§ 303.33 Service coordination services (case management).

(a) *Service coordination services* means services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under Part C of the Act, including—

(1) Coordinating all services required under this part across agency lines;

(2) Assisting parents of infants and toddlers with disabilities in gaining access to and coordinating the provision of the early intervention services and coordinating other services identified in the IFSP under § 303.344(e) that are needed or are being provided to the infant or toddler with a disability and that child's family; and

(3) Serving as the single point of contact for carrying out the activities described in paragraph (b) of this section.

(b) The term includes—

(1) Coordinating the performance of evaluations and assessments;

(2) Facilitating and participating in the development, review, and evaluation of IFSPs;

(3) Assisting families in identifying available EIS providers;

(4) Coordinating and monitoring the delivery of services required under this part;

(5) Informing families of their rights and procedural safeguards, as set forth in subpart E of this part and related resources;

(6) Coordinating the funding sources for services required under this part; and

(7) Facilitating the development of a transition plan to preschool, school, or other services, if appropriate.

(c) The lead agency's or an EIS provider's use of the term *service coordination* or *service coordination services* does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Medicaid), for purposes of claims in compliance with the requirements of proposed § 303.501 (Payor of last resort).

(Authority: 20 U.S.C. 1432(4), 1435(a)(4), 1436(d)(7))

§ 303.34 State.

Except as provided in § 303.732(d)(3) (regarding State allotments under this part), *State* means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(31))

§ 303.35 State educational agency.

(a) *State educational agency* or *SEA* means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(b) The term includes the agency that receives funds under sections 611 and 619 of the Act to administer the State's responsibilities under Part B of the Act.

(Authority: 20 U.S.C. 1401(32))

§ 303.36 Ward of the State.

(a) *General.* Subject to paragraph (b) of this section, *ward of the State* means a child who, as determined by the State where the child resides, is—

(1) A foster child;

(2) A ward of the State; or

(3) In the custody of a public child welfare agency.

(b) *Exception. Ward of the State* does not include a foster child who has a foster parent who meets the definition of a *parent* in § 303.27.

(Authority: 20 U.S.C. 1401(36))

Subpart B—State Eligibility for a Grant and Requirements for a Statewide System

General Authority and Eligibility

§ 303.100 General authority.

The Secretary, in accordance with Part C of the Act, makes grants to States (from their allotments under section 643 of the Act) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Authority: 20 U.S.C. 1433)

§ 303.101 State eligibility—requirements for a grant under this part.

In order to be eligible for a grant under Part C of the Act for any fiscal year, a State must meet the following conditions:

(a) *Assurances regarding early intervention services and a statewide system.* The State must provide assurances to the Secretary that—

(1) The State has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including—

(i) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;

(ii) Infants and toddlers with disabilities who are homeless children and their families; and

(iii) Infants and toddlers with disabilities who are wards of the State; and

(2) The State has in effect a statewide system of early intervention services that meets the requirements of section 635 of the Act, including, at a minimum, the components required in §§ 303.111 through 303.126.

(b) *State application and assurances.* The State must provide information and assurances to the Secretary, in accordance with subpart C of this part, including—

(1) Information that shows that the State meets the State application requirements in §§ 303.200 through 303.212; and

(2) Assurances that the State also meets the requirements in §§ 303.221 through 303.227.

(Authority: 20 U.S.C. 1434, 1435, 1437)

State Conformity With Part C of the Act and Abrogation of State Sovereign Immunity

§ 303.102 State conformity with Part C of the Act.

Each State that receives funds under Part C of the Act must ensure that any State rules, regulations, and policies relating to this part conform to the purposes and requirements of this part.

(Authority: 20 U.S.C. 1407(a)(1))

§ 303.103 Abrogation of State sovereign immunity.

(a) *General.* A State is not immune under the 11th amendment of the

Constitution of the United States from suit in Federal court for a violation of Part C of the Act.

(b) *Remedies.* In a suit against a State for a violation of Part C of the Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

(c) *Effective date.* Paragraphs (a) and (b) of this section apply with respect to violations that occur in whole or part after October 30, 1990, the date of enactment of the Education of the Handicapped Act Amendments of 1990.

(Authority: 20 U.S.C. 1403)

Equipment and Construction

§ 303.104 Acquisition of equipment and construction or alteration of facilities.

(a) *General.* If the Secretary determines that a program authorized under Part C of the Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary may allow the use of those funds for those purposes.

(b) *Compliance with certain regulations.* Any construction of new facilities or alteration of existing facilities under paragraph (a) of this section must comply with the requirements of—

(1) Appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the ''Americans with Disabilities Accessibility Guidelines for Buildings and Facilities''); or

(2) Appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the ''Uniform Federal Accessibility Standards'').

(Authority: 20 U.S.C. 1404)

Positive Efforts to Employ and Advance Qualified Individuals with Disabilities

§ 303.105 Positive efforts to employ and advance qualified individuals with disabilities.

Each recipient of assistance under Part C of the Act must make positive efforts to employ and advance in employment, qualified individuals with disabilities in programs assisted under Part C of the Act.

(Authority: 20 U.S.C. 1405)

Minimum Components of a Statewide System

§ 303.110 Minimum components of a statewide system.

Each statewide system (system) must include, at a minimum, the components described in §§ 303.111 through 303.126.

(Authority: 20 U.S.C. 1435(a))

§ 303.111 State definition of developmental delay.

Each system must include the State's rigorous definition of *developmental delay*, consistent with §§ 303.10 and 303.203(c), that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must—

(a) Describe, for each of the areas listed in § 303.18(a)(1), the evaluation and assessment procedures, consistent with § 303.320, that will be used to measure a child's development; and

(b) Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in § 303.21(a)(1).

(Authority: 20 U.S.C. 1435(a)(1))

§ 303.112 Availability of early intervention services.

Each system must include a State policy that is in effect and that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including—

(a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

(b) Infants and toddlers with disabilities who are homeless children and their families.

(Authority: 20 U.S.C. 1435(a)(2))

§ 303.113 Evaluation, assessment, and nondiscriminatory procedures.

(a) Subject to paragraph (b) of this section, each system must ensure the performance of—

(1) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State; and

(2) A family-directed identification of the needs of the family of the infant or toddler, to assist appropriately in the development of the infant or toddler.

(b) The evaluation and family-directed identification required in paragraph (a) of this section must meet the requirements of § 303.320.

(Authority: 20 U.S.C. 1435(a)(3))

§ 303.114 Individualized family service plans (IFSPs).

Each system must include, for each infant or toddler with a disability in the State, an IFSP that meets the requirements of §§ 303.340 through 303.345, including service coordination services in accordance with the IFSP.

(Authority: 20 U.S.C. 1435(a)(4))

§ 303.115 Comprehensive child find system.

Each system must include a comprehensive child find system that meets the requirements in §§ 303.301 through 303.303.

(Authority: 20 U.S.C. 1435(a)(5))

§ 303.116 Public awareness program.

Each system must include a public awareness program that—

(a) Focuses on early identification of infants and toddlers with disabilities; and

(b) Provides information to parents of infants and toddlers through primary referral sources in accordance with § 303.300.

(Authority: 20 U.S.C. 1435(a)(6))

§ 303.117 Central directory.

Each system must include a central directory that is accessible to the general public (i.e., through the lead agency's Web site and other appropriate means) and includes accurate, up-to-date information about—

(a) Public and private early intervention services, resources, and experts available in the State;

(b) Professional and other groups (including parent support and training and information centers, such as those funded under the Act) that provide assistance to infants and toddlers with disabilities eligible under Part C of the Act and their families; and

(c) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.

(Authority: 20 U.S.C. 1435(a)(7))

§ 303.118 Comprehensive system of personnel development (CSPD).

Each system must include a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State, that—

(a) Must include—

(1) Implementing innovative strategies and activities for the recruitment and retention of EIS providers;

(2) Promoting the preparation of EIS providers who are fully and

appropriately qualified to provide early intervention services under this part; and

(3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention services program under Part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act or another appropriate program; and

(b) May include—

(1) Training personnel to work in rural and inner-city areas;

(2) Training personnel in the emotional and social development of young children; and

(3) Training personnel to support families in participating fully in the development and implementation of the child's IFSP.

(Authority: 20 U.S.C. 1435(a)(8))

§ 303.119 Personnel standards.

(a) *General.* Each system must include policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.

(b) *Qualification standards.* The policies and procedures required in paragraph (a) of this section must provide for the establishment and maintenance of qualification standards that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services.

(c) *Use of paraprofessionals and assistants.* Nothing in Part C of the Act may be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under Part C of the Act to infants and toddlers with disabilities.

(d) *Policy to address shortage of personnel.* A State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in paragraphs (a) and (b) of this section.

(Authority: 20 U.S.C. 1435(a)(9), 1435(b))

§ 303.120 Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities.

Each system must include a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following:

(a)(1) The general administration and supervision of programs and activities receiving assistance under Part C of the Act; and

(2) The monitoring of programs and activities used by the State to carry out Part C of the Act (whether or not the programs or activities are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including—

(i) Monitoring agencies, institutions, and organizations used by the State to carry out Part C of the Act;

(ii) Enforcing any obligations imposed on those agencies under Part C of the Act and these regulations;

(iii) Providing technical assistance, if necessary, to those agencies, institutions, and organizations;

(iv) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance; and

(v) Conducting the activities in paragraphs (a)(2)(i) through (a)(2)(iv) of this section, consistent with §§ 303.700 through 303.707, and any other activities required by the State under those sections.

(b) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of this part.

(c) The assignment of financial responsibility in accordance with subpart F of this part.

(d) The development of procedures in accordance with subpart F of these regulations to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or service providers.

(e) The resolution of intra- and interagency disputes in accordance with subpart F of this part.

(f) The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with § 303.511, that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in subpart F of this part.

(Authority: 20 U.S.C. 1416, 1435(a)(10), 1442)

§ 303.121 Policy for contracting or otherwise arranging for services.

Each system must include a policy pertaining to the contracting or making of other arrangements with public or private individual or agency service providers to provide early intervention services in the State, consistent with the provisions of Part C of the Act, including the contents of the application, and the conditions of the contract or other arrangements. The policy must—

(a) Include a requirement that all early intervention services must meet State standards and be consistent with the provisions of this part; and

(b) Be consistent with The Education Department General Administrative Regulations in 34 CFR part 80.

(Authority: 20 U.S.C. 1435(a)(11))

§ 303.122 Reimbursement procedures.

Each system must include procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with subpart F of this part.

(Authority: 20 U.S.C. 1435(a)(12), 1440(a))

§ 303.123 Procedural safeguards.

Each system must include procedural safeguards that meet the requirements of subpart E of this part.

(Authority: 20 U.S.C. 1435(a)(13), 1439)

§ 303.124 Data collection.

(a) Each statewide system must include a system for compiling and reporting timely and accurate data that meets the requirements of paragraph (b) of this section and §§ 303.700 through 303.702 and 303.720 through 303.724.

(b) The data system required in paragraph (a) of this section must include a description of the process that the State uses, or will use, to compile data on infants or toddlers with disabilities receiving early intervention services under this part, including a description of the State's sampling methods, if sampling is used, for reporting the data required by the Secretary under sections 616 and 618 of the Act and §§ 303.700 through 303.707 and 303.720 through 303.724.

(Authority: 20 U.S.C. 1416, 1418(a)–(c), 1435(a)(14), 1442)

§ 303.125 State interagency coordinating council.

Each system must include a State Interagency Coordinating Council (Council) that meets the requirements of subpart G of this part.

(Authority: 20 U.S.C. 1435(a)(15))

§ 303.126 Early intervention services in natural environments.

Each system must include policies and procedures to ensure, consistent with §§ 303.13(a)(8) (early intervention services), 303.26 (natural environments), and 303.344(d)(1)(ii) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided—

(a) To the maximum extent appropriate, in natural environments; and

(b) In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP team, only when early intervention services cannot be provided satisfactorily in a natural environment.

(Authority: 20 U.S.C. 1435(a)(16))

Subpart C—State Application and Assurances

General

§ 303.200 State application and assurances.

Each application must contain—

(a) The specific State application requirements (including certifications, descriptions, methods, and policies and procedures) required in §§ 303.201 through 303.212; and

(b) The assurances required in §§ 303.220 through 303.227.

(Authority: 20 U.S.C. 1437)

Application Requirements

§ 303.201 Designation of lead agency.

Each application must include a designation of the lead agency in the State that will be responsible for the administration of funds provided under this part.

(Authority: 20 U.S.C. 1437(a)(1))

§ 303.202 Certification regarding financial responsibility.

Each application must include a certification to the Secretary that the arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under § 303.511 and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services both meet the requirements in subpart F of this part (§§ 303.500 through 303.521) and are current as of the date of submission of the certification.

(Authority: 20 U.S.C. 1437(a)(2))

§ 303.203 Statewide system and description of services.

Each application must include—

(a) A description of services to be provided under this part to infants and toddlers with disabilities and their families through the State's system;

(b) The State's policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources (including any system of payments regarding the use of public insurance or benefits, private insurance, or family costs or fees) as required under subpart F of this part; and

(c) The State's rigorous definition of developmental delay as required under §§ 303.10 and 303.111.

(Authority: 20 U.S.C. 1432(3), 1432(4)(B), 1432(4)(C), 1435(a)(1), 1435(a)(10)(B), 1437(a)(3)(A) and (B), 1440)

§ 303.204 Application's definition of at-risk infants and toddlers and description of services.

If the State provides services under this part to at-risk infants and toddlers through the statewide system, the application must include—

(a) The State's definition of at-risk infants and toddlers with disabilities who are eligible in the State for services under Part C of the Act (consistent with §§ 303.5 and 303.21(b)); and

(b) A description of the early intervention services provided under this part to at-risk infants and toddlers with disabilities who meet the State's definition described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1437(a)(4))

§ 303.205 Description of use of funds.

(a) *General*. Each State application must include a description of the uses for funds under this part for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the Council, and include the information required in paragraphs (b) through (e) of this section.

(b) *State administration funds including administrative positions*. For lead agencies other than State educational agencies (SEAs), each application must include the total—

(1) Amount of funds retained by the lead agency for administration purposes, including the amount in paragraph (b)(2) of this section; and

(2) Number of full-time equivalent administrative positions to be used to implement Part C of the Act, and the total amount of salaries (including benefits) for those positions.

(c) *Maintenance and implementation activities*. Each application must include a description of the nature and scope of each major activity to be carried out under this part, consistent with § 303.501, and the approximate amount of funds to be spent for each activity.

(d) *Direct services*. Each application must include a description of any direct services that the State expects to provide to infants and toddlers with disabilities and their families with funds under this part, consistent with § 303.501, and the approximate amount of funds under this part to be used for the provision of each direct service.

(e) *Activities by other agencies*. If other agencies are to receive funds under this part, the application must include—

(1) The name of each agency expected to receive funds;

(2) The approximate amount of funds each agency will receive; and

(3) A summary of the purposes for which the funds will be used.

(Authority: 20 U.S.C. 1435(a)(10)(B), 1435(a)(10)(F), 1437(a)(3), 1437(a)(5))

§ 303.206 Referral policies for specific children.

Each application must include the State's policies and procedures that require the referral for early intervention services under this part of specific children under the age of three, as described in § 303.302(b).

(Authority: 20 U.S.C. 1437(a)(6))

§ 303.207 Availability of resources.

Each application must include a description of the procedure used by the State to ensure that resources are made available under this part for all geographic areas within the State.

(Authority: 20 U.S.C. 1437(a)(7))

§ 303.208 Public participation policies and procedures.

(a) Each application must include a description of the State's policies and procedures that ensure that—

(1) Before adopting any new or revised policies and procedures needed to comply with Part C of the Act (including any amendments to those policies and procedures), the lead agency holds public hearings, gives adequate notice of the hearings, and provides an opportunity for comment by the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

(2) Before submitting a State application under this part (including

any policies, procedures, descriptions, methods, certifications and assurances required in subparts B and C of this part), the State—

(i) Complies with the public participation requirements in paragraph (a) of this section; and

(ii) Publishes each proposed application, policy or procedure to—

(A) Ensure circulation throughout the State, at least 60 days before the date on which the application, policy or procedure is submitted to the Secretary; and

(B) Provide an opportunity for public comment for at least 30 days during that 60-day period.

(b) Before implementing any policies, procedures, and methods that are subject to the public participation requirements in this section and required to be submitted to the Secretary under subparts B and C of this part, the State must have approval by the Secretary.

(Authority: 20 U.S.C. 1437(a)(8))

§ 303.209 Transition to preschool and other programs.

(a) *Application requirements.* Each State must include the following in its application:

(1) A description of the policies and procedures it will use to ensure a smooth transition for toddlers with disabilities and their families—

(i) From receiving early intervention services under this part (including toddlers receiving services under § 303.211) to preschool, school, or other appropriate services; or

(ii) To exit the program.

(2) A description of how the State will meet each of the requirements in paragraphs (b) through (d) of this section.

(3)(i)(A) If the lead agency is not the SEA, an interagency agreement between the lead agency and the SEA; or

(B) If the lead agency is the SEA, an intra-agency agreement between the program within that agency that administers Part C of the Act and the program within the agency that administers section 619 of the Act.

(ii) To ensure a seamless transition between services under this part and under Part B of the Act, an interagency agreement under paragraph (a)(3)(i)(A) of this section or an intra-agency agreement under paragraph (a)(3)(i)(B) of this section must include provisions for how the lead agency and the SEA will meet the requirements of § 303.209(b) through (d) and § 303.344(h), and 34 CFR 300.124, 300.321(f) and 300.323(b).

(4) Any policy the lead agency has adopted under § 303.401(e).

(b) *Family involvement and notification of the LEA.* The State lead agency must ensure that—

(1) Each family of a toddler with a disability who is served under this part will be included in the transition plan required under this section and § 303.344(h);

(2)(i) Except as provided in paragraph (b)(3) of this section, at least nine months before the third birthday of the toddler with a disability, the lead agency will notify the LEA for the area in which the toddler resides—or, if appropriate, the SEA—that the toddler on his or her third birthday will reach the age of eligibility for preschool or school services under Part B of the Act, as determined in accordance with State law; or

(ii) Except as provided in paragraph (b)(3) of this section, if the lead agency determines within the nine-month period before the third birthday of a toddler with a disability the initial eligibility of the toddler for early intervention services under Part C of the Act, the lead agency, as soon as possible after determining the child's eligibility, will notify the LEA for the area in which the toddler with a disability resides—or, if appropriate, the SEA—that the toddler on his or her third birthday will reach the age of eligibility for preschool or school services under Part B of the Act, as determined in accordance with State law; and

(3) If the State has adopted, under § 303.401(e), a policy permitting a parent to object to disclosure of personally identifiable information, the notification requirement in paragraphs (b)(2)(i) and (ii) of this section must be consistent with this policy.

(c) *Conference to discuss services.* The State lead agency must ensure the following:

(1) If a toddler with a disability may be eligible for preschool services or other services under Part B of the Act, the lead agency, with the approval of the family of the toddler, will convene a conference among the lead agency, the family, and the LEA not fewer than 90 days—and, at the discretion of all of the parties, not more than nine months—before the toddler's third birthday to discuss any services the toddler may receive under Part B of the Act.

(2) If a toddler with a disability may not be eligible for preschool or other services under Part B of the Act, the lead agency, with the approval of the family of the toddler, will make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for this toddler to discuss appropriate services that the toddler may receive.

(d) *Program options and transition plan.* The State lead agency must ensure that—

(1) It will review the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year;

(2) It will establish a transition plan not fewer than 90 days—and, at the discretion of all of the parties, not more than nine months—before the toddler's third birthday; and

(3) The plan will include, consistent with § 303.344(h), as appropriate—

(i) Steps for the toddler with a disability and his or her family to exit from the program; and

(ii) Any transition services needed by that toddler and his or her family.

(Authority: 20 U.S.C. 1437(a)(9))

§ 303.210 Coordination with Head Start and Early Head Start, early education, and child care programs.

Each application must contain a description of State efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 *et seq.*), early education and child care programs, and services under this part.

(Authority: 20 U.S.C. 1437(a)(10))

§ 303.211 State option to make services under this part available to children ages three and older.

(a) *General.* (1) Subject to paragraphs (a)(2) and (b) of this section, a State may elect to include in its application for a grant under this part a State policy, developed and implemented jointly by the lead agency and the SEA, under which parents of children with disabilities who are eligible for services under section 619 of the Act and who previously received early intervention services under this part, may choose the continuation of early intervention services under this part for their children ages three and older until the children enter, or are eligible under State law to enter, kindergarten or elementary school.

(2) A State that adopts the policy described in paragraph (a)(1) of this section may determine whether it applies to children with disabilities ages three through five inclusive, or to one of the following three subsets of that age range:

(i) From age three until the beginning of the school year following the child's third birthday.

(ii) From age three until the beginning of the school year following the child's fourth birthday.

(iii) From age three until the beginning of the school year following the child's fifth birthday.

(b) *Requirements.* If a State's application for a grant under this part includes the State policy described in paragraph (a) of this section, the system must ensure the following:

(1) Parents of children with disabilities served pursuant to this section are provided annual notice that contains—

(i) A description of the rights of the parents to elect to receive services pursuant to this section or under Part B of the Act; and

(ii) An explanation of the differences between services provided pursuant to this section and services provided under Part B of the Act, including—

(A) The types of services and the locations at which the services are provided;

(B) The procedural safeguards that apply; and

(C) Possible costs (including the costs or fees to be charged to families as described in §§ 303.520 and 303.521), if any, to parents of children eligible under this part.

(2) Consistent with § 303.344(d), services provided pursuant to this section will include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills.

(3) The State policy will not affect the right of any child served pursuant to this section to receive FAPE (as that term is defined at § 303.15) under Part B of the Act instead of early intervention services under Part C of the Act.

(4) Subject to § 303.430(e), all early intervention services outlined in the child's IFSP under § 303.344 will be continued while any eligibility determination is being made for services under this section.

(5) Informed consent must be obtained from the parents of any child to be served under this section, where practicable, before the child reaches three years of age, as to whether the parents intend to choose the continuation of early intervention services pursuant to this section for their child.

(6) The transition timeline requirements under § 303.209(c)(1) and (d)(2) do not apply with respect to a child who is receiving services under this section until not fewer than 90 days—and, at the discretion of all of the parties, not more than nine months—before the time the child is expected to no longer receive services under this section.

(7) In States that adopt the option to make services under this part available to children ages three and older, there will be a referral to the Part C system, dependent upon parental consent, of a child under the age of three who directly experiences a substantiated case of trauma due to exposure to family violence (as defined in section 320 of the Family Violence Prevention and Services Act, 42 U.S.C. 10401 *et seq.*).

(c) *Reporting requirement.* If a State includes in its application a State policy described in paragraph (a) of this section, the State must submit to the Secretary, in the State's report under § 303.124, the number and percentage of children with disabilities who are eligible for services under section 619 of the Act but whose parents choose for their children to continue to receive early intervention services under this part.

(d) *Available funds.* The State policy described in paragraph (a) of this section must describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (a) of this section is available to eligible children and families who provide the consent described in paragraph (b)(5) of this section, including fees (if any) to be charged to families as described in §§ 303.520 and 303.521.

(e) *Rules of construction.* (1) If a statewide system includes a State policy described in paragraph (a) of this section, a State that provides services in accordance with this section to a child with a disability who is eligible for services under section 619 of the Act will not be required to provide the child FAPE under Part B of the Act for the period of time in which the child is receiving services under this part.

(2) Nothing in this section may be construed to require a provider of services under this part to provide a child served under this part with FAPE.

(Authority: 20 U.S.C. 1435(c), 1437(a)(11))

§ 303.212 Additional information and assurances.

Each application must contain other information and assurances as the Secretary may reasonably require.

(Authority: 20 U.S.C. 1437(a)(11))

Assurances

§ 303.220 Assurances satisfactory to the Secretary.

Each application must contain assurances satisfactory to the Secretary that the State has met the requirements of §§ 303.221 through 303.227.

(Authority: 20 U.S.C. 1437(b))

§ 303.221 Expenditure of funds.

The State must ensure that Federal funds made available to the State under section 643 of the Act will be expended in accordance with the provisions of this part, including § 303.501.

(Authority: 20 U.S.C. 1437(b)(1))

§ 303.222 Payor of last resort.

The State must ensure that it will comply with the requirements in §§ 303.501 through 303.521 in subpart F of this part.

(Authority: 20 U.S.C. 1437(b)(2))

§ 303.223 Control of funds and property.

The State must ensure that—

(a) The control of funds provided under this part, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this part; and

(b) A public agency will administer the funds and property.

(Authority: 20 U.S.C. 1437(b)(3))

§ 303.224 Reports and records.

The State must ensure that it will—

(a) Make reports in the form and containing the information that the Secretary may require; and

(b) Keep records and afford access to those records as the Secretary may find necessary to ensure compliance with the requirements of this part, the correctness and verification of reports, and the proper disbursement of funds provided under this part.

(Authority: 20 U.S.C. 1437(b)(4))

§ 303.225 Prohibition against commingling and supplanting; indirect costs.

(a) *Prohibition against commingling.* (1) The State must ensure that funds made available under this part will not be commingled with State funds.

(2) *Commingle* means depositing or recording funds in a general account without the ability to identify each specific source of funds for any expenditure.

(b) *Requirement to supplement and not supplant State funds.* (1)(i) The State must ensure that Federal funds made available under this part will be used to supplement and increase the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.

(ii) To meet the requirement in paragraph (b)(1)(i) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for infants and toddlers with disabilities and their families must be at least equal to the total amount of State and local

funds actually expended for early intervention services for these infants and toddlers and their families in the most recent preceding fiscal year for which the information is available.

(2) The State may reduce the level of expenditures under Part C of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

(i) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part.

(ii) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment and the construction of facilities.

(iii) The voluntary departure, by retirement or otherwise, or departure for just cause, of personnel under Part C of the Act.

(iv) The termination of the obligation of the lead agency, consistent with this part, to make available early intervention services to a particular infant or toddler with a disability that are exceptionally costly, as determined by the lead agency, because the infant or toddler—

(A) Has left the State;

(B) Has reached the age at which the obligation of the lead agency to make available early intervention services has terminated; or

(C) No longer needs early intervention services.

(c) *Requirement regarding indirect costs.* (1) Except as provided in paragraph (c)(2) of this section, a lead agency under this part may not charge indirect costs to its Part C grant.

(2) If approved by the lead agency's cognizant Federal agency or by the Secretary, the lead agency must charge indirect costs through either—

(i) A restricted indirect cost rate that meets the requirements in 34 CFR 76.560 through 76.569; or

(ii) A cost allocation plan that meets the non-supplanting requirements in paragraph (b) of this section and 34 CFR part 76 of EDGAR.

(3) In charging indirect costs under paragraphs (c)(2)(i) and (ii) of this section, the lead agency may not charge rent, occupancy, or space maintenance costs directly to the Part C grant, unless those costs are specifically approved in advance by the Secretary.

(Authority: 20 U.S.C. 1437(b)(5))

§ 303.226 Fiscal control.

The State must ensure that fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this part.

(Authority: 20 U.S.C. 1437(b)(6))

§ 303.227 Traditionally underserved groups.

The State must ensure that policies and practices have been adopted to ensure—

(a) That traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of this part; and

(b) That these families have access to culturally competent services within their local geographical areas.

(Authority: 20 U.S.C. 1437(b)(7))

Subsequent Applications and Modifications, Eligibility Determinations, and Standard of Disapproval

§ 303.228 Subsequent State application and modifications of application.

(a) *Subsequent State application.* If a State has on file with the Secretary a policy, procedure, method, or assurance that demonstrates that the State meets an application requirement in this part, including any policy, procedure, or method filed under this part (as in effect before the date of enactment of the Act, December 3, 2004), the Secretary considers the State to have met that requirement for purposes of receiving a grant under this part.

(b) *Modification of application.* An application submitted by a State that meets the requirements of this part remains in effect until the State submits to the Secretary such modifications as the State determines necessary. The provisions of this section apply to a modification of an application to the same extent and in the same manner as this paragraph applies to the original application.

(c) *Modifications required by the Secretary.* The Secretary may require a State to modify its application under this part to the extent necessary to ensure the State's compliance with this part if—

(1) An amendment is made to the Act, or to a Federal regulation issued under the Act;

(2) A new interpretation of the Act is made by a Federal court or the State's highest court; or

(3) An official finding of noncompliance with Federal law or regulations is made with respect to the State.

(Authority: 20 U.S.C. 1437(d)–(f))

§ 303.229 Determination by the Secretary that a State is eligible.

If the Secretary determines that a State is eligible to receive a grant under Part C of the Act, the Secretary notifies the State of that determination.

(Authority: 20 U.S.C. 1437)

§ 303.230 Standard for disapproval of an application.

The Secretary does not disapprove an application under this part unless the Secretary determines, after notice and opportunity for a hearing in accordance with the procedures in §§ 303.231 through 303.236, that the application fails to comply with the requirements of this part.

(Authority: 20 U.S.C. 1437(c))

Department Procedures

§ 303.231 Notice and hearing before determining that a State is not eligible.

(a) *General.* (1) The Secretary does not make a final determination that a State is not eligible to receive a grant under Part C of the Act until providing the State—

(i) With reasonable notice; and

(ii) With an opportunity for a hearing.

(2) In implementing paragraph (a)(1)(i) of this section, the Secretary sends a written notice to the lead agency by certified mail with a return receipt requested.

(b) *Content of notice.* In the written notice described in paragraph (a)(2) of this section, the Secretary—

(1) States the basis on which the Secretary proposes to make a final determination that the State is not eligible;

(2) May describe possible options for resolving the issues;

(3) Advises the lead agency that it may request a hearing and that the request for a hearing must be made not later than 30 days after it receives the notice of the proposed final determination that the State is not eligible; and

(4) Provides the lead agency with information about the hearing procedures that will be followed.

(Authority: 20 U.S.C. 1437(c))

§ 303.232 Hearing Official or Panel.

(a) If the lead agency requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of this program, to conduct a hearing.

(b) If more than one individual is designated, the Secretary designates one of those individuals as the Chief Hearing Official of the Hearing Panel. If

one individual is designated, that individual is the Hearing Official.

(Authority: 20 U.S.C. 1437(c))

§ 303.233 Hearing procedures.

(a) As used in §§ 303.231 through 303.236 the term party or parties means any of the following:

(1) A lead agency that requests a hearing regarding the proposed disapproval of the State's eligibility under this part.

(2) The Department official who administers the program of financial assistance under this part.

(3) A person, group, or agency with an interest in and having relevant information about the case that has applied for and been granted leave to intervene by the Hearing Official or Hearing Panel.

(b) Within 15 days after receiving a request for a hearing, the Secretary designates a Hearing Official or Hearing Panel and notifies the parties.

(c) The Hearing Official or Hearing Panel may regulate the course of proceedings and the conduct of the parties during the proceedings. The Hearing Official or Panel takes all steps necessary to conduct a fair and impartial proceeding, to avoid delay, and to maintain order, including the following:

(1) The Hearing Official or Hearing Panel may hold conferences or other types of appropriate proceedings to clarify, simplify, or define the issues or to consider other matters that may aid in the disposition of the case.

(2) The Hearing Official or Hearing Panel may schedule a prehearing conference with the Hearing Official or Hearing Panel and the parties.

(3) Any party may request the Hearing Official or Hearing Panel to schedule a prehearing or other conference. The Hearing Official or Hearing Panel decides whether a conference is necessary and notifies all parties.

(4) At a prehearing or other conference, the Hearing Official or Hearing Panel and the parties may consider subjects such as—

(i) Narrowing and clarifying issues;

(ii) Assisting the parties in reaching agreements and stipulations;

(iii) Clarifying the positions of the parties;

(iv) Determining whether an evidentiary hearing or oral argument should be held; and

(v) Setting dates for—

(A) The exchange of written documents;

(B) The receipt of comments from the parties on the need for oral argument or an evidentiary hearing;

(C) Further proceedings before the Hearing Official or Hearing Panel (including an evidentiary hearing or oral argument, if either is scheduled);

(D) Requesting the names of witnesses each party wishes to present at an evidentiary hearing and estimation of time for each presentation; and

(E) Completion of the review and the initial decision of the Hearing Official or Hearing Panel.

(5) A prehearing or other conference held under paragraph (c)(4) of this section may be conducted by telephone conference call.

(6) At a prehearing or other conference, the parties must be prepared to discuss the subjects listed in paragraph (c)(4) of this section.

(7) Following a prehearing or other conference the Hearing Official or Hearing Panel may issue a written statement describing the issues raised, the action taken, and the stipulations and agreements reached by the parties.

(d) The Hearing Official or Hearing Panel may require parties to state their positions and to provide all or part of their evidence in writing.

(e) The Hearing Official or Hearing Panel may require parties to present testimony through affidavits and to conduct cross-examination through interrogatories.

(f) The Hearing Official or Hearing Panel may direct the parties to exchange relevant documents or information and lists of witnesses, and to send copies to the Hearing Official or Hearing Panel.

(g) The Hearing Official or Hearing Panel may receive, rule on, exclude, or limit evidence at any stage of the proceedings.

(h) The Hearing Official or Hearing Panel may rule on motions and other issues at any stage of the proceedings.

(i) The Hearing Official or Hearing Panel may examine witnesses.

(j) The Hearing Official or Hearing Panel may set reasonable time limits for submission of written documents.

(k) The Hearing Official or Hearing Panel may refuse to consider documents or other submissions if they are not submitted in a timely manner unless good cause is shown.

(l) The Hearing Official or Hearing Panel may interpret applicable statutes and regulations but may not waive them or rule on their validity.

(m)(1) The parties must present their positions through briefs and the submission of other documents and may request an oral argument or evidentiary hearing. The Hearing Official or Hearing Panel must determine whether an oral argument or an evidentiary hearing is needed to clarify the positions of the parties.

(2) The Hearing Official or Hearing Panel gives each party an opportunity to be represented by counsel.

(n) If the Hearing Official or Hearing Panel determines that an evidentiary hearing would materially assist the resolution of the matter, the Hearing Official or Hearing Panel gives each party, in addition to the opportunity to be represented by counsel—

(1) An opportunity to present witnesses on the party's behalf; and

(2) An opportunity to cross-examine witnesses either orally or with written questions.

(o) The Hearing Official or Hearing Panel accepts any evidence that it finds is relevant and material to the proceedings and is not unduly repetitious.

(p)(1) The Hearing Official or Hearing Panel—

(i) Arranges for the preparation of a transcript of each hearing;

(ii) Retains the original transcript as part of the record of the hearing; and

(iii) Provides one copy of the transcript to each party.

(2) Additional copies of the transcript are available on request and with payment of the reproduction fee.

(q) Each party must file with the Hearing Official or Hearing Panel all written motions, briefs, and other documents and must at the same time provide a copy to the other parties to the proceedings.

(Authority: 20 U.S.C. 1437(c))

§ 303.234 Initial decision; final decision.

(a) The Hearing Official or Hearing Panel prepares an initial written decision that addresses each of the points in the notice sent by the Secretary to the lead agency under § 303.231, including any amendments to or further clarification of the issues under § 303.233(c).

(b) The initial decision of a Hearing Panel is made by a majority of Hearing Panel members.

(c) The Hearing Official or Hearing Panel mails, by certified mail with return receipt requested, a copy of the initial decision to each party (or to the party's counsel) and to the Secretary, with a notice stating that each party has an opportunity to submit written comments regarding the decision to the Secretary.

(d) Each party may file comments and recommendations on the initial decision with the Hearing Official or Hearing Panel within 15 days of the date the party receives the Panel's decision.

(e) The Hearing Official or Hearing Panel sends a copy of a party's initial comments and recommendations to the other parties by certified mail with return receipt requested. Each party may file responsive comments and recommendations with the Hearing

Official or Hearing Panel within seven days of the date the party receives the initial comments and recommendations.

(f) The Hearing Official or Hearing Panel forwards the parties' initial and responsive comments on the initial decision to the Secretary who reviews the initial decision and issues a final decision.

(g) The initial decision of the Hearing Official or Hearing Panel becomes the final decision of the Secretary unless, within 25 days after the end of the time for receipt of written comments, the Secretary informs the Hearing Official or Hearing Panel and the parties to a hearing in writing that the decision is being further reviewed for possible modification.

(h) The Secretary rejects or modifies the initial decision of the Hearing Official or Hearing Panel if the Secretary finds that it is clearly erroneous.

(i) The Secretary conducts the review based on the initial decision, the written record, the transcript of the Hearing Official's or Hearing Panel's proceedings, and written comments.

(j) The Secretary may remand the matter to the Hearing Official or Hearing Panel for further proceedings.

(k) Unless the Secretary remands the matter as provided in paragraph (j) of this section, the Secretary issues the final decision, with any necessary modifications, within 30 days after notifying the Hearing Official or Hearing Panel that the initial decision is being further reviewed.

(Authority: 20 U.S.C. 1437(c))

§ 303.235 Filing requirements.

(a) Any written submission by a party under §§ 303.230 through 303.236 must be filed with the Secretary by hand-delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

(b) The filing date under paragraph (a) of this section is the date the document is—

(1) Hand-delivered;

(2) Mailed; or

(3) Sent by facsimile transmission.

(c) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.

(d) If a document is filed by facsimile transmission, the Secretary, the Hearing Official, or the Panel, as applicable, may require the filing of a follow-up hard copy by hand-delivery or by mail within a reasonable period of time.

(e) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.

(Authority: 20 U.S.C. 1437(c))

§ 303.236 Judicial review.

If a State is dissatisfied with the Secretary's final decision with respect to the eligibility of the State under Part C of the Act, the State may, not later than 60 days after notice of that decision, file with the United States Court of Appeals for the circuit in which that State is located a petition for review of that decision. A copy of the petition must be transmitted by the clerk of the court to the Secretary. The Secretary then files in the court the record of the proceedings upon which the Secretary's action was based, as provided in 28 U.S.C. 2112.

(Authority: 20 U.S.C. 1437(c))

Subpart D—Child Find, Evaluations and Assessments, and Individualized Family Service Plans

Identification—Public Awareness, Child Find, and Referral

§ 303.300 Public awareness program—information for parents.

(a) *Preparation and dissemination.* In accordance with § 303.116, each system must include a public awareness program that provides for—

(1)(i) The lead agency's preparation of information on the availability of early intervention services under this part, and other services, as described in paragraph (b) of this section; and

(ii) Dissemination to all primary referral sources (especially hospitals and physicians) of the information to be given to parents of infants and toddlers, including especially parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications; and

(2) Procedures for assisting the primary referral sources described in § 303.302(c) in disseminating the information to parents of infants and toddlers with disabilities.

(b) *Information to be provided.* The information required in paragraph (a) of this section must include—

(1) A description of the availability of early intervention services under this part;

(2) A description of the child find system and how to refer a child for an evaluation or early intervention services;

(3) The central directory; and

(4) For parents with toddlers with disabilities who are nearing transition age (e.g. starting at least nine months prior to the child's third birthday), a description of the availability of services under section 619 of the Act.

(Authority: 20 U.S.C. 1435(a)(6), 1437(a)(9))

§ 303.301 Comprehensive child find system.

(a) *General.* Each system must include a comprehensive child find system that—

(1) Is consistent with Part B of the Act (see 34 CFR § 300.115);

(2) Includes a system for making referrals to public agencies under this part that—

(i) Includes timelines; and

(ii) Provides for participation by the primary referral sources described in § 303.302(c);

(3) Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this part that will reduce the need for future services; and

(4) Meets the requirements in paragraphs (b) and (c) of this section and §§ 303.302 and 303.303.

(b) *Scope of child find.* The lead agency, as part of the child find system, must ensure that—

(1) All infants and toddlers with disabilities in the State who are eligible for services under this part are identified, located, and evaluated, including—

(i) Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organization, and consortia to identify the information provided by them to the lead agency under § 303.731(e)(1)); and

(ii) Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and

(2) An effective method is developed and implemented to determine which children are in need of early intervention services, and which children are not in need of those services.

(c) *Coordination.* (1) The lead agency, with the assistance of the Council, as defined in § 303.8, must ensure that the child find system under this part—

(i) Is coordinated with all other major efforts to locate and identify children conducted by other State agencies responsible for administering the various education, health, and social service programs relevant to this part, including Indian tribes that receive payments under this part, and other Indian tribes, as appropriate; and

(ii) Is coordinated with the efforts of the—(A) Program authorized under Part B of the Act;

(B) Maternal and Child Health program under Title V of the Social Security Act (42 U.S.C. 701(a));

(C) Early Periodic Screening, Diagnosis and Treatment (EPSDT) under

Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));

(D) Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 *et seq.*);

(E) Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 *et seq.*);

(F) Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);

(G) Child protection programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));

(H) Child care programs in the State; and

(I) The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) (for States electing to make available services under this part to children with disabilities after the age of three in accordance with section 635(c)(2)(G) of the Act and § 303.211.

(2) The lead agency, with the advice and assistance of the Council, must take steps to ensure that—

(i) There will not be unnecessary duplication of effort by the various agencies involved in the State's child find system under this part; and

(ii) The State will make use of the resources available through each early intervention service provider in the State to implement the child find system in an effective manner.

(Authority: 20 U.S.C. 1412(a)(3)(A), 1431, 1434(1), 1435(a)(2), 1435(a)(5), 1435(c)(2)(G), 1437(a)(6), 1437(a)(10) and 1441)

§ 303.302 Referral procedures.

(a) *General.* (1) The child find system described in § 303.301 must include procedures for use by primary referral sources for referring a child to the Part C system for—

(i) Evaluation and assessment, in accordance with § 303.320; and

(ii) As appropriate, the provision of early intervention services, in accordance with §§ 303.342 through 303.345.

(2) The procedures required in paragraph (a)(1) of this section must—

(i) Provide for referring a child as soon as possible after the child has been identified; and

(ii) Include procedures that meet the requirements in paragraphs (b) and (c) of this section.

(b) *Referral of specific at-risk children.* The procedures required in paragraph (a) of this section must provide for requiring the referral of a child under the age of three who—

(1) Is involved in a substantiated case of abuse or neglect; or

(2) Is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure.

(c) *Primary referral sources.* As used in this subpart, *primary referral sources* include—

(1) Hospitals, including prenatal and postnatal care facilities;

(2) Physicians;

(3) Parents, including parents of infants and toddlers;

(4) Day care programs;

(5) LEAs and schools;

(6) Public health facilities;

(7) Other social service agencies;

(8) Other clinics and health care providers;

(9) Public agencies and staff in the child welfare system including child protective service and foster care;

(10) Homeless family shelters; and

(11) Domestic violence shelters and agencies (for States electing to make services available under this part to children after the age of three in accordance with section 635(c)(2)(G) of the Act and § 303.211).

(Authority: 20 U.S.C. 1412(a)(3)(A), 1431, 1434(1), 1435(a)(2), 1435(a)(5), 1435(a)(6), 1435(c)(2)(G), 1437(a)(6), 1437(a)(10), 1441)

§ 303.303 Screening procedures.

(a) *General.* (1) The child find system described in § 303.301 may include procedures for the screening of children who have been referred to Part C, when appropriate, to determine whether they are suspected of having a disability under this part. If the State lead agency elects to adopt screening procedures to determine if a child is suspected of having a disability, those procedures must meet the requirements of this section.

(2) If the screening carried out under paragraph (a) of this section or other available information indicates that the child is suspected of having a disability, the child must be evaluated under § 303.320.

(3) If the lead agency believes, based on screening and other available information, that the child is not suspected of having a disability, the lead agency must ensure that notice is provided to the parent under § 303.421.

(4) If, under paragraph (a)(3) of this section, the lead agency determines that the child is not suspected of having a disability, but the parent of the child requests an evaluation, the child must be evaluated under § 303.320.

(b) *Definition of screening procedures. Screening procedures*—

(1) Means activities under paragraph (a)(1) of this section that are carried out by a public agency, early intervention service provider, or designated primary referral source (except for parents) to identify infants and toddlers suspected of having a disability and in need of early intervention services at the earliest possible age; and

(2) Includes the administration of appropriate instruments by qualified personnel that can assist in making the identification described in paragraph (a)(1) of this section.

(c) *Condition for evaluation or services.* For every child who is referred to the Part C program or screened in accordance with paragraph (a) of this section, the lead agency is not required to—

(1) Provide an evaluation and assessment of the child under § 303.320 unless the child is suspected of having a disability or the parent requests an evaluation under paragraph (a)(4) of this section; or

(2) Provide early intervention services under this part unless a determination is made, after the evaluation and assessment conducted under § 303.320, that the child meets the definition of *infant or toddler with a disability* under § 303.21.

(Authority: 20 U.S.C. 1434(1), 1435(a)(2), 1435(a)(5) and (a)(6), 1435(c)(2)(G), 1437(a)(6), 1439(a)(6))

Evaluation and Assessment of the Child and Family and Assessment of Service Needs

§ 303.320 Evaluation and assessment of the child and family and assessment of service needs.

(a) *General.* (1) Each lead agency must ensure, for each child under the age of three who is referred for evaluation or services under this part and suspected of having a disability, the performance of—

(i) A timely, comprehensive, multidisciplinary evaluation of the child;

(ii) An assessment of the child;

(iii) An assessment of the family as described in paragraph (c) of this section, if the parent and family concur; and

(iv) An assessment of service needs, as described in paragraph (d) of this section, if the child is determined to meet the definition of an *infant or toddler with a disability* in § 303.21.

(2)(i) An evaluation is the method used to review the assessments of the child and the family to determine a child's initial and continuing eligibility under this part, consistent with the definition of *infant or toddler with a disability* in § 303.21.

(ii) In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part.

(iii) A child's medical and other records may be used to establish eligibility (without conducting an assessment of the child and the family) if those records contain information required under this section regarding the child's level of functioning in the developmental areas identified in § 303.21(a)(1).

(3) All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, in the child's or family's native language (as appropriate), and selected and administered so as not to be racially or culturally discriminatory.

(b) *Procedures for assessment of the child*—(1) *Assessment of the child* means reviewing available pertinent records that relate to the child's current health status and medical history and conducting personal observation and assessment of the child in order to identify the child's unique strengths and needs, including an identification of the child's level of functioning in each of the following developmental areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development based on objective criteria, which must include informed clinical opinion.

(2) Qualified personnel must use their informed clinical opinion to assess a child's present level of functioning in each of the developmental areas identified in § 303.21(a)(1) and the lead agency must ensure that informed clinical opinion may be used by qualified personnel to establish a child's eligibility under this part even when other instruments do not establish eligibility, but informed clinical opinion may not negate the results of assessment instruments used under paragraph (b)(1) of this section to establish eligibility.

(c) *Procedures for assessment of the family. Assessment of the family* means identification of the family's resources, priorities, and concerns, and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability, as determined not just through the use of an assessment tool, but through a voluntary personal interview with the family.

(d) *Assessment of service needs.* If the child meets the definition of *infant or toddler with a disability* in § 303.21, an assessment of the service needs of the infant or toddler with a disability and the child's family must include a review of the evaluation (including the assessment of the child and family) and available pertinent records and conducting personal observation and assessment of the infant or toddler with a disability in order to identify the early intervention services appropriate to meet the child's unique needs in each of the developmental areas identified in paragraph (b)(1) of this section.

(e) *Timelines.* (1)(i) Except as provided in paragraph (e)(2) of this section, the evaluation of the child (including any assessments of the child and family) and assessment of service needs, as well as the initial IFSP meeting, must be completed within 45 days from the date the lead agency obtains parental consent to conduct an evaluation of the child.

(ii) Lead agencies must ensure that parental consent to conduct an evaluation under § 303.420(a) is obtained as soon as possible once a child is referred for evaluation under this part.

(2) The lead agency must develop procedures to ensure that in the event of exceptional circumstances that make it impossible to complete the evaluation (including any assessments of the child and family) and assessment of service needs within 45 days (e.g., if a child is ill) from receiving parental consent, public agencies will—

(i) Document those circumstances; and

(ii) Develop and implement an interim IFSP, to the extent appropriate and consistent with § 303.345.

(Authority: 20 U.S.C. 1435(a)(3), 1435(a)(5), 1436(a)(1)–(2), 1436(c), 1436(d)(1)–(2))

Individualized Family Service Plans (IFSPs)

§ 303.340 Individualized family service plans—general.

Each lead agency must ensure, for each infant or toddler with a disability, the development, review, and implementation of an individualized family service plan or IFSP that—

(a) Is consistent with the definition of that term in § 303.20; and

(b) Meets the requirements in §§ 303.342 through 303.345 of this subpart.

(Authority: 20 U.S.C. 1435(a)(4), 1436)

§ 303.341 [Reserved]

§ 303.342 Procedures for IFSP development, review, and evaluation.

(a) *Meeting to develop initial IFSP-timelines.* For a child who has been evaluated for the first time and determined to be eligible under this part, a meeting to develop the initial IFSP must be conducted within the 45-day time period in § 303.320(e).

(b) *Periodic review.* (1) A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine—

(i) The degree to which progress toward achieving the outcomes is being made; and

(ii) Whether modification or revision of the outcomes or services is necessary.

(2) The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

(c) *Annual meeting to evaluate the IFSP.* A meeting must be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family, and, as appropriate, to revise its provisions. The results of any current evaluations conducted under § 303.320, and other information available from the assessment of service needs must be used in determining what services are needed and will be provided.

(d) *Accessibility and convenience of meetings.* (1) IFSP meetings must be conducted—

(i) In settings and at times that are convenient to families; and

(ii) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

(2) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(e) *Parental consent.* The contents of the IFSP must be fully explained to the parents and informed consent must be obtained prior to the provision of early intervention services described in the IFSP. The early intervention services for which parental consent is obtained must be provided.

(Authority: 20 U.S.C. 1436)

§ 303.343 IFSP team meetings and periodic reviews.

(a) *Initial and annual IFSP team meetings.* (1) Each initial meeting and each annual IFSP team meeting to evaluate the IFSP must include the following participants:

(i) The parent or parents of the child.

(ii) Other family members, as requested by the parent, if feasible to do so.

(iii) An advocate or person outside of the family, if the parent requests that the person participate.

(iv) The service coordinator designated by the public agency to be responsible for implementation of the IFSP.

(v) A person or persons directly involved in conducting the evaluations and assessments in § 303.320.

(vi) As appropriate, persons who will be providing services under this part to the child or family.

(2) If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

(i) Participating in a telephone conference call.

(ii) Having a knowledgeable authorized representative attend the meeting.

(iii) Making pertinent records available at the meeting.

(b) *Periodic review.* Each periodic review must provide for the participation of persons in paragraphs (a)(1)(i) through (a)(1)(iv) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (a) of this section.

(Authority: 20 U.S.C. 1436(b))

§ 303.344 Content of an IFSP.

(a) *Information about the child's status.* The IFSP must include a statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on the information from the child's evaluation and assessments conducted under § 303.320.

(b) *Family information.* With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under § 303.320(c).

(c) *Results or outcomes.* The IFSP must include a statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timeliness used to determine—

(1) The degree to which progress toward achieving the results or outcomes is being made; and

(2) Whether modifications or revisions of the results, outcomes or services are necessary.

(d) *Early intervention services.* (1) The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including—

(i) The length, duration, frequency, intensity, and method of delivering the services;

(ii)(A) The natural environment setting in which early intervention services will be provided (subject to paragraph (d)(1)(ii)(B) of this section), including, if applicable, a justification of the extent, if any, to which an early intervention service will not be provided in a natural environment.

(B) The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that child and service, must be—

(*1*) Made by the IFSP team (which includes the parent and other team members);

(*2*) Consistent with the provisions in §§ 303.13(a)(8), 303.25, and 303.126; and

(*3*) Based on the child's outcomes that are identified by the IFSP team in paragraph (c)).

(iii) The location of the services; and

(iv) The payment arrangements, if any.

(2) As used in paragraph (d)(1)(i) of this section—

(i) *Frequency and intensity* mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis;

(ii) *Method* means how a service is provided;

(iii) *Length* means the length of time the service is provided during each session of that service (such as an hour or other specified time period); and

(iv) *Duration* means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).

(3) As used in paragraph (d)(1)(iii) of this section, *location* means the actual place or places where a service will be provided.

(4) For children who are at least three years of age, the IFSP must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills.

(e) *Other services.* To the extent appropriate, the IFSP also must—

(1) Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under this part; and

(2) If those services are not currently being provided, include a description of the steps the service coordinator or family may take to assist the child and family in securing those other services.

(f) *Dates and duration of services.* The IFSP must include—

(1) The projected date for the initiation of each service in paragraph (d)(1) of this section, which date must be as soon as possible after the IFSP meetings described in § 303.342; and

(2) The anticipated duration of each service.

(g) *Service coordinator.* (1) The IFSP must include the name of the service coordinator from the profession most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part), who will be responsible for the implementation of the early intervention services identified in a child's IFSP, including transition services, and coordination with other agencies and persons.

(2) In meeting the requirements in paragraph (g)(1) of this section, the term ''profession'' includes ''service coordination.''

(h) *Transition from Part C services.* (1) The IFSP must include the steps to be taken to support the transition of the child, in accordance with § 303.209, to—

(i) Preschool services under Part B of the Act, to the extent that those services are appropriate;

(ii) Elementary school or preschool services (for children participating under § 303.211);

(iii) Early education, Head Start and Early Head Start or child care programs; or

(iv) Other appropriate services.

(2) The steps required in paragraph (h)(1) of this section must include—

(i) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;

(ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

(iii) The transmission of child find information about the child to the LEA or other relevant agency, in accordance with § 303.209(b) and, with parental consent, transmission of additional information to the LEA to ensure continuity of services, including evaluation and assessment information

required in § 303.320 and copies of IFSPs that have been developed and implemented in accordance with §§ 303.340 through 303.345; and

(iv) Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

(Authority: 20 U.S.C. 1435(a)(10)(B), 1435(a)(16), 1436(d), 1437(a)(9)–(10), 1440)

§ 303.345 Provision of services before evaluations and assessments are completed.

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation (including the assessment of the child and family) and assessment of service needs in § 303.320, if the following conditions are met:

(a) Parental consent is obtained.

(b) An interim IFSP is developed that includes—

(1) The name of the service coordinator who will be responsible, consistent with § 303.344(g), for implementation of the interim IFSP and coordination with other agencies and persons; and

(2) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(c) Evaluations and assessments are completed within the 45-day timeline in § 303.320(e).

(Authority: 20 U.S.C. 1436(c))

§ 303.346 Responsibility and accountability.

Each agency or person who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part C of the Act does not require that any agency or person be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

(Authority: 20 U.S.C. 1436)

Subpart E—Procedural Safeguards

General

§ 303.400 General responsibility of lead agency for procedural safeguards.

Each lead agency must—

(a) Establish or adopt the procedural safeguards that meet the requirements of this subpart, including the provisions on confidentiality, parental consent and notice, surrogate parents, and dispute resolution; and

(b) Ensure the effective implementation of the safeguards by each EIS provider in the State that is involved in the provision of early intervention services under this part.

(Authority: 20 U.S.C. 1439(a))

Confidentiality

§ 303.401 Confidentiality and opportunity to examine records.

(a) *General.* Each State must ensure that the parent of a child referred under this part is afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.

(b) *Confidentiality procedures.* Each State must have procedures in effect to ensure that—

(1) EIS providers comply with the Part C confidentiality procedures in §§ 303.402 through 303.417 (which contain confidentiality provisions that are consistent with, but broader than those under, the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and its regulations in 34 CFR part 99, and include additional Part C requirements); and

(2) The parents of infants or toddlers who are referred to, or receive services under, this part are afforded the opportunity to inspect and review all Part C records about the child and the child's family that are collected, maintained, or used under this part, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under this part.

(c) *Applicability and timeframe of procedures.* The confidentiality procedures described in paragraph (b) of this section apply to the personally identifiable information of a child and the child's family that—

(1) Is contained in early intervention records collected, used, or maintained under this part by the lead agency or an EIS provider; and

(2) Applies from the point in time when the child is referred for early intervention services under this part until the later of when the lead agency or EIS provider is no longer required to maintain or maintains that information under applicable Federal and State laws.

(d) *Disclosure of information.* (1) Subject to paragraph (e) of this section and § 303.209(b)(3), the lead agency must disclose to the LEA where the child resides or to the SEA, in accordance with § 303.209(b)(2), the following limited information that would otherwise be determined to be personally identifiable information under the Act:

(i) A child's name.

(ii) A child's date of birth.

(iii) Parent contact information (including parents' names, addresses, and telephone numbers).

(2) The information described in paragraph (d)(1) of this section is needed to enable the lead agency, as well as LEAs and SEAs under Part B of the Act, to identify all children potentially eligible for services under this part and Part B of the Act.

(e) *Option to inform a parent about intended disclosure.* (1) A State lead agency, through its policies and procedures, may require public agencies and EIS providers, prior to making the limited disclosure described in paragraph (d)(1) of this section, to inform the parent of the intended disclosure and allow the parent a specified time period to object to the disclosure in writing.

(2) If a parent (in a State that has adopted the policy described in paragraph (e)(1) of this section) objects during the time period provided by the State, the lead agency is not permitted to make such a disclosure under paragraph (d) of this section and § 303.209(b)(2).

(Authority: 20 U.S.C. 1412(a)(9), 1417(c), 1435(a)(5), 1439(a)(6), 1437(a)(9), 1439(a)(2), 1439(a)(4), 1442)

Additional Confidentiality Requirements

§ 303.402 Confidentiality.

The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained or used by the Secretary and by lead agencies and EIS providers pursuant to Part C of the Act, and consistent with §§ 303.403 through 303.417.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1442)

§ 303.403 Definitions.

The following definitions apply to §§ 303.402 through 303.417:

(a) *Destruction* means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under § 303.29.

(b) *Education records* includes all early intervention records required to be collected, maintained, or used under Part C of the Act and the regulations in this part.

(c) *Participating agency* means any individual, agency, or institution that collects, maintains, or uses personally identifiable information and includes the lead agency and EIS providers.

(Authority: 20 U.S.C. 1221e–3, 1417(c), 1435(a)(5), 1439(a)(2), 1442)

§ 303.404 Notice to parents.

The lead agency must give notice that is adequate to fully inform parents about the requirements of § 303.402, including—

(a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(b) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(c) A description of all of the rights of parents and children regarding this information, including the rights under the Part C confidentiality provisions in §§ 303.401 through 303.417.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1442)

§ 303.405 Access rights.

(a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to §§ 303.430(d) and 303.435 through 303.439, and in no case more than 20 days after the request has been made.

(b) The right to inspect and review education records under this section includes—

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the participating agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

(c) An agency shall presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.406 Record of access.

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part C of the Act (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

§ 303.407 Records on more than one child.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.408 List of types and locations of information.

Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.409 Fees.

(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.410 Amendment of records at parent's request.

(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child may request that the participating agency that maintains the information amend the information.

(b) The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the participating agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under § 303.411.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.411 Opportunity for a hearing.

The participating agency must, on request, provide a parent with an opportunity for a hearing under § 303.430(d) to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.412 Result of hearing.

(a) If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child, it must inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must—

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.413 Hearing procedures.

A hearing held under § 303.411 must be conducted according to the procedures under 34 CFR 99.22.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

§ 303.414 Consent prior to disclosure or use.

(a) Prior parental consent must be obtained before personally identifiable information is—

(1) Disclosed to anyone other than authorized representatives, officials, or

employees of participating agencies collecting, maintaining, or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement of this part.

(b) A lead agency or participating agency may not disclose personally identifiable information, as defined in § 303.29, to any party except the lead agency and EIS providers that are part of the State's Part C system without parental consent unless authorized to do so under paragraphs (c) and (d) of this section, § 303.401, or the exceptions enumerated in 34 CFR part 99, which are adopted to apply to Part C through this reference.

(c) The lead agency must provide policies and procedures to be used when a parent refuses to provide consent under this section (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this part), provided that those procedures do not override a parent's right to refuse consent under § 303.420.

(d) The lead agency or participating agency may disclose to a protection and advocacy (P&A) system authorized under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act)—

(1) Contact information (including name, address, and telephone number) for the parent or legal guardian or representative of an infant or toddler with a disability when the P&A system requests this information under section 143(a)(2)(I)(iii)(III) of the DD Act when requested by the P&A system; or

(2) Personally identifiable information in the early intervention records of an infant or toddler with a disability in order to provide the P&A system access to the early intervention records when the P&A system requests access under either section 143(a)(2)(I)(iii) or section 143(a)(2)(J) of the DD Act.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442 and 42 U.S.C. 15043(a)(2)(I), 15043(a)(2)(J))

§ 303.415 Safeguards.

(a) Each participating agency must protect the confidentiality of personally identifiable information at collection, maintenance, use, storage, disclosure, and destruction stages.

(b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §§ 303.401 through 303.417 and 34 CFR part 99.

(d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

§ 303.416 Destruction of information.

(a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide services to the child under Part C, GEPA, 20 U.S.C. 1230 through 1234i, and EDGAR, 34 CFR parts 76 and 80.

(b) Subject to paragraph (a) of this section, the information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information (including address, and phone number), names of service coordinator(s) and EIS provider(s), and exit data (including year and age upon exit, and any programs entered into upon exiting) may be maintained without time limitation.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

§ 303.417 Enforcement.

The lead agency must have in effect policies and procedures that the State uses to ensure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met including the sanctions and right to file a State complaint under §§ 303.432 through 303.434 for failure to comply with §§ 303.401 through 303.417.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

Parental Consent and Notice

§ 303.420 Parental consent and ability to decline service.

(a) The lead agency must ensure parental consent is obtained before—

(1) Administering screening procedures that are used either to determine:

(i) Whether a child is suspected of having a disability; or

(ii) A child's eligibility under this part;

(2) An evaluation and assessment of a child is conducted under § 303.320;

(3) Early intervention services are provided to the child under this part;

(4) Public or private insurance is used consistent with § 303.520; and

(5) Exchange of personally identifiable information among agencies consistent with § 303.401.

(b) If the parent does not give consent, the lead agency must make reasonable efforts to ensure that the parent—

(1) Is fully aware of the nature of the evaluation and assessment or the services that would be available; and

(2) Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

(c)(1) Subject to paragraph (c)(2) of this section, the lead agency may, but is not required to, use the due process hearing procedures under this part to challenge the parent's refusal to consent to an evaluation and assessment of the child for early intervention services.

(2) The lead agency may not use the procedures described in paragraph (c)(1) of this section to challenge the parent's refusal to consent to the provision of an early intervention service or the use of insurance.

(d) The parents of an infant or toddler with a disability—

(1) Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under this part at any time, in accordance with State law; and

(2) May decline a service after first accepting it, without jeopardizing other early intervention services under this part.

(Authority: 20 U.S.C. 1436(e), 1439(a)(3))

§ 303.421 Prior written notice and procedural safeguards notice.

(a) *General.* Prior written notice must be given to the parents of a child a reasonable time before the lead agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

(b) *Content of notice.* The notice must be in sufficient detail to inform the parents about—

(1) The action that is being proposed or refused;

(2) The reasons for taking the action; and

(3) All procedural safeguards that are available under this subpart, including a description of mediation in § 303.431, how to file a State complaint in §§ 303.432 through 303.434 and a due process complaint in the provisions adopted under § 303.430(d), and any timelines under those procedures.

(c) *Native language.* (1) The notice must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language, as defined in § 303.25, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS provider shall take steps to ensure that—

(i) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(ii) The parent understands the notice; and

(iii) There is written evidence that the requirements of this paragraph have been met.

(Authority: 20 U.S.C. 1439(a)(6)–(7))

Surrogate Parents

§ 303.422 Surrogate parents.

(a) *General.* Each lead agency or other public agency must ensure that the rights of a child are protected when—

(1) No parent (as defined in § 303.27) can be identified;

(2) The lead agency, or other public agency, after reasonable efforts, cannot locate a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of lead agency and other public agencies.*

(1) The duty of the lead agency, or other public agency under paragraph (a) of this section, includes the assignment of an individual to act as a surrogate for the parents. This assignment process must include a method for—

(i) Determining whether a child needs a surrogate parent; and

(ii) Assigning a surrogate parent to the child.

(2) In implementing the provisions under this section for children who are wards of the State or placed in foster care, the lead agency must consult with the public agency with whom care of the child has been assigned.

(c) *Criteria for selection of surrogate parents.* (1) The lead agency or other public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies must ensure that a person selected as a surrogate parent—

(i) Is not an employee of the lead agency or any other public agency or EIS provider that provides early intervention services or other services to the child or any family member of the child;

(ii) Has no personal or professional interest that conflicts with the interest of the child he or she represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

(d) *Non-employee requirement; compensation.* A person who is otherwise qualified to be a surrogate parent under paragraph (c) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) *Surrogate parent responsibilities.* The surrogate parent has the same rights as a parent for all purposes under this part.

(Authority: 20 U.S.C. 1439(a)(5))

Dispute Resolution Options

§ 303.430 State dispute resolution options.

(a) *General.* Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures, described in paragraphs (b) through (e) of this section.

(b) *Mediation.* Each lead agency must make available to parties to disputes involving any matter under this part the opportunity for mediation that meets the requirements of § 303.431.

(c) *State complaint procedures.* Each lead agency must adopt written State complaint procedures to resolve any State complaints filed by any party regarding any violation of this part that meet the requirements in §§ 303.432 through 303.434.

(d) *Due process hearing procedures.* In addition to adopting the procedures in paragraphs (b) and (c) of this section, the lead agency must adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in § 303.421(a), by either adopting—

(1) The Part C due process hearing procedures under section 639 of the Act that—

(i) Meet the requirements in §§ 303.435 through 303.438; and

(ii) Provide a means of filing a due process complaint regarding any matter listed in § 303.421(a); or

(2) The Part B due process hearing procedures under section 615 of the Act and §§ 303.440 through 303.449 (with either a 30-day or 45-day timeline for resolving due process complaints, as provided in § 303.440(c)).

(e) *Status of a child during the pendency of a due process complaint.* (1) During the pendency of any proceeding involving a due process complaint under paragraph (d) of this section, unless the lead agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents.

(2) If the due process complaint under paragraph (d) of this section involves an application for initial services under Part C of the Act, the child must receive those services that are not in dispute.

(3)(i) Except as provided in paragraph (e)(3)(ii) of this section, if a child turns three and the child's eligibility under § 303.211 has not yet been determined, then the child must continue to receive Part C services under § 303.211(b)(4).

(ii) Once a child turns three and has been determined ineligible for services under Part B and § 303.211, the provisions of paragraph (e)(1) of this section do not apply and the lead agency is not required to provide Part C services to that child during the pendency of any due process complaint proceeding challenging the determination of ineligibility.

(Authority: 20 U.S.C. 1415(e), 1415(f)(1)(A), 1415(f)(3)(A)–(D), 1439(a)(8), 1439(b))

Mediation

§ 303.431 Mediation.

(a) *General.* Each lead agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.

(b) *Requirements.* The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process—

(i) Is voluntary on the part of the parties;

(ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part C of the Act; and

(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services.

(ii) The lead agency must select mediators on a random, rotational, or other impartial basis.

(3) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.

(4) Each session in the mediation process must be scheduled in a timely

manner and must be held in a location that is convenient to the parties to the dispute.

(5) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that—

(i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(ii) Is signed by both the parent and a representative of the agency who has the authority to bind such agency.

(6) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(7) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.

(c) *Impartiality of mediator.* (1) An individual who serves as a mediator under this part—

(i) May not be an employee of the lead agency or an EIS provider that is involved in the provision of early intervention or other services to the child; and

(ii) Must not have a personal or professional interest that conflicts with the person's objectivity.

(2) A person who otherwise qualifies as a mediator is not an employee of a lead agency or an early intervention provider solely because he or she is paid by the agency or provider to serve as a mediator.

(d) *Meeting to encourage mediation.* A lead agency may establish procedures to offer to parents and EIS providers that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party—

(1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and

(2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(Authority: 20 U.S.C. 1415(e), 1439(a)(8))

State Complaint Procedures

§ 303.432 Adoption of State complaint procedures.

(a) *General.* Each lead agency must adopt written procedures for—

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of § 303.434 by providing for the filing of a complaint with the lead agency; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies and other appropriate entities, the State procedures under §§ 303.432 through 303.434.

(b) *Remedies for denial of appropriate services.* In resolving a complaint in which the lead agency has found a failure to provide appropriate services, a lead agency pursuant to its general supervisory authority under Part C of the Act, must address—

(1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the infant or toddler with a disability and the infant's or toddler's family who is the subject of the complaint; and

(2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

(Authority: 20 U.S.C. 1439(a)(1))

§ 303.433 Minimum State complaint procedures.

(a) *Time limit; minimum procedures.* Each lead agency must include in its complaint procedures a time limit of 60 days after a complaint is filed under § 303.434 to—

(1) Carry out an independent on-site investigation, if the lead agency determines that an investigation is necessary;

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Provide the lead agency, public agency, or EIS provider with the opportunity to respond to the complaint, including, at a minimum—

(i) At the discretion of the lead agency, a proposal to resolve the complaint; and

(ii) An opportunity for a parent who has filed a complaint and the lead agency, public agency, or EIS provider to voluntarily engage in mediation, consistent with §§ 303.430(b) and 303.431;

(4) Review all relevant information and make an independent determination as to whether the lead agency, public agency, or EIS provider is violating a requirement of Part C of the Act or of this part; and

(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—

(i) Findings of fact and conclusions; and

(ii) The reasons for the lead agency's final decision.

(b) *Time extension; final decision; implementation.* The lead agency's procedures described in paragraph (a) of this section also must—

(1) Permit an extension of the time limit under paragraph (a) of this section only if—

(i) Exceptional circumstances exist with respect to a particular complaint; or

(ii) The parent (or individual or organization, if mediation is available to the individual or organization under State procedures) and the lead agency or EIS provider involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section; and

(2) Include procedures for effective implementation of the lead agency's final decision, if needed, including—

(i) Technical assistance activities;

(ii) Negotiations; and

(iii) Corrective actions to achieve compliance.

(c) *Complaints filed under this section and due process hearings under § 303.430(d).* (1) If a written complaint is received that is also the subject of a due process hearing under § 303.430(d), or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.

(2) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties—

(i) The due process hearing decision is binding on that issue; and

(ii) The lead agency must inform the complainant to that effect.

(3) A complaint alleging a lead agency or EIS provider's failure to implement a due process hearing decision must be resolved by the lead agency.

(Authority: 20 U.S.C. 1439(a)(1))

§ 303.434 Filing a complaint.

(a) An organization or individual may file a signed written complaint under the procedures described in §§ 303.432 and 303.433.

(b) The complaint must include—

(1) A statement that the lead agency, public agency, or EIS provider has

violated a requirement of Part C of the Act or of this part;

(2) The facts on which the statement is based;

(3) The signature and contact information for the complainant; and

(4) If alleging violations with respect to a specific child—

(i) The name and address of the residence of the child;

(ii) The name of the EIS provider serving the child;

(iii) A description of the nature of the problem of the child, including facts relating to the problem; and

(iv) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with § 303.432.

(d) The party filing the complaint must forward a copy of the complaint to the public agency or EIS provider serving the child at the same time the party files the complaint with the lead agency.

(Authority: 20 U.S.C. 1439(a)(1))

States That Choose To Adopt the Part C Due Process Procedures Under Section 639 of the Act

§ 303.435 Appointment of an impartial due process hearing officer.

(a) *Qualifications and duties.* Whenever a due process complaint is received under § 303.430(d), a due process hearing officer must be appointed to implement the complaint resolution process in this subpart. The person must—

(1) Have knowledge about the provisions of this part and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and

(2) Perform the following duties:

(i)(A) Listen to the presentation of relevant viewpoints about the due process complaint.

(B) Examine all information relevant to the issues.

(C) Seek to reach a timely resolution of the due process complaint.

(ii) Provide a record of the proceedings, including a written decision.

(b) *Definition of impartial.* (1) *Impartial* means that the due process hearing officer appointed to implement the due process hearing under this part—

(i) Is not an employee of the lead agency or an EIS provider involved in the provision of early intervention services or care of the child; and

(ii) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.

(2) A person who otherwise qualifies under paragraph (b)(1) of this section is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this part.

(Authority: 20 U.S.C. 1439(a)(1))

§ 303.436 Parental rights in due process hearing proceedings.

(a) *General.* Each lead agency must ensure that the parents of a child referred to Part C are afforded the rights in paragraph (b) of this section in the due process hearing carried out under § 303.430(d).

(b) *Rights.* Any parent involved in a due process hearing has the right to—

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;

(4) Obtain a written or electronic verbatim transcription of the hearing; and

(5) Obtain written findings of fact and decisions.

(Authority: 20 U.S.C. 1439(a))

§ 303.437 Convenience of hearings and timelines.

(a) Any due process hearing conducted under this subpart must be carried out at a time and place that is reasonably convenient to the parents.

(b) Each lead agency must ensure that, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing required under this subpart is completed and a written decision mailed to each of the parties.

(Authority: 20 U.S.C. 1439(a)(1))

§ 303.438 Civil action.

Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in State or Federal court under section 639(a)(1) of the Act.

(Authority: 20 U.S.C. 1439(a)(1))

States That Choose To Adopt the Part B Due Process Procedures Under Section 615 of the Act

§ 303.440 Filing a due process complaint.

(a) *General.* (1) A parent, EIS provider, or a lead agency may file a due process complaint on any of the matters described in § 303.421(a) (relating to the identification, evaluation or placement of a child under Part C of the Act, or the provision of early intervention services to the infant or toddler with a disability and his or her family).

(2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in § 303.443(f) apply to the timeline in this section.

(b) *Information for parents.* The lead agency must inform the parent of any free or low-cost legal and other relevant services available in the area if—

(1) The parent requests the information; or

(2) The parent or EIS provider files a due process complaint under this section.

(c) *Timeline for Resolution.* The lead agency may adopt a 30- or 45-day timeline, subject to § 303.447(a), for the resolution of due process complaints and must specify in its written policies and procedures under § 303.123 and in its prior written notice under § 303.421, the specific timeline it has adopted.

(Authority: 20 U.S.C. 1415(b)(6), 1439)

§ 303.441 Due process complaint.

(a) *General.* (1) The lead agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).

(2) The party filing a due process complaint must forward a copy of the due process complaint to the lead agency.

(b) *Content of complaint.* The due process complaint required in paragraph (a)(1) of this section must include—

(1) The name of the child;

(2) The address of the residence of the child;

(3) The name of the EIS provider serving the child;

(4) In the case of a homeless child (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)),

available contact information for the child, and the name of the EIS provider serving the child;

(5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

(6) A proposed resolution of the problem to the extent known and available to the party at the time.

(c) *Notice required before a hearing on a due process complaint.* A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.

(d) *Sufficiency of complaint.* (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section.

(2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination.

(3) A party may amend its due process complaint only if—

(i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to § 303.442; or

(ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.

(4) If a party files an amended due process complaint, the timelines for the resolution meeting in § 303.442(a) and the time period to resolve in § 303.442(b) begin again with the filing of the amended due process complaint.

(e) *Lead agency response to a due process complaint.* (1) If the lead agency has not sent a prior written notice under § 303.421 to the parent regarding the subject matter contained in the parent's due process complaint, the lead agency or EIS provider must, within 10 days of receiving the due process complaint, send to the parent a response that includes—

(i) An explanation of why the lead agency proposed or refused to take the action raised in the due process complaint;

(ii) A description of other options that the IFSP team considered and the reasons why those options were rejected;

(iii) A description of each evaluation procedure, assessment, record, or report the lead agency used as the basis for the proposed or refused action; and

(iv) A description of the other factors that are relevant to the agency's proposed or refused action.

(2) A response by the lead agency under paragraph (e)(1) of this section shall not be construed to preclude the lead agency from asserting that the parent's due process complaint was insufficient, where appropriate.

(f) *Other party response to a due process complaint.* Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

(Authority: 20 U.S.C. 1415(b)(7), 1415(c)(2), 1439)

§ 303.442 Resolution process.

(a) *Resolution meeting.* (1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under § 303.443, the lead agency must convene a meeting with the parent and the relevant member or members of the IFSP team who have specific knowledge of the facts identified in the due process complaint that—

(i) Includes a representative of the lead agency who has decision-making authority on behalf of that agency; and

(ii) May not include an attorney of the lead agency unless the parent is accompanied by an attorney.

(2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the lead agency has the opportunity to resolve the dispute that is the basis for the due process complaint.

(3) The meeting described in paragraph (a)(1) and (a)(2) of this section need not be held if—

(i) The parent and lead agency agree in writing to waive the meeting; or

(ii) The parent and lead agency agree to use the mediation process described in § 303.431.

(4) The parent and the lead agency must determine the relevant members of the IFSP team to attend the meeting.

(b) *Resolution period.* (1) If the lead agency has not resolved the due process complaint to the satisfaction of the parties within 30 days of the receipt of the due process complaint, the due process hearing may occur.

(2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under § 303.447 begins at the expiration of the 30-day period in paragraph (b)(1) of this section.

(3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

(4) If the lead agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, including documenting its efforts, the lead agency, may at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.

(5) If the lead agency fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

(c) *Adjustments to 30-day resolution period.* The 30- or 45-day timeline adopted by the lead agency under § 303.440(c) for the due process hearing described in § 303.447(a) starts the day after one of the following events:

(1) Both parties agree in writing to waive the resolution meeting.

(2) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible.

(3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or lead agency withdraws from the mediation process.

(d) *Written settlement agreement.* If a resolution to the dispute is reached at the meeting described in paragraph (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is—

(1) Signed by both the parent and a representative of the lead agency who

has the authority to bind the agency; and

(2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the lead agency, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements pursuant to this section.

(e) *Agreement review period.* If the parties execute an agreement pursuant to paragraph (d) of this section, a party may void the agreement within three business days of the agreement's execution.

(Authority: 20 U.S.C. 1415(f)(1)(B), 1439)

§ 303.443 Impartial due process hearing.

(a) *General.* Whenever a due process complaint is received consistent with § 303.440, the parents or the EIS provider involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§ 303.440 through 303.442.

(b) *Agency responsible for conducting the due process hearing.* The hearing described in paragraph (a) of this section must be conducted by the lead agency directly responsible for the early intervention services of the infant or toddler, as determined under State statute, State regulation, or a written policy of the lead agency.

(c) *Impartial hearing officer.* (1) At a minimum, a hearing officer—

(i) Must not be—

(A) An employee of the State, lead agency, or the EIS provider that is involved in the early intervention services or care of the infant or toddler; or

(B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts;

(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(d) *Subject matter of due process hearings.* The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under § 303.441(b), unless the other party agrees otherwise.

(e) *Timeline for requesting a hearing.* A parent, lead agency, or EIS provider must request an impartial hearing on their due process complaint within two years of the date the parent, lead agency, or EIS provider knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.

(f) *Exceptions to the timeline.* The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to—

(1) Specific misrepresentations by the lead agency or EIS provider that it had resolved the problem forming the basis of the due process complaint; or

(2) The lead agency's or EIS provider's failure to provide the parent information that was required under this part to be provided to the parent.

(Authority: 20 U.S.C. 1415(f)(1)(A), 1415(f)(3)(A)–(D), 1439)

§ 303.444 Hearing rights.

(a) *General.* Any party to a hearing conducted pursuant to §§ 303.440 through 303.445, or an appeal conducted pursuant to § 303.446, has the right to—

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of infants or toddlers with disabilities;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and

(5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(b) *Additional disclosure of information.* (1) At least five business days prior to a hearing conducted pursuant to § 303.443(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(c) *Parental rights at hearings.* Parents involved in hearings must be given the right to—

(1) Have the child who is the subject of the hearing present;

(2) Open the hearing to the public; and

(3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.

(Authority: 20 U.S.C. 1415(f)(2), 1415(h), 1439)

§ 303.445 Hearing decisions.

(a) *Decision of hearing officer.* (1) Subject to paragraph (a)(2) of this section, a hearing officer must make a determination, based on substantive grounds, of whether the child was appropriately identified, placed, or evaluated, or whether the infant or toddler with a disability and his or her family were appropriately provided early intervention services under Part C of the Act.

(2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive appropriate identification, evaluation, placement, or provision of early intervention services for the child and that child's family under Part C of the Act only if the procedural inadequacies—

(i) Impeded the child's right to identification, evaluation, and placement or provision of early intervention services for the child and that child's family under Part C of the Act;

(ii) Significantly impeded the parents' opportunity to participate in the decision-making process regarding identification, evaluation, placement or provision of early intervention services for the child and that child's family under Part C of the Act; or

(iii) Caused a deprivation of educational or developmental benefit.

(3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering the lead agency or EIS provider to comply with procedural requirements under §§ 303.400 through 303.449.

(b) *Construction clause.* Nothing in §§ 303.440 through 303.445 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the lead agency

under § 303.446(b), if a lead agency level appeal is available.

(c) *Separate due process complaint.* Nothing in §§ 303.440 through 303.449 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

(d) *Findings and decisions to general public.* The lead agency, after deleting any personally identifiable information, must make the findings and decisions available to the public.

(Authority: 20 U.S.C. 1415(f)(3)(E)–(F), 1415(h)(4), 1415(o), 1439)

§ 303.446 Finality of decision; appeal; impartial review.

(a) *Finality of hearing decision.* A decision made in a hearing conducted pursuant to §§ 303.440 through 303.445 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and § 303.448.

(b) *Appeal of decisions; impartial review.* (1) If the hearing required by § 303.443 is conducted by a public agency other than the lead agency, any party aggrieved by the findings and decision in the hearing may appeal to the lead agency.

(2) If there is an appeal, the lead agency must conduct an impartial review of the findings and decision appealed. The official conducting the review must—

(i) Examine the entire hearing record;

(ii) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in § 303.444 apply;

(iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

(v) Make an independent decision on completion of the review; and

(vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.

(c) *Findings of fact and decision to the general public.* The lead agency, after deleting any personally identifiable information, must make the findings of fact and decisions described in paragraph (b)(2)(vi) of this section available to the general public.

(d) *Finality of review decision.* The decision made by the reviewing official is final unless a party brings a civil action under § 303.448.

(Authority: 20 U.S.C. 1415(g), 1415(h)(4), 1415(i)(1)(A), 1415(i)(2), 1439)

§ 303.447 Timelines and convenience of hearings and reviews.

(a) The lead agency must ensure that not later than either 30 days or 45 days (consistent with the lead agency's written policies and procedures adopted under § 303.440(c)) after the expiration of the 30-day period in § 303.442(b), or the adjusted 30-day time periods described in § 303.442(c)—

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The lead agency must ensure that not later than 30 days after the receipt of a request for a review—

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

(Authority: 20 U.S.C. 1415(f)(1)(B)(ii), 1415(g), 1415(i)(1), 1439)

§ 303.448 Civil action.

(a) *General.* Any party aggrieved by the findings and decision made under §§ 303.440 through 303.445 who does not have the right to an appeal under § 303.446(b), and any party aggrieved by the findings and decision under § 303.446(b), has the right to bring a civil action with respect to the due process complaint under § 303.440. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(b) *Time limitation.* The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part C of the Act, in the time allowed by that State law.

(c) *Additional requirements.* In any action brought under paragraph (a) of this section, the court—

(1) Receives the records of the administrative proceedings;

(2) Hears additional evidence at the request of a party; and

(3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

(d) *Jurisdiction of district courts.* The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.

(e) *Rule of construction.* Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§ 303.440 and 303.446 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

(Authority: 20 U.S.C. 1415(i)(2), 1415(i)(3)(A), 1415(l), 1439)

§ 303.449 State enforcement mechanisms.

Notwithstanding §§ 303.431(b)(6) and 303.442(d)(2), which provide for judicial enforcement of a written agreement reached as a result of a mediation or a resolution meeting, there is nothing in this part that would prevent the State from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court or competent jurisdiction or in a district court of the United States.

(Authority: 20 U.S.C. 1415(e)(2)(F), 1415(f)(1)(B), 1439)

Subpart F—Use of Funds and Payor of Last Resort

General

§ 303.500 Use of funds and payor of last resort.

Each Statewide system must include written policies and procedures that meet the requirements of the—

(a) Use of funds provisions in § 303.501; and

(b) Payor of last resort provisions in §§ 303.510 through 303.521 (regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of the Act within the State).

(Authority: 20 U.S.C. 1432(4)(B), 1435(a)(10), 1435(a)(12), 1438, 1439(a)(2), 1440)

Use of Funds

§ 303.501 Permissive use of funds by the lead agency.

A lead agency may use funds under this part for activities or expenses that

are reasonable and necessary for implementing the State's early intervention program for infants and toddlers with disabilities including funds—

(a) For direct early intervention services for infants and toddlers with disabilities and their families under this part that are not otherwise funded through other public or private sources (subject to §§ 303.510 through 303.521);

(b) To expand and improve on services for infants and toddlers with disabilities and their families under this part that are otherwise available;

(c)(1) To provide FAPE as that term is defined in § 303.15, in accordance with Part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year;

(2) The provision of FAPE under paragraph (c)(1) of this section does not apply to children who continue to receive early intervention services under this part in accordance with paragraph (d) of this section and § 303.211;

(d) With the written consent of the parents, to continue to provide early intervention services under this part, in lieu of FAPE provided in accordance with Part B of the Act, to children with disabilities from their third birthday (pursuant to § 303.211) until those children enter, or are eligible under State law to enter, kindergarten; and

(e) In any State that does not provide services under § 303.204 for at-risk infants and toddlers as defined in § 303.5, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services, and personnel for the purposes of—

(1) Identifying and evaluating at-risk infants and toddlers;

(2) Making referrals for the infants and toddlers identified and evaluated under paragraph (e)(1) of this section; and

(3) Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

(Authority: 20 U.S.C. 1435(a)(10), 1438)

Payor of Last Resort

§ 303.510 Payor of last resort.

(a) *Nonsubstitution of funds.* Except as provided in paragraph (b) of this section, funds under this part may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Department of Defense, but for the enactment of Part C of the Act. Therefore, funds under this part may be used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source (subject to §§ 303.520 and 303.521).

(b) *Interim payments—reimbursement.* If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under this part may be used to pay the provider of services (for services and functions authorized under this part, including health services as defined in § 303.16 (but not medical services), child find functions described in §§ 303.115 through 303.117 and §§ 303.300 through 303.303, and evaluations and assessments in § 303.320), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

(c) *Non-reduction of benefits.* Nothing in this part may be construed to permit a State to reduce medical or other assistance available or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701 *et seq.*, (SSA) (relating to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), within the State.

(Authority: 20 U.S.C. 1440(a), 1440(c))

§ 303.511 Establishing financial responsibility for, and methods of, ensuring services.

(a) *General.* Each State must ensure that it has in place methods for establishing financial responsibility (consistent with the methods adopted under Part B of the Act, where appropriate) and providing early intervention services under this part. The methods must meet the requirements of this subpart, and be set forth in—

(1) State law or regulation;

(2) Signed interagency and intra-agency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency (or entity within the agency); or

(3) Other appropriate written methods determined by the Governor of the State, or the Governor's designee, and approved by the Secretary through the review and approval of the State's application.

(b) *Financial responsibility.* Each method must define the financial responsibility of each agency for paying for early intervention services or other functions authorized under this part including child find and evaluations and assessments (consistent with State law and the requirements of this part).

(c) *Procedures for resolving disputes.* (1) Each method must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention service program. Those procedures must include a mechanism for resolution of intra-agency disputes within agencies and for the Governor, Governor's designee, or the lead agency to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.

(2) The method must—

(i) Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and

(ii) Include the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

(3) If, during the lead agency's resolution of the dispute, the Governor, Governor's designee, or lead agency determines that the assignment of financial responsibility under this section was inappropriately made—

(i) The Governor, Governor's designee or lead agency must reassign the responsibility to the appropriate agency; and

(ii) The lead agency must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

(d) *Delivery of services in a timely manner.* The methods adopted by the State under this section must—

(1) Include a mechanism to ensure that no services that a child is entitled to receive under this part are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and

(2) Be consistent with the written funding policies adopted by the State under this subpart.

(e) *Additional components.* Each method must include any additional components necessary to ensure effective cooperation and coordination among, and the lead agency's general supervision (including monitoring) of, all public agencies and early

intervention service providers involved in the State's early intervention service programs.

(Authority: 20 U.S.C. 1435(a)(10), 1440(b))

Use of Insurance, Benefits, Systems of Payments, and Fees

§ 303.520 Policies related to use of insurance or public benefits for payment for services.

(a) *Public insurance and benefits.* (1) The State may use the public insurance or benefits program of a parent or infant or toddler with a disability under this part (consistent with the program requirements of the public insurance or benefits program), if—

(i) The parent or the infant or toddler with a disability is already enrolled or participating in a public insurance or benefits program, provided that the parent provides consent as defined in § 303.7 to disclose personally identifiable information if required under § 303.414;

(ii) The parent has not provided consent under §§ 303.7, 303.414, or 303.420(a)(3), but the infant or toddler with a disability is in foster care and eligible to participate in the public insurance or benefits program; or

(iii) The parent is not enrolled in a public insurance or benefits program but agrees to enroll and provides consent to enroll in a public insurance or benefits program in accordance with §§ 303.7, 303.414, and 303.420(a)(3).

(2) If the State requires a parent to pay any types of costs that the parent may incur as a result of participating in a public insurance or benefits program (such as co-payments, premiums or deductibles or the required use of private insurance as the primary insurance), those types of costs must be identified in the State's policies regarding its system of payments under § 303.521; otherwise, the State will not be allowed to charge those costs to the parent.

(3) In obtaining parental consent required under this section, the lead agency must provide a copy of the State's system of payments policies that identify potential costs that the parent may incur while enrolled in a public insurance or benefits program (such as co-payments, premiums or deductibles or the required use of private insurance as the primary insurance by the public insurance or public benefits program).

(b) *Private insurance.* (1)(i) Except as provided in paragraph (b)(2) of this section, the State may use the private insurance of a parent to pay for services under this part only if the parent provides consent to do so in accordance with §§ 303.7, 303.414, and 303.420(a)(3).

(ii) If the State requires a parent to pay any types of costs that the parent may incur as a result of the State's use of private insurance to pay for early intervention services, those types of costs (such as deductibles or co-payments) must be identified in the State's system of payments policies under § 303.521; otherwise, the State will not be allowed to charge those costs to the parent.

(iii) In obtaining parental consent required under this section, the lead agency must provide a copy of the State's system of payments policies that identify the potential types of costs that the parent may incur while enrolled in a private insurance program (such as co-payments, premiums or deductibles).

(iv) If a parent or family is determined unable to pay under the State's definition of inability to pay under § 303.521(a)(3) and does not provide consent under paragraph (b)(1)(i) of this section, the lack of consent may not be used to delay or deny any services under this part to a child or the family.

(2) The parental consent requirements in paragraph (b)(1) of this section do not apply if the State has enacted a State statute regarding private health insurance coverage for early intervention services under Part C of the Act that ensures that the use of private health insurance to pay for Part C services cannot—

(i) Count towards the lifetime coverage caps for the infant or toddler with a disability and parents under their health insurance;

(ii) Negatively affect the availability of health insurance to the infant or toddler with a disability and family, and health insurance coverage may not be discontinued due to the use of the health insurance to pay for services under Part C of the Act; or

(iii) Be the basis for increasing the health insurance premiums of the infant or toddler with a disability or the child's family.

(3) If a State has enacted a State statute that meets the requirements in paragraph (b)(2) of this section regarding private health insurance coverage to pay for early intervention services under Part C of the Act, the State may reestablish in the next Federal fiscal year following the effective date of the statute, a new baseline of State and local expenditures under § 303.225(b).

(c) *Proceeds or funds from public insurance or benefits or from private insurance.* (1) Proceeds or funds from public insurance or public benefits or from private insurance are not treated as program income for purposes of 34 CFR 80.25.

(2) If the State receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under Part C of the Act, those funds are considered neither State nor local funds under § 303.225(b).

(3) If the State spends funds from a State public insurance or benefits program or the State portion of a Federal public benefits program (such as the State portion of Medicaid costs) for services under this part, those funds may be considered State or local funds under § 303.225(b); however, if a State elects to include such funds for purposes of nonsupplanting provisions in § 303.225(b), it must continue to aggregate such amounts for all future years.

(4) If the State spends funds from private insurance for services under this part, those funds are considered neither State nor local funds under § 303.225.

(d) *Funds received under a State's system of payments.* Funds received by the State from a parent or family under the State's system of payments established under § 303.521 are considered program income under 34 CFR 80.25. These funds—

(1) Do not need to be deducted from the total allowable costs charged under Part C of the Act (as set forth in 34 CFR 80.25(g)(1));

(2) Must be used for the State's Part C early intervention services program, consistent with 34 CFR 80.25(g)(2); and

(3) Are considered neither State nor local funds under § 303.225(b).

(Authority: 20 U.S.C. 1432(4)(B), 1435(a)(10), 1439(a)(2))

§ 303.521 System of payments and fees.

(a) *General.* A State may establish, consistent with §§ 303.13(a)(3) and 303.203(b), a system of payments for early intervention services under Part C of the Act, including a schedule of sliding fees or cost participation fees (such as co-pays or deductible amounts) required to be paid under Federal, State, local, or private programs of insurance or benefits for which the infant or toddler with a disability or family is enrolled, that meets the requirements of §§ 303.520 and 303.521. The State's system of payments policies must be in writing and specify which functions or services, if any, will be subject to a system of payments (including any fees charged to the family as a result of using the family's public or private insurance), and include—

(1) The payment system and schedule of sliding or cost participation fees that

may be charged to the parent for early intervention services under this part;

(2) The basis and amount of payments or fees;

(3) The State's definition of inability to pay (including its definition of income and family expenses); and

(4) An assurance that—

(i) Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including those services identified under paragraphs (a)(4)(ii), (b), and (c) of this section);

(ii) The inability of the parents of an infant or toddler with a disability to pay for services will not result in a delay or denial of services under this part to the child or the child's family such that, if the parent or family meets the State's definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost including any costs to the family under this section and § 303.520(a)(2) and (b)(1)(ii); and

(iii) Families will not be charged any more than the actual cost of the Part C service, and families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;

(5) Provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged; and

(6) Provisions that allow but do not require the lead agency to use Part C or other funds to pay for any costs or fees to be paid by a parent under paragraph (a)(1) of this section, or § 303.520(a)(2) or (b)(1)(ii). However, for a parent determined unable to pay under § 303.521(a)(4)(ii), the lead agency must use Part C or other funds to cover the costs for the parent.

(b) *Functions not subject to fees*. The following are required functions that must be carried out at public expense by a State, and for which no fees may be charged to parents:

(1) Implementing the child find requirements in §§ 303.301 through 303.303.

(2) Evaluation and assessment, in accordance with § 303.320, and including the functions related to evaluation and assessment in § 303.13(b).

(3) Service coordination services, as defined in §§ 303.13(b)(9) and 303.33.

(4) Administrative and coordinative activities related to—

(i) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§ 303.342 through 303.345; and

(ii) Implementation of the procedural safeguards in subpart E of this part and the other components of the statewide system of early intervention services in subpart D and this subpart.

(c) *States with FAPE mandates, or that use funds under Part B of the Act to serve children under age three*. If a State has in effect a State law requiring the provision of FAPE for, or uses Part B funds to serve, an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with disabilities under the age of three), the State may not charge the parents of the infant or toddler with a disability for any services (e.g., physical or occupational therapy) under this part that are part of FAPE for that infant or toddler and family, and those FAPE services must meet the requirements of both Parts B and C of the Act.

(d) *Family fees*. (1) Fees or costs collected from a parent or the child's family to pay for early intervention services under a State's system of payments are program income under 34 CFR 80.25. A State may add this program income to its Part C grant funds, rather than deducting the program income from the amount of the State's Part C grant. Any fees collected must be used for the purposes of the grant under Part C of the Act.

(2) Fees collected under a system of payments are considered neither State nor local funds under § 303.225(b).

(Authority: 20 U.S.C. 1432(4)(B), 1440)

Subpart G—State Interagency Coordinating Council

§ 303.600 Establishment of Council.

(a) A State that desires to receive financial assistance under Part C of the Act must establish a State Interagency Coordinating Council (Council) as defined in § 303.8.

(b) The Council must be appointed by the Governor. The Governor must ensure that the membership of the Council reasonably represents the population of the State.

(c) The Governor must designate a member of the Council to serve as the chairperson of the Council or require the Council to do so. Any member of the Council who is a representative of the lead agency designated under § 303.201 may not serve as the chairperson of the Council.

(Authority: 20 U.S.C. 1441(a))

§ 303.601 Composition.

(a) The Council must be composed as follows:

(1)(i) At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.

(ii) At least one parent member must be a parent of an infant or toddler with a disability or a child with a disability aged six years or younger.

(iii) A parent member may not be an employee of a public or private agency involved in providing early intervention services.

(2) At least 20 percent of the members must be public or private providers of early intervention services.

(3) At least one member must be from the State legislature.

(4) At least one member must be involved in personnel preparation.

(5) At least one member must—

(i) Be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(6) At least one member must—

(i) Be from the SEA responsible for preschool services to children with disabilities; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of the SEA.

(7) At least one member must be from the agency responsible for the State Medicaid program.

(8) At least one member must be from a Head Start or Early Head Start agency or program in the State.

(9) At least one member must be from a State agency responsible for child care.

(10) At least one member must be from the agency responsible for the State regulation of health insurance.

(11) At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

(12) At least one member must be a representative from the State child welfare agency responsible for foster care.

(13) At least one member must be from the State agency responsible for children's mental health.

(b) The Governor may appoint one member to represent more than one program or agency listed in paragraphs (a)(7) through (a)(13) of this section.

(c) The Council may include other members selected by the Governor, including a representative from the

Bureau of Indian Affairs (BIA) or, where there is no school operated or funded by the BIA, from the Indian Health Service or the tribe or tribal council.

(d) No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Authority: 20 U.S.C. 1441(b), 1441(f))

§ 303.602 Meetings.

(a) The Council must meet, at a minimum, on a quarterly basis, and in such places as it determines necessary.

(b) The meetings must—

(1) Be publicly announced, sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;

(2) To the extent appropriate, be open and accessible to the general public; and

(3) As needed, provide for interpreters for persons who are deaf and other necessary services for Council members and participants. The Council may use funds under this part to pay for those services.

(Authority: 20 U.S.C. 1441(c))

§ 303.603 Use of funds by the Council.

(a) Subject to the approval by the Governor, the Council may use funds under this part—

(1) To conduct hearings and forums;

(2) To reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives);

(3) To pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;

(4) To hire staff; and

(5) To obtain the services of professional, technical, and clerical personnel, as may be necessary to carry out the performance of its functions under Part C of the Act.

(b) Except as provided in paragraph (a) of this section, Council members must serve without compensation from funds available under Part C of the Act.

(Authority: 20 U.S.C. 1441(d))

§ 303.604 Functions of the Council—required duties.

(a) *Advising and assisting the lead agency.* The Council must advise and assist the lead agency in the performance of its responsibilities in section 635(a)(10) of the Act, including—

(1) Identification of sources of fiscal and other support for services for early intervention service programs under Part C of the Act;

(2) Assignment of financial responsibility to the appropriate agency;

(3) Promotion of methods (including use of intra-agency and interagency agreements) for intra-agency and interagency collaboration regarding child find under §§ 303.115 and 303.301, monitoring under § 303.120 and §§ 303.700 through 303.708, financial responsibility and provision of early intervention services under §§ 303.202 and 303.511, and transition under § 303.209; and

(4) Preparation of applications under this part and amendments to those applications.

(b) *Advising and assisting on transition.* The Council must advise and assist the SEA and the lead agency regarding the transition of toddlers with disabilities to preschool and other appropriate services.

(c) *Annual report to the Governor and to the Secretary.* (1) The Council must—

(i) Prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention service programs for infants and toddlers with disabilities and their families under Part C of the Act operated within the State; and

(ii) Submit the report to the Secretary by a date that the Secretary establishes.

(2) Each annual report must contain the information required by the Secretary for the year for which the report is made.

(Authority: 20 U.S.C. 1441(e)(1))

§ 303.605 Authorized activities by the Council.

The Council may carry out the following activities:

(a) Advise and assist the lead agency and the SEA regarding the provision of appropriate services for children with disabilities from birth through age five.

(b) Advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

(Authority: 20 U.S.C. 1441(e)(2))

Subpart H—Federal Administration and Allocation of Funds Monitoring, Technical Assistance, and Enforcement

§ 303.700 State monitoring and enforcement.

(a) The lead agency must—

(1) Monitor the implementation of this part;

(2) Make determinations annually about the performance of each EIS program using the categories identified in §§ 303.703(b);

(3) Enforce this part consistent with § 303.704, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in § 303.704(a)(1) (technical assistance) and (a)(2) (conditions on the lead agency's funding of EIS programs), (b)(2)(i) (corrective action or improvement plan) and (b)(2)(iv) (withholding of funds, in whole or in part by the lead agency), and (c)(2) (withholding of funds, in whole or in part by the lead agency); and

(4) Report annually on the performance of the State and of each EIS program under this part as provided in § 303.702.

(b) The primary focus of the State's monitoring activities must be on—

(1) Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and

(2) Ensuring that EIS programs meet the program requirements under Part C of the Act, with a particular emphasis on those requirements that are most closely related to improving early intervention results for infants and toddlers with disabilities.

(c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.

(d) The lead agency must monitor each EIS program located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Early intervention services in natural environments.

(2) State exercise of general supervision, including child find, effective monitoring, the use of resolution sessions (if the State adopts Part B due process hearing procedures under § 303.430(d)(2)), mediation, and a system of transition services as defined in section 637(a)(9) of the Act.

(e) In exercising its monitoring responsibilities under paragraph (d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by EIS

programs and providers, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification.

(Authority: 20 U.S.C. 1416(a), 1442)

§ 303.701 State performance plans and data collection.

(a) *General.* Each State must have in place the performance plan that meets the requirements described in section 616 of the Act, is approved by the Secretary, includes an evaluation of the State's efforts to implement the requirements and purposes of Part C of the Act and a description of how the State will improve implementation, and includes measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in § 303.700(d).

(b) Each State must review its State performance plan at least once every six years and submit any amendments to the Secretary.

(c) *Data collection.* (1) Each State must collect valid and reliable information as needed to report annually to the Secretary under § 303.702(b)(2) on the indicators established by the Secretary for the State performance plans.

(2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects data for a particular indicator through State monitoring or sampling, the State must collect and report data on those indicators for each EIS program at least once during the six-year period of the State performance plan.

(3) Nothing in Part C of the Act or these regulations may be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part C of the Act.

(Authority: 20 U.S.C. 1416(b), 1442)

§ 303.702 State use of targets and reporting.

(a) *General.* Each State must use the targets established in the State's performance plan under § 303.701 and the priority areas described in § 303.700(d) to analyze the performance of each EIS program in implementing Part C of the Act.

(b) *Public reporting and privacy* —(1) *Public report.* (i) Subject to paragraph (b)(1)(ii) of this section, the State must—

(A) Report annually to the public on the performance of each EIS program located in the State on the targets in the State's performance plan no later than 60 days following the State's submission of its annual performance report to the Secretary under paragraph (b)(2) of this section; and

(B) Make the State's performance plan under § 303.701(a), annual performance reports under paragraph (b)(2) of this section, and the State's annual reports on the performance of each EIS program under paragraph (b)(1)(i)(A) of this section available through public means, including by posting on the Web site of the lead agency, distribution to the media, and distribution to EIS programs.

(ii) If the State, in meeting the requirements of paragraph (b)(1)(i)(A) of this section, collects data through State monitoring or sampling, the State must include in its public report on EIS programs under paragraph (b)(1)(i)(A) of this section the most recently available performance data on each EIS program and the date the data were collected.

(2) *State performance report.* The State must report annually to the Secretary on the performance of the State under the State's performance plan.

(3) *Privacy.* The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

(Authority: 20 U.S.C. 1416(b)(2)(B)–(C), 1442)

§ 303.703 Secretary's review and determination regarding State performance.

(a) *Review.* The Secretary annually reviews the State's performance report submitted pursuant to § 303.702(b)(2).

(b) *Determination*—(1) *General.* Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State—

(i) Meets the requirements and purposes of Part C of the Act;

(ii) Needs assistance in implementing the requirements of Part C of the Act;

(iii) Needs intervention in implementing the requirements of Part C of the Act; or

(iv) Needs substantial intervention in implementing the requirements of Part C of the Act.

(2) *Notice and opportunity for a hearing.* (i) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations.

(ii) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Secretary should not make the determination described in paragraph (b)(1)(iii) or (iv) of this section.

(Authority: 20 U.S.C. 1416(d), 1442)

§ 303.704 Enforcement.

(a) *Needs assistance.* If the Secretary determines, for two consecutive years, that a State needs assistance under § 303.703(b)(1)(ii) in implementing the requirements of Part C of the Act, the Secretary takes one or more of the following actions:

(1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and require the State to work with appropriate entities. This technical assistance may include—

(i) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the areas of concern within a specified period of time;

(ii) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) Designating and using administrators, service coordinators, service providers, and other personnel from the EIS program to provide advice, technical assistance, and support; and

(iv) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

(2) Identifies the State as a high-risk grantee and imposes special conditions on the State's grant under Part C of the Act.

(b) *Needs intervention.* If the Secretary determines, for three or more consecutive years, that a State needs intervention under § 303.703(b)(1)(iii) in implementing the requirements of Part C of the Act, the following apply:

(1) The Secretary may take any of the actions described in paragraph (a) of this section.

(2) The Secretary takes one or more of the following actions:

(i) Requires the State to prepare a corrective action plan or improvement

plan if the Secretary determines that the State should be able to correct the problem within one year.

(ii) Requires the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended, 20 U.S.C. 1234f (GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iii) Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.

(iv) Withholds, in whole or in part, any further payments to the State under Part C of the Act.

(v) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(c) *Needs substantial intervention.* Notwithstanding paragraph (a) or (b) of this section, at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of Part C of the Act or that there is a substantial failure to comply with any requirement under Part C of the Act by the lead agency or an EIS program in the State, the Secretary takes one or more of the following actions:

(1) Recovers funds under section 452 of GEPA, 20 U.S.C. 1234a.

(2) Withholds, in whole or in part, any further payments to the State under Part C of the Act.

(3) Refers the case to the Office of Inspector General at the Department of Education.

(4) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(d) *Report to Congress.* The Secretary reports to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (a), (b), or (c) of this section, on the specific action taken and the reasons why enforcement action was taken.

(Authority: 20 U.S.C. 1416(e)(1)–(3), 1416(e)(5), 1442)

§ 303.705 Withholding funds.

(a) *Opportunity for hearing.* Prior to withholding any funds under Part C of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the lead agency involved, pursuant to the procedures in §§ 303.231 through 303.236.

(b) *Suspension.* Pending the outcome of any hearing to withhold payments under paragraph (a) of this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under Part C of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under Part C of the Act should not be suspended.

(c) *Nature of withholding*—(1) *Limitation.* If the Secretary determines that it is appropriate to withhold further payments under section 616(e)(2) or (e)(3) of the Act, the Secretary may determine—

(i) That such withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under § 303.703(b)(1); or

(ii) That the lead agency must not make further payments under Part C of the Act to specified State agencies or EIS providers that caused or were involved in the Secretary's determination under § 303.703(b)(1).

(2) *Withholding until rectified.* Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified—

(i) Payments to the State under Part C of the Act must be withheld in whole or in part; and

(ii) Payments by the lead agency under Part C of the Act must be limited to State agencies and EIS providers whose actions did not cause or were not involved in the Secretary's determination under § 303.703(b)(1).

(Authority: 20 U.S.C. 1416(e)(4), 1416(e)(6), 1442)

§ 303.706 Public attention.

Whenever a State receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to § 303.704 the State must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to section 616(e) and § 303.704 of the Act to the attention of the public within the State, including by posting the notice on the Web site of the lead agency and distributing the notice to the media and to EIS programs.

(Authority: 20 U.S.C. 1416(e)(7), 1442)

§ 303.707 Rule of construction.

Nothing in this subpart may be construed to restrict the Secretary from utilizing any authority under GEPA, 20 U.S.C. 1221 *et seq.*, and its regulations in 34 CFR parts 76, 77, 80 and 81, including the imposition of special conditions under 34 CFR 80.12, to monitor and enforce the requirements of the Act.

(Authority: 20 U.S.C. 1416(g), 1442)

§ 303.708 State enforcement.

Nothing in this subpart may be construed to restrict a State from utilizing any other authority available to it to monitor and enforce the requirements of the Act.

(Authority: 20 U.S.C. 1416(a)(1)(C), 1442)

Reports—Program Information

§ 303.720 Data requirements—general.

(a) The lead agency must annually report to the Secretary and to the public on the information required by section 618 of the Act at the times specified by the Secretary.

(b) The lead agency must submit the report to the Secretary in the manner prescribed by the Secretary.

(Authority: 20 U.S.C. 1418, 1435(a)(14), 1442)

§ 303.721 Annual report of children served—report requirement.

(a) For the purposes of the annual report required by section 618 of the Act and § 303.720, the lead agency must count and report the number of infants and toddlers receiving early intervention services on any date between October 1 and December 1 of each year. The report must include—

(1) The number and percentage of infants and toddlers with disabilities in the State, by race, gender, and ethnicity, who are receiving early intervention services (and include in this number any children reported to it by tribes, tribal organization, and consortia under § 303.731(e)(1));

(2) The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; and

(3) The number and percentage of at-risk infants and toddlers (as defined in section 632(1) of the Act) by race and ethnicity and who are receiving early intervention services under Part C of the Act.

(b) If a State adopts the option under section 635(c) of the Act and § 303.211 to make services under this part available to children ages three and older, the State must submit to the Secretary a report on the number and percentage of children with disabilities who are eligible for services under section 619 of the Act but whose parents choose for those children to continue to receive early intervention services.

(c) The number of due process complaints filed under section 615 of the Act, the number of hearings conducted and the number of mediations held, and the number of

settlement agreements reached through such mediations.

(Authority: 20 U.S.C. 1418(a)(1)(F) and (H), 1435(a)(14), 1435(c)(3), 1442)

§ 303.722 Data reporting.

(a) *Protection of identifiable data.* The data described in section 618(a) of the Act and in § 303.721 must be publicly reported by each State in a manner that does not result in disclosure of data identifiable to individual children.

(b) *Sampling.* The Secretary may permit States and outlying areas to obtain data in section 618(a) of the Act through sampling.

(Authority: 20 U.S.C. 1418(b), 1435(a)(14), 1442)

§ 303.723 Annual report of children served—certification.

The lead agency must include in its report a certification signed by an authorized official of the agency that the information provided under § 303.721 is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services.

(Authority: 20 U.S.C. 1418(a)(3), 1435(a)(14), 1442)

§ 303.724 Annual report of children served—other responsibilities of the lead agency.

In addition to meeting the requirements of §§ 303.721 through 303.723, the lead agency must—

(a) Establish procedures to be used by EIS providers in counting the number of children with disabilities receiving early intervention services;

(b) Establish dates by which those EIS providers must report to the lead agency to ensure that the State complies with § 303.721(a);

(c) Obtain certification from each EIS provider that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each EIS provider, and prepare the reports required under §§ 303.721 through 303.723; and

(e) Ensure that documentation is maintained to enable the State and the Secretary to audit the accuracy of the count.

(Authority: 20 U.S.C. 1418(a), 1435(a)(14), 1442)

Allocation of Funds

§ 303.730 Formula for State allocations.

(a) *Reservation of funds for outlying areas.* From the sums appropriated to carry out Part C of the Act for any fiscal year, the Secretary may reserve not more than one percent for payments to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands in accordance with their respective needs for assistance under Part C of the Act.

(b) *Consolidation of funds.* The provisions of the Omnibus Territories Act of 1977, Pub. L. 95–134, permitting the consolidation of grants to the outlying areas, do not apply to the funds provided under Part C of the Act.

(Authority: 20 U.S.C. 1443(a))

§ 303.731 Payments to Indians.

(a) *General.* (1) The Secretary makes payments to the Secretary of the Interior under Part C of the Act, which the Secretary of the Interior must distribute to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act, as amended, 25 U.S.C. 450b), or consortia of those entities, for the coordination of assistance in the provision of early intervention services by States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior.

(2) A tribe, tribal organization or consortium of those entities is eligible to receive a payment under this section if the tribe, tribal organization or consortium of those entities is on a reservation that is served by an elementary or secondary school operated or funded by the Secretary of the Interior.

(3) The amount of the payment to the Secretary of the Interior under this section for any fiscal year is 1.25 percent of the aggregate amount available to all States under Part C of the Act after the Secretary determines the amount of payments to be made to the jurisdictions under § 303.730(a).

(b) *Allocation.* For each fiscal year, the Secretary of the Interior must distribute the entire payment received under paragraph (a)(1) of this section by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of those children served by all tribes, tribal organizations, or consortia.

(c) *Information.* To receive a payment under this section, the tribe, tribal organization, or consortium must submit the appropriate information to the Secretary of the Interior to determine the amounts to be distributed under paragraph (b) of this section.

(d) *Use of funds.* (1) The funds received by a tribe, tribal organization, or consortium must be used to assist States in child find, screening, and other procedures for the early identification of Indian children under three years of age and for parent training. The funds also may be used to provide early intervention services in accordance with Part C of the Act. These activities may be carried out directly or through contracts or cooperative agreements with the Bureau of Indian Affairs, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities.

(2) The tribe, tribal organization, or consortium must, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(e) *Reports.* (1) To be eligible to receive a payment under paragraph (b) of this section, a tribe, tribal organization, or consortium must make a biennial report to the Secretary of the Interior of activities undertaken under this section, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the two years following the year in which the report is made. This report must include an assurance that the tribe, tribal organization, or consortium has provided the lead agency in the State child find information (including the names and dates of birth and parent contact information) for infants or toddlers with disabilities who are included in the report in order to meet the child find coordination and child count requirements in sections 618 and 643 of the Act.

(2) The Secretary of the Interior must include a summary of this information (including confirmation that each tribe, tribal organization, or consortium has provided to the Secretary of the Interior the assurance required under paragraph (e)(1) of this section) on a biennial basis to the Secretary along with such other information as required of the Secretary of the Interior under Part C of the Act. The Secretary may require any additional information from the Secretary of the Interior.

(3) Within 90 days after the end of each fiscal year the Secretary of the Interior must provide the Secretary with a report on the payments distributed under this section. The report must include—

(i) The name of each tribe, tribal organization, or combination of those entities that received a payment for the fiscal year;

(ii) The amount of each payment; and

(iii) The date of each payment.

(f) *Prohibited uses of funds*. None of the funds under this section may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

(Authority: 20 U.S.C. 1443(b))

§ 303.732 State allotments.

(a) *General*. Except as provided in paragraphs (b) and (c) of this section, for each fiscal year, from the aggregate amount of funds available under Part C of the Act for distribution to the States, the Secretary allots to each State an amount that bears the same ratio to the aggregate amount as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(b) *Minimum allocations*. Except as provided in paragraph (c) of this section, no State may receive less than 0.5 percent of the aggregate amount available under this section or $500,000, whichever is greater.

(c) *Ratable reduction*—(1) *General*. If the sums made available under Part C of the Act for any fiscal year are insufficient to pay the full amount that all States are eligible to receive under this section for that year, the Secretary ratably reduces the allotments to those States for such year.

(2) *Additional funds*. If additional funds become available for making payments under this section, allotments that were reduced under paragraph (c)(1) of this section will be increased on the same basis the allotments were reduced.

(d) *Definitions*. For the purpose of allotting funds to the States under this section—

(1) *Aggregate amount* means the amount available for distribution to the States after the Secretary determines the amount of payments to be made to the Secretary of the Interior under § 303.731 and to the outlying areas under § 303.730;

(2) *Infants and toddlers* means children from birth through age two in the general population, based on the most recent satisfactory data as determined by the Secretary; and

(3) *State* means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Authority: 20 U.S.C. 1443(c))

§ 303.733 Reallotment of funds.

If a State (as defined in § 303.33) elects not to receive its allotment, the Secretary reallots those funds among the remaining States (as defined in § 303.732(d)(3)), in accordance with § 303.732(c)(2).

(Authority: 20 U.S.C. 1443(d))

§ 303.734 Reservation for State incentive grants.

(a) *General*. For any fiscal year for which the amount appropriated pursuant to the authorization of appropriations under section 644 of the Act exceeds $460,000,000, the Secretary reserves 15 percent of the appropriated amount exceeding $460,000,000 to provide grants to States that are carrying out the policy described in section 635(c) of the Act and in § 303.211, in order to facilitate the implementation of that policy.

(b) *Amount of grant*—(1) *General*. Notwithstanding section 643(c)(2) and (c)(3) of the Act, the Secretary provides a grant to each State under this section in an amount that bears the same ratio to the amount reserved under paragraph (a) of this section as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States receiving grants under paragraph (a) of this section.

(2) *Maximum amount*. No State may receive a grant under paragraph (a) for any fiscal year in an amount that is greater than 20 percent of the amount reserved under that paragraph for the fiscal year.

(c) *Carryover of amounts pursuant to section 643(e)(3) of the Act*—(1) *First succeeding fiscal year*. Pursuant to section 421(b) of GEPA, 20 U.S.C. 1221 *et seq.*, amounts under a grant provided under paragraph (a) of this section that are not obligated and expended prior to the beginning of the first fiscal year succeeding the fiscal year for which those amounts were appropriated must remain available for obligation and expenditure during the first succeeding fiscal year.

(2) *Second succeeding fiscal year*. Amounts under a grant provided under paragraph (a) of this section that are not obligated and expended prior to the beginning of the second fiscal year succeeding the fiscal year for which those amounts were appropriated must be returned to the Secretary and used to make grants to States under section 633 of the Act (from their allotments identified in §§ 303.731 through 303.733) during the second succeeding fiscal year.

(Authority: 20 U.S.C. 1443)

[FR Doc. 07–2140 Filed 5–4–07; 8:45 am]

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