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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[Docket Number: AMS–CN–07–0060; CN–07–003]

RIN 0581–AC68

User Fees for 2007 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) will maintain user fees for cotton producers for 2007 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2006. The fee is calculated in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 2006 user fee for this classification service was $1.85 per bale. This rule would maintain the fee for the 2007 crop at $1.85 per bale. The fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision.

DATES: *Effective Date:* July 1, 2007.

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Deputy Administrator, Cotton Program, AMS, USDA, Room 2639–S, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250–0224. Telephone (202) 720–2145, facsimile (202) 690–1718, or e-mail *darryl.earnest@usda.gov*.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on April 19, 2007 (72 FR 19674). A 15-day comment period was provided for interested persons to respond to the proposed rule. During the 15-day comment period, one comment was received. A comment was received from a producers association in support of the proposed rule, the continued use of the legislative formula for establishing the cotton user fees, and the cotton classing services provided.

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures that may be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 30,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Continuing the user fee at the 2006 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee represents a very small portion of the cost-per-unit currently borne by those entities utilizing the services. (The 2006 user fee for classification services was $1.85 per bale; the fee for the 2007 crop would be maintained at $1.85 per bale; the 2007 crop is estimated at 19,900,000 bales).

(2) The fee for services will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 2006 crop, 21,729,000 bales were produced; and, almost all of these bales were voluntarily submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 2005 crop of 46.9 cents per pound, 500 pound bales of cotton are worth an average of $234.50 each. The proposed user fee for classification services, $1.85 per bale, is less than one percent of the value of an average bale of cotton.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this rule have been previously approved by OMB and were assigned OMB control number 0581–AC58.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.85 per bale during the 2006 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision.

This rule establishes the user fee charged to producers for HVI classification at $1.85 per bale during the 2007 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 2006. Therefore, the 2007 producer's user fee for classification service is based on the 2006 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 2006 base fee for HVI classification exclusive of adjustments, as provided by

the Act, was $2.45 per bale. An increase of 2.82 percent, or 7 cents per bale, due to the implicit price deflator of the gross domestic product added to the $2.45 would result in a 2007 base fee of $2.52 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2007 crop is estimated at 19,900,000 bales. The 2007 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum decreased adjustment of 15 percent). This percentage factor amounts to a 38 cents per bale reduction and was subtracted from the 2007 base fee of $2.52 per bale, resulting in a fee of $2.14 per bale.

However, with a fee of $2.14 per bale, the projected operating reserve would be 37.2 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $2.14 must be reduced by 29 cents per bale, to $1.85 per bale, to provide an ending accumulated operating reserve for the fiscal year of not more than 25 percent of the projected cost of operating the program. This would establish the 2007 season fee at $1.85 per bale.

Accordingly, § 28.909, paragraph (b) would reflect the continuation of the HVI classification fee at $1.85 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 would remain at 5 cents per bale. The fee in § 28.910(b) for an owner receiving classification data from the National database would remain at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the National database for the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of $5.00 per sheet.

The fee for review classification in § 28.911 would be maintained at $1.85 per bale. The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

Pursuant to 5 U.S.C. 553, good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because this rule maintains user fees for 2007 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2006 and a 15-day comment period was provided for public comment and one favorable comment was received.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

■ For the reasons set forth in the preamble, 7 CFR part 28 is amended as follows:

PART 28—[AMENDED]

■ 1. The authority citation for 7 CFR part 28, subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

■ 2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.85 per bale.

* * * * *

■ 3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.85 per bale.

* * * * *

Dated: May 30, 2007.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. E7–10675 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2007–0028]

Emerald Ash Borer; Quarantined Areas; Maryland

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the emerald ash borer regulations by adding Prince George's County, MD, to the list of areas quarantined because of emerald ash borer. As a result of this action, the interstate movement of regulated articles from that county is restricted. This action is necessary to prevent the artificial spread of the emerald ash borer from Prince George's County, MD, into noninfested areas of the United States.

DATES: This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

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

- *Federal eRulemaking Portal: Go to http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2007–0028 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to APHIS–2007–0028, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to APHIS–2007–0028.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you,

please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

The emerald ash borer (EAB) (*Agrilus planipennis*) is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, Taiwan, and Canada, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

Quarantined Areas

The EAB regulations in 7 CFR 301.53–1 through 301.53–9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of EAB to noninfested areas of the United States. The States of Illinois, Indiana, and Ohio and portions of the State of Michigan have already been designated as quarantined areas.

On August 22, 2006, two EAB larvae were recovered during an ongoing survey in Prince George's County, MD. Since then, EAB larvae have been recovered in three additional neighborhoods in Prince George's County. Officials of the U.S. Department of Agriculture (USDA) and officials of State and county agencies in Maryland are conducting intensive survey and eradication programs in the infested areas. The State of Maryland has quarantined Prince George's County to prevent the spread of EAB to noninfested areas in that State. However, Federal regulations are necessary to restrict the interstate movement of regulated articles from the quarantined areas to prevent the spread of EAB from Maryland to other States.

The regulations in § 301.53–3(a) provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, where EAB has been found by an inspector, where the Administrator has reason to believe that EAB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where EAB has been found.

Less than an entire State will be designated as a quarantined area only under certain conditions. Such a designation may be made if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles; and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of the EAB.

In accordance with these criteria and the recent EAB findings described above, we are amending § 301.53–3(c) to add Prince George's County, MD, to the list of quarantined areas.

Emergency Action

This rulemaking is necessary on an emergency basis to help prevent the spread of EAB to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register.**

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the EAB regulations by adding Prince George's County, MD, to the list of quarantined areas. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary to prevent the artificial spread of this plant pest into noninfested areas of the United States.

Ash trees are a valuable resource for the nursery, landscaping, and timber industries in Maryland. The Maryland Department of Natural Resources estimates that about 20 percent of streamside trees in the State are ash trees. Ash trees account for over 3 percent of trees in naturally wooded areas. Ash wood is used for all traditional applications of hardwood from flooring and cabinets to baseball bats. The USDA has estimated that losses could reach almost $300 million in the Baltimore metropolitan area alone if EAB becomes established in the nearby county of Baltimore and the surrounding counties. It is estimated that the eradication efforts in the county of Prince Georges will cost more than $4 million in Federal funding.[1]

This interim rule will affect business entities located within Prince George's County, MD. According to the U.S. Agricultural Census, in 2002 there were 22 nurseries in this county.[2] The exact number and size of any other affected entity or operation that will be subject to movement restriction in the quarantined area is unknown. However, only restricted articles moved out of the quarantine area will be affected.

It is reasonable to assume that most of the nurseries are small in size according to the U.S. Small Business Administration's standards. The small business size standard based upon the North American Industry Classification System (NAICS) code 111421 (nursery and tree production) is $750,000 or less in annual receipts. The small business size standard based upon NAICS code 113210 (forest nursery and gathering of forest products, including nursery operations that sell deciduous shade trees) is $5 million or less in annual receipts.[3] The small business size standard based upon NAICS code 113310 (logging operations) is 500 or fewer persons employed by the operation.

Under the regulations, regulated articles may be moved interstate from a quarantined area into or through an area that is not quarantined only if they are accompanied by a certificate or limited permit. An inspector or a person operating under a compliance agreement will issue a certificate for interstate movement of a regulated article if certain conditions are met, including that the regulated article is determined to be apparently free of EAB.

Businesses could be affected by the regulations in two ways. First, if a business wishes to move regulated articles interstate from a quarantined area, that business must either: (1) Enter

[1] *See http://www.naturalresources.umd.edu/ashborer.cfm.*

[2] 2002 U.S. Agricultural Census, State and County Data, Maryland, table 34, page 298.

[3] ''Nursery Crops: 2003 Summary'' National Agricultural Statistics Service, USDA, July 2004.

into a compliance agreement with APHIS for the inspection and certification of regulated articles to be moved interstate from the quarantined area; or (2) present its regulated articles for inspection by an inspector and obtain a certificate or a limited permit, issued by the inspector, for the interstate movement of regulated articles. The inspections may be inconvenient, but they should not be costly in most cases, even for businesses operating under a compliance agreement that would perform the inspections themselves. For those businesses that elect not to enter into a compliance agreement, APHIS would provide the services of the inspector without cost during normal business hours. There is also no cost for the compliance agreement, certificate, or limited permit for the interstate movement of regulated articles.

Second, there is a possibility that, upon inspection, a regulated article could be determined by the inspector to be potentially infested with EAB, and, as a result, the article would be ineligible for interstate movement under a certificate. In such a case, the entity's ability to move regulated articles interstate would be restricted. However, the affected entity could conceivably obtain a limited permit under the conditions of § 301.53–5(b).

Our experience with administering the EAB regulations and the regulations for other pests, such as the Asian longhorned beetle, that impose essentially the same conditions on the interstate movement of regulated articles lead us to believe that any economic effects on affected small entities will be small and are outweighed by the benefits associated with preventing the spread of EAB into noninfested areas of the United States.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

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

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.53–3, paragraph (c) is amended by adding, in alphabetical order, an entry for Maryland to read as follows:

§ 301.53–3 Quarantined areas.

* * * * *

(c) * * *

Maryland

Prince George's County. The entire county.

* * * * *

Done in Washington, DC, this 25th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–10560 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2006–0129]

RIN 0579–AC32

Wood Packaging Material; Treatment Modification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations for the importation of unmanufactured wood articles to bring the methyl bromide treatment schedule into alignment with current international phytosanitary standards. This action is necessary because international phytosanitary standards have changed and the regulations need to be updated to reflect current standards.

DATES: This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0129 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0129, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0129.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Mr. Hesham Abuelnaga, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–0627.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart-Logs, Lumber, and Other Unmanufactured Wood Articles'' (7 CFR 319.40 through 319.40–11, referred to below as the regulations) govern the importation of various logs, lumber, and other unmanufactured wood products into the United States. The regulations in § 319.40–3 cover general permits, including the requirements for articles that may be imported without specific permits or importer documents. Paragraph (b) of that section covers the requirements for regulated wood packaging material, including requirements for treating wood packaging material. The treatment and other requirements of § 319.40–3(b) are intended to be consistent with the International Standards for Phytosanitary Measures No. 15, ''Guidelines for Regulating Wood Packaging Material in International Trade'' (ISPM 15). ISPM 15 is an international standard for wood packaging material established by the International Plant Protection Convention (IPPC). Under ISPM 15 and our regulations, all regulated wood packaging material must be appropriately treated and marked under an official program developed and overseen by the national plant protection organization of the country of export.

One of the treatments in § 319.40–3(b) is fumigation with methyl bromide. The methyl bromide treatment schedule in the regulations is the schedule that was in ISPM 15 at the time the regulations became effective. However, in April 2006, the membership of the IPPC—which includes the United States—adopted an amendment to ISPM 15 that modified the methyl bromide treatment standard to improve its efficacy. The modification changed the exposure time from 16 to 24 hours and adjusted the concentration readings per cubic meter accordingly; the dosage rate of methyl bromide remains unchanged. As a member of the standards committee of the IPPC, we agreed with this change to the standard. Therefore, in order for our regulations to remain consistent with ISPM 15 and provide for a more effective treatment, we are amending the methyl bromide treatment schedule that appears in § 319.40–3(b). The updated schedule is presented in the regulatory text at the end of this document.

Immediate Action

Immediate action is necessary to update the regulations so that the prescribed treatment for wood packaging materials is consistent with international standards. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations for the importation of unmanufactured wood articles to bring the methyl bromide treatment schedule into alignment with current international phytosanitary standards. This action is necessary because international phytosanitary standards have changed and the regulations need to be updated to reflect current standards.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 603 of the Act requires an agency to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the expected impact of a proposed rule on small entities, unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. APHIS has prepared this IRFA in order that the public may have the opportunity to offer comments on expected small-entity effects of this interim rule. We address here items as required by section 603(b) of the Regulatory Flexibility Act.

This rule will affect foreign exporters of goods that are shipped using wood packaging materials. No U.S. entities involved in the production or supply of unmanufactured wood packaging materials are expected to be negatively impacted by this rule because the revised treatment must occur in the country of origin. The impact on foreign entities is not expected to be large because only the treatment time and concentration reading have been changed; the methyl bromide dosage rate remains the same. It is possible that these foreign entities might pass on additional treatment costs, if any, to U.S. buyers. We welcome information that the public may offer that would either confirm or challenge the Agency's determination that effects, if any, on U.S. entities will be minimal.

The interim rule has no mandatory reporting, recordkeeping, or other compliance requirements for U.S. entities, other than the requirements that normally pertain to commodity importation. APHIS has not identified any duplication, overlap, or conflict of the interim rule with other Federal rules.

We do not foresee the interim rule having a significant economic impact on small entities, and therefore have not proposed significant alternatives to minimize impacts. The rule will simply align the U.S. methyl bromide treatment requirements for wood packaging materials with the standards established by the IPPC.

This interim rule will benefit the United States by reducing the risk of introduction of pests via unmanufactured wood packaging materials. It may impact foreign exporters of goods to the United States who use unmanufactured wood packaging materials, which in turn may affect importers of these goods. However, cost increases, if any, due to the revised treatment requirements are not expected to significantly affect domestic entities and thus will not have a measurable impact on the flow of trade. We welcome information that the public may offer that would allow the Agency to better determine the effect, if any, that the interim rule will have on U.S. small entities.

Executive Order 12988

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

National Environmental Policy Act

Section 1508.4 of the Council on Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) implementing regulations define categorical exclusion as a ''category of actions which do not individually or cumulatively have a significant effect on the human environment and which

have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (section 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.''

The changes to the treatment schedule do not increase the application rate for methyl bromide, but they do increase the length of time for the fumigation. The increase in time to 24 hours does not require more usage of methyl bromide if the fumigation enclosure is sealed well and the fumigation is conducted properly. The decrease in required concentrations over time within the fumigation enclosure in the revised treatment schedule makes allowance for additional adsorption of methyl bromide to the wood that occurs over the extended time period. APHIS also notified the Environmental Protection Agency (EPA) of this change. The EPA responded that it does not consider the change to be significant. Based on this information, we have determined this revision meets the definition of a categorically excluded action under CEQ's regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The record of categorical exclusion determination may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 319

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

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

PART 319—FOREIGN QUARANTINE NOTICES

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

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

■ 2. In § 319.40–3, paragraph (b)(1)(ii), including the table, is revised to read as follows:

§ 319.40–3 General permits; articles that may be imported without either a specific permit or an importer document.

* * * * *

(b) * * *

(1) * * *

(ii) Fumigated with methyl bromide in an enclosed area for at least 24 hours at the following dosage, stated in terms of grams of methyl bromide per cubic meter of the enclosure being fumigated. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with the label instructions approved by the U.S. Environmental Protection Agency:

Temperature (°C/°F)	Dosage (g/m^3)	Minimum required concentration g/m^3 after:				
		0.5 hr	2 hrs	4 hrs	12 hrs	24 hrs
21/70 or above	48	36	36	31	28	24
16/61 or above	56	42	42	36	32	28
10/50 or above	64	48	48	42	36	32

The minimum temperature should not be less than 10 °C/50 °F and the minimum exposure time should be 24 hours.

* * * * *

Done in Washington, DC, this 25th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–10559 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2006–0125]

RIN 0579–AC39

Importation of Emerald Ash Borer Host Material From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are establishing regulations to prohibit or restrict the importation of certain articles from Canada that present a risk of being infested with emerald ash borer. This action is necessary to prevent the artificial spread of this plant pest from infested areas in Canada to noninfested areas of the United States and to prevent further introductions of this plant pest into the United States.

DATES: This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

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

Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0125 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies)

to Docket No. APHIS–2006–0125, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to APHIS–2006–0125.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Mr. Hesham Abuelnaga, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–6334.

SUPPLEMENTARY INFORMATION:

Background

The emerald ash borer (EAB, *Agrilus planipennis*) is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, and Taiwan, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

EAB was first found in North America in ash trees in several counties in Michigan in July 2002, and subsequently in a small area in Ontario, Canada. On October 14, 2003, we published an interim rule in the **Federal Register** (68 FR 59082–59091, Docket No. 02–125–1) in which we quarantined 13 counties in Michigan and placed restrictions on the interstate movement of regulated articles from those quarantined areas to prevent the artificial spread of EAB to other States. Additional detections of EAB were made in Ohio in November 2003, in Indiana in April 2004, and in Illinois in June 2006. Subsequent interim rules[1] have extended the quarantined area to additional counties in Michigan, and to the entire States of Illinois, Indiana, and Ohio. Officials of the United States Department of Agriculture (USDA) and of State, county, and city agencies have been conducting intensive survey and eradication programs in the infested areas in the affected States. Illinois, Indiana, Michigan, and Ohio have quarantined the EAB-infested areas and imposed restrictions on the intrastate movement of certain articles from the regulated areas to prevent the artificial spread of EAB within each State. Similarly, provincial officials in Ontario and officials of the Canadian Food Inspection Agency (CFIA) have been conducting extensive survey and eradication activities in the infested areas in Ontario. Plant health officials in the United States and Canada have been working cooperatively to establish a regulatory framework to address the risk of the artificial spread of EAB between the two countries.

The regulations in 7 CFR part 319, ''Foreign Quarantine Notices,'' prohibit or restrict the importation of certain plants and plant products to prevent the introduction or dissemination of plant pests and noxious weeds into the United States. In order to prevent the artificial spread of EAB from Canada into noninfested areas of the United States, we are amending our regulations in part 319 to restrict or prohibit the importation of EAB host material into the United States from EAB-infested areas of Canada. These requirements are consistent with the requirements imposed by the CFIA with respect to the importation into Canada of EAB host material from EAB-infested areas of the United States.

Nursery Stock

The regulations contained in ''Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

Nursery stock, plants, and other propagative plant material that cannot be feasibly inspected, treated, or handled to prevent them from introducing plant pests new to or not known to be widely prevalent in or distributed within and throughout the United States are listed in § 319.37–2 as prohibited articles. Prohibited articles may not be imported into the United States unless imported by the USDA for experimental or scientific purposes, or under specified safeguards.

Ash nursery stock imported into the United States from areas in Canada regulated under the Canadian Ministry of Agriculture and the CFIA's EAB Infested Place Orders[2] presents a significant risk of spreading the pest; therefore, we are amending § 319.37–2 to list any ash nursery stock originating in these EAB-regulated areas in Canada as prohibited articles. Previously, we believed that small ash trees (trees smaller than 460 millimeters or approximately 18 inches in height and half an inch or less in diameter) could not serve as a host for the pest. However, subsequently we found EAB on ash stock that measured less than half an inch in diameter. Therefore, we are prohibiting the importation into the United States of all ash trees, regardless of size, that originate in regions regulated by the CFIA under the EAB Infested Place Orders because of EAB. We have amended the entry for articles of the genus *Fraxinus* in the table of prohibited articles in paragraph (a) of § 319.37–2 to indicate these restrictions.

Alternately, nursery stock, plants, and other propagative plant material that can be inspected, treated, or handled to prevent them from spreading plant pests are designated in the regulations as restricted articles. Paragraph (a) of § 319.37–3 lists restricted articles that may be imported or offered for importation into the United States after issuance of a written permit by the Plant Protection and Quarantine programs, Animal and Plant Health Inspection Service (APHIS). We are adding a provision to this section to require that ash nursery stock that originates in counties or municipal regional counties not regulated for EAB but which are within Provinces or Territories in Canada regulated for EAB may only be imported after issuance of an import permit by APHIS. Nursery stock originating in unaffected Provinces or Territories (*i.e.*, Provinces or Territories without areas regulated for EAB) and seeds of *Fraxinus* spp. from anywhere in Canada present little risk of spreading EAB into the United States and will not require import permits. We are adding a new paragraph (a)(19) to § 319.37–3 to reflect these changes.

Paragraph (a) of § 319.37–4 of the regulations states that, except for small lots of seed imported in accordance with § 319.37–4(d), any restricted article offered for importation into the United States must be accompanied by a

[1] These interim rules were published January 4, 2005 (70 FR 249–253, Docket No. 02–125–2), March 3, 2005 (70 FR 10315–10318, Docket No. 02–125–3), October 31, 2005 (70 FR 62230–62232, Docket No. 05–067–1), May 24, 2006 (71 FR 29762–29766, Docket No. APHIS–2006–0046), October 2, 2006 (71 FR 57871–57873, Docket No. APHIS–2006–0131), and April 2, 2007 (72 FR 15597–15598, Docket No. APHIS–2007–0005).

[2] Infested Place Orders are the means by which the CFIA regulates EAB-infested areas within Canada. Links to the Infested Place Orders for the infested areas in Canada and other information about Canada's EAB program can be viewed online at the CFIA's Web site at *http://www.inspection.gc.ca/english/plaveg/pestrava/agrpla/agrplae.shtml.*

phytosanitary certificate or, in the case of certain greenhouse-grown plants from Canada, a certificate of inspection in the form of a label. Paragraph (c) of § 319.37–4 lists the requirements for importing certain greenhouse-grown plants from Canada without a phytosanitary certificate.

Considering the serious threat posed by EAB, we believe it is necessary to require all ash nursery stock-including greenhouse-grown ash nursery stock-from Canada that is eligible for importation (*i.e.*, ash nursery stock that does not originate in an EAB-regulated county or municipal regional county within a Canadian Province or Territory) to be accompanied by a phytosanitary certificate of inspection, as defined in § 319.37–1. The phytosanitary certificate must include an additional declaration stating that the material was produced or harvested in a county or municipal regional county where EAB does not occur.

Ash Logs and Wood and Ash Wood and Bark Chips

The regulations in ''Subpart-Logs, Lumber, and Other Unmanufactured Wood Articles'' (7 CFR 319.40–1 through 319.40–11, referred to below as the regulations) are intended to mitigate the plant pest risk presented by the importation of logs, lumber, and other unmanufactured wood articles.

Under the regulations in § 319.40–2, logs, lumber, and other unmanufactured wood articles must be imported with the following: (1) A permit and (2) an importer document that lists the genus and species of the tree from which the regulated article was derived, the country and locality, if known, where the tree from which the regulated article was derived was harvested, the quantity of the regulated article to be imported, the use for which the regulated article is imported, and any treatments or handling of the regulated article required by the regulations that were performed prior to arrival at the port of first arrival. These requirements are intended to protect against the introduction of plant pests, including EAB, into the United States.

However, the provisions of § 319.40–2 have not applied to ash logs, lumber, and other unmanufactured wood articles imported into the United States from Canada which only require a general permit under § 319.40–3(a). Other than regulated articles of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae, and pine articles from regions regulated for pine shoot beetle (*Tomicus pinniperda*) on their way to a facility operating under a compliance agreement for specified treatment or handling, currently regulated articles from Canada covered by the general permit need only be accompanied by an importer document stating that they were derived from trees harvested in Canada and have never been moved outside Canada. Therefore, we are amending § 319.40–3 to exclude regulated articles of the genus *Fraxinus* from Canada from eligibility for importation under general permit, and we are specifying provisions for the importation of these articles in a new paragraph (n) of § 319.40–5.

Section 319.40–5 sets out importation and entry requirements for articles that require more specific conditions for importation. Since there are particular risks associated with the importation of various articles derived from trees of the genus *Fraxinus,* we are adding the measures described below in a new paragraph (n) to mitigate these risks. Regulated articles of the genus *Fraxinus* (ash) from Canada may only be imported in accordance with these measures and subject to the certification requirements in § 319.40–2(a) and the inspection and other requirements in § 319.40–9.

Studies by the USDA and independent researchers have shown that EAB larvae do not survive the grinding process in wood or bark chips that are less than 1 inch in diameter. Wood and bark chips this size are also too small to support EAB larval growth. Therefore, the risk of pest introduction associated with these wood and bark chips is low. For this reason we are allowing wood and bark chips that measure 1 inch or less in two dimensions to be imported into the United States under the conditions described below. Additionally, we are designating all hardwood species of firewood as regulated articles because as hardwood is dried and cut into firewood, it is difficult to identify the *Fraxinus* (ash) species from other species of tree from which the firewood was derived.

Canada may refer to regions within recognized legal boundaries within a Province or Territory as ''counties'' or ''municipal regional counties;'' for the sake of clarity and simplicity, we refer to those regions simply as counties. Under this rule, the following requirements apply to specified articles:

- *Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in an EAB-regulated county within a Province or Territory regulated for EAB by the CFIA* require a permit and must be accompanied by a phytosanitary certificate with an additional declaration stating that the articles in the shipment were (1) debarked, and vascular cambium was removed to a depth of 1.27 cm (½ inch) during the debarking process, or (2) heat treated in accordance with § 319.40–7(c). If articles were heat-treated, the method of treatment must be described in the treatment section of the certificate.
- *Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county not regulated for EAB within a Province or Territory regulated for the EAB by the CFIA* require an import permit and must be accompanied by a phytosanitary certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county where the EAB does not occur, based on official surveys.
- *Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for EAB by the CFIA* must be accompanied by an importer document that certifies that the article did not originate in a Province or Territory known to be affected with EAB. Since articles from unaffected Provinces or Territories present little risk of carrying EAB, we are not requiring a permit or phytosanitary certificate for these items.
- *Ash wood chips or bark chips larger than 1 inch (2.54 cm) in diameter in any two dimensions that originate in an EAB-regulated county within a Province or Territory that is regulated for EAB by the CFIA* are prohibited importation into the United States.
- *Ash wood chips or bark chips 1 inch (2.54 cm) or less in diameter that originate in an EAB-regulated county within a Province or Territory that is regulated for EAB by the CFIA* require a permit and must be accompanied by a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.
- *Ash wood chips or bark chips that originate in a county not regulated for EAB within a Province or Territory regulated for EAB by the CFIA* require a permit and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county where the EAB does not occur, based on official surveys.
- *Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for EAB by the CFIA* must be accompanied by an importer

document that certifies that the article did not originate in a Province or Territory known to be affected by EAB. Since articles from unaffected Provinces or Territories present little risk of carrying EAB, we are not requiring a permit or a certificate for these items.

Articles being moved through Canada from counties not regulated for EAB may not transit an EAB-regulated area in Canada en route to the United States unless they are moved directly through the regulated area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the EAB-regulated area in Canada between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the EAB.

Miscellaneous

Section 319.40–1 provides definitions for terms that apply to all of the regulations in the subpart. The definition of *certificate* details the information that must be provided on certificates of inspection, which includes a description of the restricted articles intended to be imported into the United States as well as any specific additional declarations that may be required by the specific sections of the regulations. We are amending the definition of certificate to specify that the certificate is addressed to Plant Protection and Quarantine Programs, the national plant protection organization of the United States. We are doing this for purposes of clarity.

Emergency Action

Immediate action is necessary to prevent the spread of EAB into noninfested regions of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this interim rule on small entities. Based on the information we have, there is no reason to conclude that this rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the economic impacts of this rule on small entities. Therefore, we are inviting comments on potential economic impacts. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this rule.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

This interim rule amends the regulations to prohibit or restrict the importation of certain articles from Canada that present risk of being infested with EAB. This action is necessary on an emergency basis to prevent the spread of the pest from infested areas in Canada to noninfested areas of the United States, and to prevent further introductions of the pest into the United States.

The EAB has been found in ash trees in counties in Michigan, Ohio, Illinois, and Indiana in the United States, and in Essex County, Ontario, Canada. The economic impact could be severe if the EAB is allowed to spread from infested areas to the surrounding forests of the northeastern United States, where nursery, landscaping, and timber industries, and forest-based recreation and tourism industries play a vital economic role. APHIS's EAB import requirements are consistent with the EAB import requirements imposed by the CFIA with respect to the importation of EAB host material from the United States into Canada.

As a result of this rule, importation into the United States of ash nursery stock, and wood chips and bark chips larger than 1 inch in diameter is prohibited from the EAB-regulated areas in Canada. Additional documentation is required for all products from both EAB-regulated and non-regulated areas in Canada (table 1).

Ash logs and wood imported from EAB-regulated counties in Canada will require a permit and phytosanitary certificate, and an appropriate treatment of the wood. Thus, businesses in the regulated counties in Canada that wish to export ash logs and wood to the United States will have to incur additional costs for heat treatment or debarking. The cost of heat treatment has been estimated at $10.40 to $23.75 per cubic meter (35.314 cubic feet) of treated wood and the cost of debarking has been estimated at $2 per cubic meter of wood. However, the regulations still provide for the importation of products from non-regulated counties and Provinces/Territories in accordance with the provisions outlined in this interim rule.

TABLE 1.—REQUIREMENTS FOR ASH PRODUCTS IMPORTED INTO THE UNITED STATES FROM EAB-REGULATED AND NON-REGULATED AREAS IN CANADA

Ash product	Regulated counties	Non-regulated counties
Ash nursery stock	Prohibited	Permit or phytosanitary certificate.
Ash logs and wood	Permit and phytosanitary certificate, and debarked or heat treated.	Importer document.
Ash wood chips and bark chips larger than 1 inch in diameter.	Prohibited	Importer document.
Ash wood chips and bark chips less than 1 inch in diameter.	Importer document and phytosanitary certificate.	Importer document.

U.S. Wood Imports From Canada

In 2005, the value of wood imports into the United States from Canada was $14.2 billion. This represented 60 percent of the value of all wood imports into the United States ($23.8 billion) (U.S. Trade Statistics, 2007). Lumber accounted for 49 percent of wood imports into the United States from Canada, valued at $6.93 billion in 2005. However, 95 percent of this value accrued to coniferous wood, while non-coniferous wood accounted for only 5 percent. The volume of ash wood lumber imports from Canada was 5,937 m^3, with a value of $1.74 million. This represented only 0.03 percent of value and 0.002 percent of volume of lumber imports from Canada. Thus, this rule will affect less than 1 percent of United States lumber imports from Canada. Imports of non-coniferous wood chips from Canada amounted to $5.94 million in 2005. However, the percentage of non-coniferous wood chips derived from ash is not reported.

Ontario accounted for 10 percent of the value of United States lumber imports from Canada in 2005, in Canadian dollars. This estimate includes all woods, and data are not available for ash specifically. Essex, Elgin, and Lambton Counties, Ontario, are regulated for EAB by CFIA. These three counties, which are located at the southern tip of Ontario, are the least forested counties in southern Canada, and relatively little nursery stock has traditionally moved from these counties to either the United States or other parts of Canada.

Affected Entities

The Small Business Administration (SBA) has established size criteria based on the North American Industry Classification System (NAICS) for determining which economic entities meet the definition of a small firm. The small entity size standard for nursery and tree production (NAICS code 111421) is $750,000 or less in annual receipts, and $6 million or less in annual receipts for forest nurseries and gathering of forest products (NAICS code 113210). The SBA classifies logging operations (NAICS code 113310), sawmills (NAICS code 321113), and wood product manufacturers (NAICS subsector 321) generally as small entities if they have 500 or fewer employees.

APHIS does not have an estimate of the number of these types of entities that would be affected by the rule. Since the EAB only infests certain species of trees, only a subset of the logging, wood manufacturing, and nursery and seedling operations would potentially be affected, and only to the extent that products are imported from the areas in Canada affected by the rule. Because most businesses engaged in tree or lumber production or wood product manufacturing are small entities, we expect that firms affected by this rule will primarily be small in size. APHIS welcomes information that the public is able to provide regarding the number and size of firms that may be impacted.

Alternatives

There are no significant alternatives to this rule that would meet the objective of reducing the pest risk of importing articles from Canada that are infested with EAB, while minimizing economic impacts for affected entities. Pest risks associated with ash logs and wood, and ash wood chips and bark chips less than 1 inch in diameter, could be addressed by simply prohibiting their importation from Canada, but this could put unwarranted restrictions on international trade since debarking, heat treatment, and grinding into chips have been shown to kill EAB effectively, thus reducing the pest risk associated with such importations. Conversely, allowing importation of ash nursery stock and ash wood chips larger than 1 inch in diameter from regulated Canadian counties, even with treatment, would yield unacceptable risks of EAB introduction. The documentation and treatment requirements of the interim rule best satisfy our phytosanitary objectives while minimizing economic impacts for United States entities, large or small.

This interim rule contains certain information collection or recordkeeping requirements (see ''Paperwork Reduction Act'' below).

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0319 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. APHIS–2006–0125, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. APHIS–2006–0125 and send your comments within 60 days of publication of this rule.

This interim rule establishes regulations to prohibit or restrict the importation of certain articles from Canada that present a risk of being infested with EAB. This interim rule is necessary to prevent the artificial spread of plant pests from infested areas in Canada to noninfested areas of the United States and to prevent further introductions of plant pests into the United States. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.6 hours per response.

Respondents: Importers, officials of CFIA, and nursery industry.

Estimated annual number of respondents: 5.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 5.

Estimated total annual burden on respondents: 3 hours. (Due to averaging,

the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 319

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

■ Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

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

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

■ 2. In § 319.37–2, paragraph (a), the table entry for ''Fraxinus spp. (ash)'' is revised to read as follows:

§ 319.37–2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* *	* * *	* *
Fraxinus spp. (ash)	Any county or municipal regional county in Canada regulated because of the emerald ash borer.	*Agrilus planipennis* (emerald ash borer).
	Europe	*Pseudomonas savastanoi* var. *fraxini* (Brown) Dowson (Canker and dwarfing disease of ash).
* *	* * *	* *

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■ 3. Section 319.37–3 is amended as follows:

■ a. In paragraph (a) (17), by removing the word ''and'' at the end of the paragraph.

■ b. In paragraph (a)(18), by removing the period at the end of the paragraph and adding the word ''; and'' in its place.

■ c. By adding a new paragraph (a)(19) to read as set forth below.

§ 319.37–3 Permits.

(a) * * *

(19) Articles (except seeds) of *Fraxinus* spp. (ash) from counties or municipal regional counties in Canada that are not regulated for emerald ash borer (EAB) but are within an EAB-regulated Province or Territory and are not prohibited under § 319.37–2(a).

* * * * *

§ 319.37–4 [Amended]

■ 4. In § 319.37–4, the introductory text of paragraph (c) is amended by removing the word ''A'' and adding the words ''With the exception of *Fraxinus* spp. (ash) plants, a'' in its place.

§ 319.40–1 [Amended]

■ 5. In § 319.40–1, the definition of *certificate* is amended by adding the words ''which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs),'' after the word ''grown,''.

■ 6. In § 319.40–3, a new paragraph (a)(1)(i)(C) is added to read as follows:

§ 319.40–3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

(a) * * *

(1) * * *

(i) * * *

(C) Regulated articles of *Fraxinus* spp. (ash), which are subject to the requirements in § 319.40–5(n).

* * * * *

■ 7. In 319.40–5, a new paragraph (n) is added and the OMB citation at the end of the section is revised to read as follows:

§ 319.40–5 Importation and entry requirements for specified articles.

* * * * *

(n) *Regulated articles of the genus Fraxinus from Canada.* Except for articles prohibited under paragraph (n)(4) of this section, regulated articles of the genus *Fraxinus* (ash) from Canada may be imported in accordance with this paragraph (n) and subject to the certification requirements in § 319.40–2(a) and the inspection and other requirements in § 319.40–9. Articles being moved from counties or municipal regional counties in Canada not regulated for the emerald ash borer (EAB) may not transit an EAB-regulated area in Canada en route to the United States unless they are moving directly through the EAB-regulated area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs). If these articles are being moved through the regulated area between May 1 and August 31 or when the ambient air temperature is 40 °F or higher, they must be in an enclosed vehicle or completely covered to prevent access by the emerald ash borer.

(1) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated by the Canadian Government for the emerald ash borer require a permit issued under § 319.40–2(a) and must be accompanied by a certificate bearing an additional declaration that the articles in the shipment were:

(i) Debarked, and vascular cambium removed to a depth of 1.27 cm (½ inch) during the debarking process; or

(ii) Heat treated in accordance with § 319.40–7(c). The phytosanitary certificate accompanying such articles must describe the treatment method employed.

(2) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer require a permit issued under

§ 319.40–2(a) and must be accompanied by a certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(3) Firewood of all hardwood (non-coniferous) species, and ash logs and wood, including cants and stumps, that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originated in a county or municipal regional county free of the emerald ash borer.

(4) The importation of ash wood chips or bark chips larger than 1 inch diameter in any two dimensions that originate in a county or municipal regional county regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer is prohibited.

(5) Ash wood chips or bark 1 inch or less in diameter that originate in an area regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under § 319.40–2(a) and a phytosanitary certificate with an additional declaration stating that the wood or bark chips in the shipment were ground to 1 inch (2.54 cm) or less in diameter in any two dimensions.

(6) Ash wood chips or bark chips that originate in a county or municipal regional county not regulated for the emerald ash borer within a Province or Territory regulated for the emerald ash borer must be accompanied by a permit issued under § 319.40–2(a), and a valid certificate with an additional declaration stating that the articles in the shipment were produced/harvested in a county or municipal regional county where the emerald ash borer does not occur, based on official surveys.

(7) Ash wood chips or bark chips that originate in a Province or Territory that is not regulated for the emerald ash borer must be accompanied by an importer document that certifies that the article originates in a Province or Territory free of the emerald ash borer.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0257, and 0579–0319).

Done in Washington, DC, this 25th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–10562 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2006–0104]

Classical Swine Fever Status of the Mexican State of Nayarit

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for importing animals and animal products by adding the Mexican State of Nayarit to the list of regions considered free of classical swine fever (CSF). We are also adding Nayarit to the list of CSF-free regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF. These actions relieve restrictions on the importation into the United States of pork, pork products, live swine, and swine semen from Nayarit while continuing to protect against the introduction of this disease into the United States.

DATES: *Effective Date:* June 18, 2007.

FOR FURTHER INFORMATION CONTACT: Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services-Import, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 2007, we published in the **Federal Register** (72 FR 4463–4467, Docket No. APHIS–2006–0104) a proposal [1] to amend the regulations for importing animals and animal products in 9 CFR part 94 by adding the Mexican State of Nayarit to the list of regions considered free of classical swine fever (CSF) in § 94.25, and adding Nayarit to the list of CSF-free regions in §§ 94.9 and 94.10 whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF.

On February 22, 2007, we published a document in the **Federal Register** (72 FR 7934, Docket No. APHIS–2006–0104) correcting two instances in the preamble of our proposed rule where we erroneously mentioned adding Nayarit to a list of CSF-affected regions, which we should have referred to as a list of CSF-free regions.

We solicited comments concerning our proposal for 60 days ending April 2, 2007. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule adds Nayarit to the lists of regions considered free of CSF and allows pork, pork products, live swine,[2] and swine semen to be imported into the United States from Nayarit, subject to certain conditions. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection Service (APHIS) and Department of Homeland Security, Bureau of Customs and Border Protection, personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends the regulations for importing animals and animal products by adding the Mexican State of Nayarit to the list of regions considered free of CSF. We are taking this action at the

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[1] To view the proposed rule, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0104, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

[2] APHIS considers all of Mexico to be affected by blue-eye disease of pigs, a disease which is not known to exist in the United States. APHIS has not evaluated Mexico, including the State of Nayarit, for blue-eye disease. As a result, APHIS denies permits for the importation of live swine and swine semen from all of Mexico, including Nayarit (9 CFR 93.504(a)(3)). CSF is the disease hazard evaluated in the risk analysis, which does not address blue-eye disease.

request of the Mexican Government and the State of Nayarit and after conducting a risk evaluation that indicates that Nayarit is free of this disease. We are also adding Nayarit to a list of CSF-free regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF. These actions relieve certain CSF-related restrictions on the importation into the United States of pork, pork products, live swine, and swine semen from Nayarit while continuing to protect against the introduction of this disease into the United States.

This rule is likely to have a minimal effect on U.S. live swine markets, both in the short term and in the medium term. The hog inventory of Nayarit amounted to about four-tenths of 1 percent of U.S. hog and pig inventory in 2004.[3] In 2004, there were 34 commercial swine farms in Nayarit with a population of 30,634 hogs and pigs. Another 18,650 hogs and pigs were reared in backyards, intended for consumption by the owners (table 1). Nayarit has never exported swine to the United States. This State—as is the case with Mexico as a whole—is a net importer of swine (table 2).

In 2004, the State of Nayarit produced around 4,000 metric tons of pork, an amount equal to 0.35 percent of Mexico's production of pork (table 3). Slaughter/processing plants handling swine in Nayarit are not federally inspected (TIF) establishments. Only TIF plants are allowed to ship pork and pork products abroad or to CSF-free States in Mexico.

TABLE 1.—LIVE HOGS IN NAYARIT, 2000–2004, AND MEXICO AS A WHOLE, 2004

Nayarit	Hogs in commercial farms	Hogs in backyard operations	All hogs
2000	10,809	30,006	40,815
2001	36,799	29,587	66,386
2002	34,279	30,890	65,169
2003	36,665	25,010	61,675
2004	30,634	18,650	49,284
Mexico (2004)	26,208,000 (pig crop + beginning stocks) in both commercial and backyard operations.		

Source: SAGARPA; APHIS Risk Analysis on Importation of Classical Swine Fever (CSF) Virus from Nayarit, Mexico; Regional Evaluation Services, National Center for Import and Export, VS, APHIS, USDA; and Regionalization Evaluation Services (*http://www.aphis.usda.gov/vs/ncie/reg-request.html*), April 2006.

This rulemaking is also unlikely to have a significant effect on U.S. pork and pork products markets because, as with live swine, the United States is unlikely to import large amounts of these commodities from Nayarit. The United States is a net exporter of pork, while Mexico, as indicated below in tables 2 and 3, is a net importer. In 2004, Mexico exported 36,000 metric tons of pork, averaging only around 3.2 percent of total Mexican pork production.

TABLE 2.—U.S. AND MEXICAN TRADE WITH THE WORLD OF LIVE SWINE AND PORK, 2004

Commodity	Exports	Imports	Net trade with the world
Live Swine (head):			
Mexican swine	0	189,867	189,867 (net imports).*
U.S. swine	174,010	8,505,518	8,331,508 (net imports).
Pork (metric tons):			
Mexican pork	36,476	86,102	49,626 (net imports).
U.S. pork	747,357	469,442	277,916 (net exports).

* Net imports = Imports minus exports; Net exports = Exports minus imports.
Source: USDA, FAS, UN Trade Statistics, 6-digit data.

TABLE 3.—SWINE PRODUCTION (HEAD) AND PORK PRODUCTION (METRIC TONS) IN UNITED STATES AND MEXICO, 2004

United States		Mexico		Nayarit, MX	
Swine	Pork	Swine	Pork	Swine	Pork
60,000,000	9,302,759	15,350,000	1,150,000	49,000	4,080

Source: USDA, FAS, GAIN Report # MX6010, Mexico, Livestock and Products, Semiannual Report 2006.

Economic Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The domestic entities most likely to be affected by declaring the Mexican State of Nayarit free of CSF are pork producers.

According to the 2002 Agricultural Census, there were about 66,036 hog

[3] APHIS Risk Analysis on Importation of Classical Swine Fever (CSF) Virus from Nayarit, Mexico; Regional Evaluation Services, National Center for Import and Export, VS, APHIS, USDA; and USDA, FAS, GAIN Report # MX6010, Mexico, Livestock and Products, Semiannual Report 2006.

and pig farms in the United States in that year, of which 93 percent received $750,000 or less in annual revenues. Agricultural operations with $750,000 or less in annual receipts are considered small entities, according to the Small Business Administration size criteria.

We do not expect that U.S. hog producers, U.S. exporters of live hogs, or U.S. exporters of pork and pork products, small or otherwise, will be affected significantly by this rule. This is because, for the reasons discussed above, the amount of live swine, pork, and other pork products imported into the United States from the Mexican State of Nayarit is likely to be small.

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

Executive Order 12988

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

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that adding the Mexican State of Nayarit to the list of regions considered free of CSF, and to the list of CSF-free regions whose exports of live swine, pork, and pork products to the United States must meet certain certification requirements to ensure their freedom from CSF, will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.[4] Copies of the environmental assessment and finding of no significant impact are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

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

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

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

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

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

§ 94.9 [Amended]

■ 2. In § 94.9, paragraph (a) is amended by adding the word ''Nayarit,'' after the word ''Chihuahua,''.

§ 94.10 [Amended]

■ 3. In § 94.10, paragraph (a) is amended by adding the word ''Nayarit,'' after the word ''Chihuahua,''.

§ 94.25 [Amended]

■ 4. In § 94.25, paragraph (a) is amended by adding the word ''Nayarit,'' after the word ''Chihuahua,''.

[4] Go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0104, click ''Submit,'' then click on the Docket ID link in the search results page. The environmental assessment and finding of no significant impact will appear in the resulting list of documents.

Done in Washington, DC, this 25th day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–10641 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R–1271]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks

AGENCY: Board of Governors of the Federal Reserve System (''Board'').

ACTION: Final rule.

SUMMARY: The Board is adopting amendments to the Board's Regulation O to eliminate certain reporting requirements. These amendments implement section 601 of the Financial Services Regulatory Relief Act of 2006.

DATES: Effective July 2, 2007 the interim rule published December 11, 2006 (71 FR 71472, Dec. 11, 2006), is adopted as final without change.

FOR FURTHER INFORMATION CONTACT: Mark E. Van Der Weide, Senior Counsel (202–452–2263), or Amanda K. Allexon, Attorney (202–452–3818), Legal Division. Users of Telecommunication Device for the Deaf (TTD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

Background

Section 22(h) of the Federal Reserve Act (''FRA'') restricts the ability of member banks to extend credit to their executive officers, directors, principal shareholders, and to related interests of such persons.[1] Section 22(g) of the FRA imposes some additional limitations on extensions of credit made by member banks to their executive officers.[2] Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (''BHC Act Amendments'') adds further restrictions on extensions of credit to an executive officer, director, or principal shareholder of a bank from a correspondent bank.[3] The Board's Regulation O implements sections 22(g) and 22(h) of the FRA, as well as section 106(b)(2) of the BHC Act Amendments.[4] Sections 22(g) and 22(h) and Regulation O apply, by their terms, to all banks that are members of the Federal Reserve

[1] 12 U.S.C. 375b.

[2] 12 U.S.C. 375a.

[3] 12 U.S.C. 1972(2).

[4] 12 CFR part 215.

System.[5] Other Federal law subjects Federally insured state non-member banks and Federally insured savings associations to sections 22(g) and 22(h) and Regulation O in the same manner and to the same extent as if they were member banks.[6]

Section 601 of the Financial Services Regulatory Relief Act of 2006 (''Act'') (Pub. L. No. 109–351) removed several statutory reporting requirements relating to insider lending by member banks. These amendments, which became effective on October 13, 2006, eliminated the statutory provisions that:

- Require a member bank to include a separate report with its quarterly Reports of Condition and Income (''Call Report'') on any extensions of credit the bank has made to its executive officers since its last Call Report (12 U.S.C. 375a(9));
- Require an executive officer of a member bank to file a report with the member bank's board of directors whenever the executive officer obtains an extension of credit from another bank in an amount that exceeds the amount the executive officer could obtain from the member bank (12 U.S.C. 375a(6));
- Require an executive officer or principal shareholder of a depository institution to file an annual report with the institution's board of directors during any year in which the officer or shareholder has an outstanding extension of credit from a correspondent bank of the institution (12 U.S.C. 1972(2)(G)(i)); and
- Authorize the Federal banking agencies to issue regulations that require the reporting and public disclosure of information related to extensions of credit received by an executive officer or principal shareholder of a depository institution from a correspondent bank of the institution (12 U.S.C. 1972(2)(G)(ii)).

In December 2006, the Board adopted, and sought public comment on, an interim rule that implemented the changes made by section 601 of the Act.[7] In particular, the interim rule eliminated:

- Section 215.9 of Regulation O, which requires an executive officer of a member bank to file a report with the member bank's board of directors whenever the executive officer obtains certain extensions of credit from another bank;
- Section 215.10 of Regulation O, which requires a member bank to include a separate report with its quarterly Call Report on any extensions of credit the bank has made to its executive officers since its last Call Report; and
- Subpart B of Regulation O, which requires the reporting and public disclosure of extensions of credit to an executive officer or principal shareholder of a member bank by a correspondent bank of the member bank.

The interim rule also made minor conforming changes to Regulation O to reflect the removal of these provisions.

Analysis of Comments and Description of Final Rule

The Board received six comments on the interim rule: three from banks, two from bank trade associations, and one from an individual. The banks and trade associations supported the interim rule and the associated reduction in regulatory reporting burden. The individual commenter criticized the interim rule and stated that public reporting is an important device for preventing financial scandals.

After reviewing the public comments on the interim rule, the Board has determined to adopt a final rule that is identical to the interim rule. Although the Board agrees that appropriate public reporting by depository institutions can be an effective mechanism of market discipline, the Board believes that elimination of these regulatory reporting requirements is consistent with the letter and spirit of the Act. In addition, the Board has long supported eliminating these reporting provisions because the Board has found that they did not contribute significantly to the effective monitoring of insider lending or the prevention of insider abuse.

One commenter urged the Board to take steps to ensure that depository institutions recognize that section 601 of the Act and this final rule do not alter the underlying substantive insider lending restrictions in Federal law. The Board shares the concern expressed by this commenter. The Board notes that the changes made by section 601 and the final rule do *not* alter the substantive restrictions on loans by depository institutions to their executive officers and principal shareholders found in Regulation O. In addition, section 601 and the final rule do *not* alter the substantive restrictions on loans made to executive officers and principal shareholders of depository institutions by their correspondent banks found at 12 U.S.C. 1972(2). To address the shared concerns of the Board and this commenter, the Board has amended the scope section of Regulation O (12 CFR 215.1(b)(4)) to remind depository institutions of the correspondent bank insider lending restrictions.

The Board also notes that elimination of these reporting requirements does not limit the authority of the appropriate Federal banking agency to take enforcement action against a depository institution or its insiders for violation of the Federal insider lending restrictions. Moreover, Regulation O would continue to require that a depository institution and its insiders maintain sufficient information to enable examiners to monitor the institution's compliance with the regulation,[8] and the Federal banking agencies would retain authority under other provisions of law to collect information regarding insider lending by depository institutions.

Two commenters requested that the Board eliminate section 215.5(d)(4) of Regulation O in light of the elimination of section 215.9 of the rule. Section 215.5(d)(4) of Regulation O requires a member bank to make any extension of credit to an executive officer ''subject to the condition in writing that the extension of credit will, at the option of the member bank, become due and payable at any time that the officer is indebted to any other bank or banks'' on non-mortgage, non-educational loans in excess of a specific dollar threshold (typically $100,000).[9] Section 215.9 of Regulation O previously required a member bank's executive officer to report to the bank's board of directors within 10 days of the date that the officer becomes indebted to other banks on non-mortgage, non-educational loans in excess of the same dollar threshold (typically $100,000).

The ''due on demand clause'' requirement contained in section 215.5(d)(4) of Regulation O derives directly from section 22(g)(1)(D) of the Federal Reserve Act.[10] Accordingly, the Board does not have authority to eliminate this Federal insider lending restriction. The Board notes, however, that the continued existence of section 215.5(d)(4) does not make the elimination of section 215.9 ineffective. A bank must continue to include the section 215.5(d)(4) ''due on demand'' clause in each of its extensions of credit to executive officers, but Regulation O no longer requires the specific internal reporting regime of former section 215.9 to ensure the utility of the due on demand clause. Going forward, a bank may choose to ensure the effectiveness of the due on demand clause requirement in any reasonably prudent

[5] Section 106(b)(2) of the BHC Act Amendments applies by its terms to insured banks, mutual savings banks, savings banks, and savings associations.

[6] 12 U.S.C. 1828(j), 1468(b); 12 CFR 563.43.

[7] 71 FR 71472 (Dec. 11, 2006).

[8] 12 CFR 215.8.

[9] 12 CFR 215.5(d)(4).

[10] 12 U.S.C. 375a(1)(D).

way. For example, a bank may comply with the requirement by mandating a periodic report from its executive officer borrowers. Alternatively, a bank may decide to obtain information about an executive officer borrower's indebtedness to other banks only at the time the bank would be interested in exercising the due on demand clause (for example, when the creditworthiness of the officer has dropped materially). Either of these methods could, based on all the facts and circumstances, be a reasonable way to ensure the utility of the due on demand clause requirement.

The Board also has received numerous inquiries about how a bank can ensure compliance with the correspondent lending restrictions in 12 U.S.C. 1972(2), given that all related reporting requirements are being eliminated as part of this rulemaking. Briefly, the correspondent lending restrictions in 12 U.S.C. 1972(2) require, among other things, that extensions of credit by a bank to an insider of a correspondent bank be on market terms. In light of the elimination of the statutory and regulatory reporting requirements associated with 12 U.S.C. 1972(2), a bank may select any reasonably prudent method to ensure compliance with the restrictions. For example, a bank may establish policies and procedures to request additional information about a borrower's relationships with correspondent banks when the bank determines that a prospective extension of credit to the borrower will be on preferential terms.

Finally, one commenter asked the Board to raise the $100,000 ''other purpose'' loan cap in section 215.5(c)(4) of Regulation O and to raise the $500,000 prior board approval threshold in section 215.4(b)(2) of the rule.[11] The Board has determined not to raise these dollar amounts as a part of this rulemaking but intends to consider raising these limits, in consultation with the other Federal banking agencies, in connection with an upcoming comprehensive review of Regulation O.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board certifies that the final rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Although the final rule would apply to all member banks regardless of their size, the rule would reduce the regulatory burden on member banks, including small member banks, by removing requirements to report certain types of extensions of credit to insiders and to insiders of correspondent banks. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget.

The collections of information that are revised by this rulemaking are found in 12 CFR 215.9 and 215.10, and 12 CFR part 215, subpart B. This information previously was required to evidence compliance with the requirements of the Federal Reserve Act (12 U.S.C. 375a and 375b) and 12 U.S.C. 1972. The respondents/recordkeepers are for-profit financial institutions, including small businesses, and individuals.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number associated with 12 CFR 215.9 and 12 CFR part 215, subpart B was 7100–0034 (FFIEC 004). The OMB control number associated with 12 CFR 215.10 was 7100–0036 (FFIEC 031 and 041).

The FFIEC 004 was discontinued as a result of this rule as of December 31, 2006. The total amount of annual burden estimated to be saved as a result of this aspect of the rule is 5,331 hours. The estimated annual cost savings are $239,895. In addition, the last page of the FFIEC 031 and 041 reporting forms (loans to executive officers), which is associated with 12 CFR 215.10, was eliminated as a result of this rule as of December 31, 2006. The total amount of annual burden estimated to be eliminated as a result of this aspect of the rule is 919 hours and there are estimated to be minimal cost savings.

For the FFIEC 004, individual respondent financial information was regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4), (6) and (8)). However, until the passage of the Act and the issuance of the interim rule, upon request from the public the member bank was required to disclose the name of each executive officer and principal shareholder who, together with related interests, has loans from correspondent banks equal to a minimum of 5 percent of the member bank's capital and surplus, or $500,000, whichever was less. The FFIEC 031 and 041 data on loans to executive officers were not considered confidential.

Five of the six commenters, representing banks and bank trade associations, supported the reduction in reporting burden associated with the interim rule. One individual's comment criticized the interim rule and noted that public reporting is an important device for preventing financial scandals. However, the Federal Reserve believes that the elimination of these reporting requirements is consistent with the letter and spirit of the Act, and will make the reporting changes, as proposed.

The Federal Reserve has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0034 or 7100–0036), Washington, DC 20503.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the Board to use ''plain language'' in all rules published in the **Federal Register**. The Board has sought to present the final rule in a simple and straightforward manner.

List of Subjects in 12 CFR Part 215

Credit, Penalties, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set out in the preamble, the interim rule published December 11, 2006 (71 FR 71472, Dec. 11, 2006) is adopted as final without change.

By order of the Board of Governors of the Federal Reserve System, May 25, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–10402 Filed 5–31–07; 8:45 am]

BILLING CODE 6210–01–P

[11] *See* 12 CFR 215.5(c)(4) and 215.4(b)(2).

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 551

[Docket ID OTS–2007–0010]

RIN 1550–AC16

Personal Transactions in Securities

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Interim rule with request for comment.

SUMMARY: Office of Thrift Supervision (OTS) regulations, at 12 CFR 551.150(a), currently require certain officers and employees of savings associations to file reports of their personal securities transactions with the savings association within ten business days after the end of each calendar quarter. In this interim final rule, OTS is amending 12 CFR 551.150(a) to provide that such reports must be filed no later than 30 calendar days after the end of each calendar quarter. As a result of this amendment, the time period for officers and employees of savings associations to file the report will be consistent with the time period for persons in similar positions at investment companies to file such reports under regulations promulgated by the Securities and Exchange Commission (SEC).

DATES: This interim final rule is effective June 1, 2007. Comments must be received on or before July 31, 2007.

ADDRESSES: You may submit comments, identified by OTS–2007–0010, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, select ''Office of Thrift Supervision'' from the agency drop-down menu, then click submit. Select Docket ID ''OTS–2007–0010 to submit or view public comments and to view supporting and related materials for this notice of proposed rulemaking. The ''User Tips'' link at the top of the page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, *Attention:* OTS–2007–0010.
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, *Attention:* Regulation Comments, Chief Counsel's Office, *Attention:* OTS–2007–0010.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Viewing Comments Electronically: Go to *http://www.regulations.gov*, select ''Office of Thrift Supervision'' from the agency drop-down menu, then click ''Submit.'' Select Docket ID ''OTS–2007–0010'' to view public comments for this notice of proposed rulemaking.

Viewing Comments On-Site: You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: Judi McCormick, (202) 906–5636, Director, Consumer Protection & Specialty Programs, Examinations, Supervision & Consumer Protection; or David A. Permut, (202) 906–7505, Senior Attorney, Business Transactions Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

On December 12, 2002, OTS issued a final rule specifying the recordkeeping and confirmation requirements for savings associations that effect securities transactions.[1] Among these regulatory requirements is a requirement that officers and employees of savings associations file a personal securities transaction report with the savings association, within ten business days of the end of each calendar quarter, if the officer or employee:

- Makes investment recommendations or decisions for the accounts of customers;
- Participates in the determination of these recommendations or decisions; or
- In connection with his or her duties, obtains information concerning which securities the savings association intends to purchase, sell, or recommend for purchase or sale.[2]

OTS modeled this personal securities filing requirement on SEC Rule 17j–1,[3] which, at the time OTS established its recordkeeping and confirmation requirements, required personal securities trading reports to be filed within ten business days after the end of each calendar quarter. In July 2004, the SEC amended Rule 17j–1 to change the filing deadline from ten business days to 30 calendar days after the end of each calendar quarter.[4] The SEC amendment was in response to comments regarding the delay in obtaining personal financial statements on a timely basis.

In this interim final rule, OTS is amending 12 CFR 551.150(a) to require officers and employees who are subject to the rule to file personal securities trading reports with OTS no later than 30 calendar days after the end of each calendar quarter. OTS believes it is appropriate to subject officers and employees of savings associations who are covered by the rule to requirements that are consistent with the requirements that the SEC has established for officers and employees of investment companies. Moreover, the amendment to the rule will result in more accurate reporting. The employees and officers impacted by the personal trading reporting requirement typically do not receive their quarterly statements from their brokers within ten business days of the end of any calendar quarter. The revised regulation will enable officers and employees covered by the rule to base their personal securities transactions reports on their most current brokerage statement.

II. Solicitation of Comments

A. Solicitation of Comments on the Interim Final Rule

OTS is requesting comment on the interim final regulation. Specifically OTS seeks comment on:

(1) Does the interim final regulation accomplish its stated purposes?

(2) Does the interim final regulation create any ambiguities that were not present in the current regulation?

(3) Does the interim final regulation impose unnecessary regulatory burdens?

[1] 67 FR 76293 (December 12, 2002).

[2] 12 CFR 551.140(d)(1)–(3) (2007).

[3] See 67 FR 39886, 39889 (June 11, 2002).

[4] 69 FR 41696, 41699—fn. 34 (July 9, 2004).

B. Solicitation of Comments Regarding the Use of Plain Language

Section 722 of GLBA requires federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. OTS believes the interim final rule change is presented in a simple and straightforward manner.

III. Regulatory Findings

A. Advance Notice and Public Comment

Section 553 of the Administrative Procedure Act (APA) provides that notice and comment procedures are not required when an agency finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest. 5 U.S.C. 553. The original rule was intended to track the SEC rule. Subsequently the SEC changed the filing requirement from 10 to 30 days. It is appropriate for OTS to change its rule to conform to the SEC rule. No additional substantive burden is being added by this action, and the revision reduces regulatory burden by providing a longer period of time to file the required report. Accordingly, OTS finds that prior notice and public comment are unnecessary because the rule conforms OTS's regulation to the SEC's rules, and does not alter any substantive requirements.

Although OTS has concluded that public notice and comment are not required for this interim final rule, it invites comments during the 60-day period following publication. In developing a final rule, OTS will consider all public comments it receives within that period.

B. Effective Date

Under section 553(d) of the APA, a rule may not be effective until 30 days after its publication.[5] This provision, however, does not apply where the agency finds good cause for making the rule effective immediately. For the reasons set forth above, and because the rule reduces regulatory burden, OTS finds that there is good cause for making this rule effective immediately.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA)[6] requires that new regulations and amendments to existing regulations take effect on the first day of a calendar quarter that begins on or after the date of publication of the rule. This delayed effective date provision, however, applies only if the rule imposes additional reporting, disclosure, or other new requirements on insured depository institutions. This rule imposes no additional reporting, disclosure or other requirements on any insured depository institution. Section 302 is inapplicable.

C. Paperwork Reduction Act

OTS has determined that this interim final rule does not involve a change to collections of information previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Executive Order 12866

The Director of OTS has determined that this interim final rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

E. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601), the Director certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. The interim final rule would conform OTS rules to SEC rules and give affected officers and employees additional time to file certain required reports. Accordingly, OTS has determined that a Regulatory Flexibility Analysis is not required.

F. Unfunded Mandates Reform Act of 1995

OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more and that a budgetary impact statement is not required under Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act). The interim final rule would conform OTS rules to SEC rules and give affected officers and employees additional time to file certain required reports. The change should not have a significant impact on small institutions. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 551

Reporting and recordkeeping requirements, Savings associations, Securities, Trusts and trustees.

Authority and Issuance

■ For the reasons set forth in the preamble, the Office of Thrift Supervision amends Chapter V of title 12 of the Code of Federal Regulations, as set forth below:

PART 551—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

■ 1. The authority citation for 12 CFR part 551 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

■ 2. Amend § 551.150(a) by removing the phrase ''within ten business'' and adding the phrase ''no later than 30 calendar'' in its place.

* * * * *

Dated: May 25, 2007.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. E7–10401 Filed 5–31–07; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27258; Directorate Identifier 2006–NM–213–AD; Amendment 39–15074; AD 2007–11–17]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 500, 501, 550, 551, S550, 560, 560XL, and 750 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Cessna Model 500, 550, S550, 560, 560XL, and 750 airplanes. That AD currently requires installing identification sleeves on the wires for the positive and negative terminal studs of the engine and/or auxiliary power unit (APU) fire extinguishing bottles, as applicable, and re-connecting the wires to the correct terminal studs. This new AD retains the requirements of the existing AD; adds airplanes to the applicability; and, for certain airplanes only, requires a review of wiring changes made using the original issue of one service bulletin and corrective actions if necessary. This AD results from a determination that additional airplanes are subject to the unsafe condition described in the existing AD. We are issuing this AD to ensure that the fire extinguishing bottles are activated in the event of an engine or APU fire, and that flammable fluids are not supplied during a fire, which could result in an unextinguished fire in the nacelle or APU.

[5] 12 U.S.C. 553(d).

[6] 12 U.S.C. 4802.

DATES: This AD becomes effective July 6, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 6, 2007.

On March 24, 2006 (71 FR 8443, February 17, 2006), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in the 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.

Contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Trenton Shepherd, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4143; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–04–10, amendment 39–14491 (71 FR 8443, February 17, 2006). The existing AD applies to certain Cessna Model 500, 550, S550, 560, 560XL, and 750 airplanes. That NPRM was published in the **Federal Register** on February 15, 2007 (72 FR 7357). That NPRM proposed to require installing identification sleeves on the wires for the positive and negative terminal studs of the engine and/or auxiliary power unit fire extinguishing bottles, as applicable, and re-connecting the wires to the correct terminal studs. That NPRM also proposed to retain the requirements of the existing AD; add airplanes to the applicability; and, for certain airplanes only, require a review of wiring changes made using the original issue of one service bulletin and corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

There are about 3,801 airplanes of the affected design in the worldwide fleet, including about 3,071 airplanes of U.S. Registry. The following table provides the estimated costs for U.S. operators to comply with this AD, at an average labor rate of $80 per work hour.

ESTIMATED COSTS

Cessna model	Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
500, 550, S550, and 560 airplanes (action required by AD 2006–04–10).	Re-identify and reconnect wires.	3	$50	$290	1,827	$529,830
560XL airplanes (action required by AD 2006–04–10).	Re-identify and reconnect wires.	4	100	420	331	139,020
750 airplanes (action required by AD 2006–04–10).	Re-identify and reconnect wires.	2	25	185	211	39,035
501 and 551 airplanes (action required by this AD).	Re-identify and reconnect wires.	3	50	290	702	203,580
500 airplanes (action required by this AD)	Verify wiring changes	1	No parts required	80	195	15,600

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 removing amendment 39–14491 (71 FR 8443, February 17, 2006) and by adding the following new airworthiness directive (AD):

2007–11–17 Cessna Aircraft Company: Amendment 39–15074. Docket No. FAA–2007–27258; Directorate Identifier 2006–NM–213–AD.

Effective Date

(a) This AD becomes effective July 6, 2007.

Affected ADs

(b) This AD supersedes AD 2006–04–10.

Applicability

(c) This AD applies to Cessna Model 500, 501, 550, 551, S550, 560, 560XL, and 750 airplanes, certificated in any category; as identified in the service bulletins specified in Table 1 of this AD.

TABLE 1.—CESSNA SERVICE BULLETINS

Cessna Service Bulletin	Revision	Date	Cessna model
SB500–26–02, including Service Bulletin Supplemental Data, dated April 1, 2005.	1	July 7, 2005	500/501 airplanes.
SB500–26–02	Original	April 1, 2005	500/501 airplanes.
SB550–26–05	Original	April 1, 2005	550/551 airplanes.
SB560–26–01	Original	April 1, 2005	560 airplanes.
SB560XL–26–02	1	December 22, 2004	560XL airplanes.
SB750–26–05	Original	November 24, 2004	750 airplanes.
SBS550–26–02	Original	April 1, 2005	S550 airplanes.

Unsafe Condition

(d) This AD results from a report of mis-wired fire extinguishing bottles. We are issuing this AD to ensure that the fire extinguishing bottles are activated in the event of an engine or auxiliary power unit (APU) fire, and that flammable fluids are not supplied during a fire, which could result in an unextinguished fire in the nacelle or APU.

Compliance

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

Requirements of AD 2006–04–10

Installation

(f) For Model 500, 550, S550, 560, 560XL, and 750 airplanes: Within 100 flight hours or 60 days after March 24, 2006 (the effective date of AD 2006–04–10), whichever occurs first, install identification sleeves on the wires for the positive and negative terminal studs of the applicable fire extinguishing bottles identified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD; re-connect the wires to the correct studs; test the connection; and re-connect the wires again as applicable until the connection tests correctly. Do all actions in accordance with the Accomplishment Instructions of the applicable service bulletin identified in Table 1 of this AD; except that, for Model 500 airplanes, Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005, may be used. After the effective date of this AD, only Cessna Service Bulletin SB500–26–02, Revision 1, may be used to accomplish the requirements of this paragraph for Model 500 airplanes.

(1) For Cessna Model 500, 550, S550, and 560 airplanes: The engine fire extinguishing bottles.

(2) For Cessna Model 560XL airplanes: The engine and the APU fire extinguishing bottles.

(3) For Cessna Model 750 airplanes: The APU fire extinguishing bottle.

Actions Accomplished in Accordance With Earlier Revision of Service Bulletin

(g) For Model 560XL airplanes: Actions done before March 24, 2006, in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB560XL–26–02, dated November 22, 2004, are acceptable for compliance with the corresponding actions in this AD.

New Requirements of This AD

Actions for Additional Airplane Models

(h) For Model 501 and 551 airplanes: Within 100 flight hours or 60 days after the effective date of this AD, whichever occurs first, do the actions required by paragraph (f) of this AD for the engine fire extinguishing bottles in accordance with Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005; or Cessna Service Bulletin SB550–26–05, dated April 1, 2005; as applicable.

Verification of Actions Accomplished Using Original Issue of Service Bulletin

(i) For Model 500 airplanes on which the actions specified in Cessna Service Bulletin SB500–26–02, dated April 1, 2005, have been done before the effective date of this AD: Within 100 flight hours or 60 days after the effective date of this AD, whichever occurs first, verify that wiring changes previously done in accordance with Cessna Service Bulletin SB500–26–02, dated April 1, 2005, conform to the changes described in Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005; and, if any non-conforming wiring changes are discovered, before further flight, correct the wiring changes as applicable to conform to the changes described in Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005.

No Reporting Requirement

(j) Although the Accomplishment Instructions of the service bulletins identified in Table 1 of this AD describe procedures for submitting a maintenance transaction report to the manufacturer, this AD does not require that action.

Parts Installation

(k) At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, no person may install on any airplane a fire extinguishing bottle unless identification sleeves on the wires for the positive and negative terminal studs have been installed in accordance with paragraph (f) or (h) of this AD, as applicable.

(1) For Model 500, 550, S550, 560, 560XL, and 750 airplanes: After March 24, 2006.

(2) For Model 501 and 551 airplanes: After the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Wichita 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

(m) You must use the service information listed in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 2.—ALL MATERIAL INCORPORATED BY REFERENCE

Cessna Service Bulletin	Revision level	Date
SB500–26–02, including Service Bulletin Supplemental Data	Original	April 1, 2005.
SB500–26–02, including Service Bulletin Supplemental Data, dated April 1, 2005	1	July 7, 2005.
SB550–26–05, including Service Bulletin Supplemental Data	Original	April 1, 2005.
SB560–26–01, including Service Bulletin Supplemental Data	Original	April 1, 2005.
SB560XL–26–02, including Service Bulletin Supplemental Data, dated November 22, 2004, and excluding Attachment.	1	December 22, 2004.
SB750–26–05, including Service Bulletin Supplemental Data	Original	November 24, 2004.
SBS550–26–02, including Service Bulletin Supplemental Data	Original	April 1, 2005.

(1) The Director of the Federal Register approves the incorporation by reference of Cessna Service Bulletin SB500–26–02, including Service Bulletin Supplemental Data, Revision 1, dated July 7, 2005, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On March 24, 2006 (71 FR 8443, February 17, 2006), the Director of the Federal Register approved the incorporation by reference of the service information listed in Table 3 of this AD.

TABLE 3.—MATERIAL PREVIOUSLY INCORPORATED BY REFERENCE

Cessna Service Bulletin	Revision level	Date
SB500–26–02, including Service Bulletin Supplemental Data	Original	April 1, 2005.
SB550–26–05, including Service Bulletin Supplemental Data	Original	April 1, 2005.
SB560–26–01, including Service Bulletin Supplemental Data	Original	April 1, 2005.
SB560XL–26–02, including Service Bulletin Supplemental Data, dated November 22, 2004, and excluding Attachment.	1	December 22, 2004.
SB750–26–05, including Service Bulletin Supplemental Data	Original	November 24, 2004.
SBS550–26–02, including Service Bulletin Supplemental Data	Original	April 1, 2005.

(3) Contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277, 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 May 21, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10214 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–027]

RIN 1625–AA08

Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the ''Carolina Cup Regatta'', a power boat race to be held on the waters of the Pasquotank River, Elizabeth City, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions on the Pasquotank River adjacent to Elizabeth City, North Carolina during the power boat race.

DATES: This rule is effective from 7 a.m. on June 9, 2007 through 7 p.m. on June 10, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05–07–027) 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 Humphrey, Marine Event Coordinator, Coast Guard Sector North Carolina at (252) 247–4525.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 12, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Pasquotank River, Elizabeth City, North Carolina in the **Federal Register** (72 FR 18424). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. 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. However advance notifications will be made to affected waterway users via marine information broadcasts, local radio stations and area newspapers.

Background and Purpose

On June 9 and 10, 2007, the Virginia Boat Racing Association will sponsor the ''Carolina Cup Regatta'', on the waters of the Pasquotank River. The event will consist of approximately 60 inboard hydroplanes racing in heats counter clockwise around an oval race course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. 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 Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Pasquotank River, near Elizabeth City, North Carolina.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation would prevent traffic from transiting a portion of the Pasquotank River adjacent to Elizabeth City, North Carolina during the event, the effects of this regulation would not be significant due to the limited duration that the regulated area would be in effect. Extensive advance notifications would be made to the maritime community via Local Notice to Mariners, marine information broadcast, and area newspapers, so mariners can adjust their plans accordingly. Vessel traffic would be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

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 temporary rule would 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 this section of the Pasquotank River during the event.

This rule would 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 7 a.m. to 7 p.m. on June 9 and 10, 2007. The regulated area will apply to a segment of the Pasquotank River adjacent to the Elizabeth City waterfront. Marine traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels will be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we would 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 (Pub. L. 104–121), we offered to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule would 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this temporary 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)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add temporary § 100.35–T05–027 to read as follows:

§ 100.35–T05–027 Pasquotank River, Elizabeth City, NC.

(a) *Regulated area.* The regulated area is established for the waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the west by the Elizabeth City Draw Bridge and bounded on the east by a line originating at a point along the shoreline at latitude 36°17′54″ N., longitude 076°12′00″ W., thence southwesterly to latitude 36°17′35″ N., longitude 076°12′18″ W. at Cottage Point. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (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 Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the ''Carolina Cup Regatta'' under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(c) *Special Local Regulations.* (1) Except for event participants and 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 shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7 a.m. to 7 p.m. on June 9 and 10, 2007.

Dated: May 21, 2007.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–10511 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–029]

RIN 1625–AA08

Special Local Regulations for Marine Events; Roanoke River, Plymouth, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Plymouth Drag Boat Race Series'', a series of power boat races to be held on the waters of the Roanoke River, Plymouth, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Roanoke River adjacent to Plymouth, North Carolina during the power boat race.

DATES: This rule is effective from 10 a.m. on June 24, 2007 through 8:30 p.m. on October 21, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD05–07–029) 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, Prevention Department, Sector North Carolina, at (252)247–4525 or via e-mail to *Christopher.D.Humphrey@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 9, 2007, we published a Notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Roanoke River, Plymouth, North Carolina in the **Federal Register** (72 FR 17456). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. 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.

However advance notifications will be made to affected waterway users via marine information broadcasts, local radio stations and area newspapers.

Background and Purpose

The Outboard Drag Boat Association will be sponsoring a series of seven (7) power boat racing events titled the ''Plymouth Drag Boat Race''. The power boat races will be held on the following dates: June 24, July 22, August 11, 12, 19, September 30 and October 21, 2007. The regulated area for the races includes a section of the Roanoke River approximately one mile long and bounded in width by each shoreline, immediately adjacent to Plymouth, North Carolina. The power boat races will consist of approximately (30) vessels conducting high speed straight line runs along the river and parallel with the shoreline. A fleet of spectator vessels are expected to gather near the event site to view the competition. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the power boat races.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Roanoke River, near Plymouth, North Carolina.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Roanoke 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 notification that will be made to the maritime community via marine information broadcast, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities: Owners or operators of vessels intending to transit this section of the Roanoke River from 10 a.m. to 8:30 p.m. on June 24, July 22, August 11, 12, 19, September 30 and October 21, 2007. This rule would not have significant economic impact on a substantial number of small entities for the following reasons. Although the regulated area will apply to a one mile segment of the Roanoke River, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. The Patrol Commander will allow non-participating vessels to transit the area between races. 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 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 U.S. Coast Guard Sector North Carolina, listed at the beginning of this rule. 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 would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule would 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

would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.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 made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h), of the instruction, an ''Environmental Analysis Check List'' is not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add temporary § 100.35–T05–029 to read as follows:

§ 100.35–T05–029 Roanoke River, Plymouth, North Carolina.

(a) *Regulated area.* The regulated area includes all waters of Roanoke River commencing at the north river bank at latitude 35°52′20″ N, longitude 076°44′47″ W, thence a line 180 degree due south across the river to the shoreline thence west along the shoreline to a position located at latitude 35°51′43″ N, longitude 076°43′45″ W, thence 000 degrees due north across the river to the shoreline thence east along the shoreline to the point of origin. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (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 Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (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 shall:

(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 10 a.m. to 8:30 p.m. on June 24, July 22, August 11, 12, 19, September 30 and October 21, 2007.

Dated: May 21, 2007.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–10516 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–07–010]

RIN 1625–AA09

Drawbridge Operation Regulation; Burns Cutoff, Stockton, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the draw of the Daggett Road drawbridge across Burns Cutoff, mile 3.0, at Stockton, California. The existing bridge has been removed from service and is being kept in the open-to-navigation position until its removal in the fall of 2007. A fixed replacement bridge has been constructed on the same alignment, therefore the regulation controlling the opening and closing of the drawbridge is no longer necessary.

DATES: This rule is effective June 1, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD11–07–010 and are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY 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. Public comment is not necessary since the drawbridge that the regulation governed is out of service (remains in the open to navigation position) and will be removed in the fall of 2007. The drawbridge no longer affects navigation through the area.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. There is no need to delay the implementation of this rule because the drawbridge it governs no longer affects navigation.

Background and Purpose

The existing drawbridge across Burns Cutoff, mile 3.0, which had previously serviced the area is being kept in the open-to-navigation position and will be removed in the fall of 2007. It no longer affects navigation. The regulation governing the operation of the drawbridge is found in 33 CFR 117.145. The purpose of this rule is to remove 33 CFR 117.145 from the Code of Federal Regulations since it governs a drawbridge that is no longer in service and will be removed in Fall of 2007. This final rule removes the regulation regarding the Daggett Road drawbridge.

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. This rule removes the special regulation for a bridge that is already out of service.

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 have no impact on any small entities because the regulation being removed applies to a bridge that has already been taken out of service and will be removed in the fall of 2007.

Assistance for Small Entities

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

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 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD

and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because this rule affects a carriage requirement. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.145 [Removed]

■ 2. Remove § 117.145.

Dated: May 23, 2007.

J.A. Breckenridge,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. E7–10564 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–07–011]

RIN 1625–AA09

Drawbridge Operation Regulations; California Route 12 Drawbridge, Near Isleton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the California Route 12 Drawbridge across the Mokelumne River, mile 3.0, near Isleton, CA. The deviation is necessary for the bridge owner, the California Department of Transportation (Caltrans), to perform scheduled roadway maintenance. This deviation allows the bridge to remain in the closed-to-navigation position Monday through Thursday, 7 p.m. to 6 a.m., Saturdays 12:01 a.m. to 6 a.m., and Sundays 10 p.m. to 6 a.m.

DATES: This deviation is effective from 7 p.m. on June 4, 2007 through 6 a.m. on September 15, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (510) 437–3516. The Eleventh Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the California Route 12 Drawbridge, mile 3.0, Mokelumne River, near Isleton, CA. The California Route 12 Drawbridge navigation span provides a vertical clearance of 7 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal between 6 a.m. and 10 p.m., except that during the following periods the draw need only open for recreational vessels on the hour, 20 minutes past the hour, and 40 minutes past the hour; Saturdays 10 a.m. until 2 p.m.; Sundays 11 a.m. until 6 p.m.; Memorial Day, 4th of July, and Labor Day, 11 a.m. until 6 p.m. At all other times, it opens on signal if at least four hours notice is given as required by 33 CFR 117.175. Navigation on the waterway is recreational, search and rescue and commercial traffic hauling materials for levee repair.

This deviation is effective from 7 p.m. on June 4, 2007 through 6 a.m. on September 15, 2007. Caltrans requested the drawspan be secured in the closed-to-navigation position Monday through Thursday, 7 p.m. to 6 a.m., Saturdays 12:01 a.m. to 6 a.m., and Sundays 10 p.m. to 6 a.m. The drawspan will resume normal operations, for holidays, July 2, 2007 through July 7, 2007 and September 2, 2007 through September 5, 2007. During the temporary deviation period, the bridge roadway surface will be rehabilitated. This work can only be conducted during periods of moderate temperatures and low humidity. This temporary deviation has been coordinated with waterway users. No party has indicated this work would have a significant impact on their operations. Alternate routes are available for vessels while the drawspan is secured in the closed-to-navigation position. Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 22, 2007.

J.A. Breckenridge,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. E7–10572 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–025]

RIN 1625–AA00

Safety Zone; Thunder on the Niagara, Niagara River, North Tonawanda, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of the upper Niagara River by Gratwick Riverside Park in North Tonawanda, NY. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with a powerboat race. This safety zone restricts vessel traffic from a portion of the Niagara River at Gratwick Riverside Park, North Tonawanda, NY.

DATES: This rule is in effect from 11 a.m. on June 2 to 6 p.m. on June 3, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of the docket CGD09–07–025, and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard Sector Buffalo, at (716) 843–9573.

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. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest or ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with powerboat races. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo, has determined powerboat races pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use, could easily result in serious injuries or fatalities.

Discussion of Rule

The proposed safety zone consists of all navigable waters of the Upper Niagara River located at 42°03′36″ N, 078°54′45″ W to 43°03′09″ N, 078°55′21″ W to 43°03′00″ N, 078°53′42″ W to 43°02′42″ N, 078°54′09″ W and return. All Geographic coordinates are North American Datum of 1983 (NAD 83). The size of this proposed zone was determined using the location of the race course approved by the Captain of the Port Buffalo and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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 this rule under that Order. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in areas where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of The Niagara River, North Tonawanda, NY between 11 a.m. and 6 p.m. on June 2 and June 3, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only seven hours for each event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of The Port Buffalo to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate

tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encourage to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

We have analyzed this proposed 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 proposed 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone; therefore paragraph (34)(g) of the Instruction applies.

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, 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. A new temporary § 165.T09–025 is added as follows:

§ 165.T09–025 Safety Zone Thunder on the Niagara, Niagara River, North Tonawanda, NY.

(a) *Location.* The following area is a temporary safety zone: All waters and the adjacent shoreline of the Upper Niagara River, North Tonawanda, NY within two miles northeast of the Grand Island Bridge (42° 03′36″ N, 078° 54′45″ W to 43° 03′09″ N, 078° 55′21″ W to 43° 03′00″ N, 078° 53′42″ W to 43° 02′42″ N, 078° 54′09″ W and return). All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective period.* This regulation is in effect from 11 a.m. on June 2 to 6 p.m. on June 3, 2007. This regulation will be enforced from 11 a.m. to 6 p.m. on June 2 and 3, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or the designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or the on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all direction given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: May 18, 2007.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E7–10500 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0917; FRL–8320–8]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Richmond-Petersburg 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Richmond-Petersburg nonattainment area (herein referred to as the ''Richmond Area'' or the ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Richmond Area that

provides for continued attainment of the 8-hour ozone NAAQS for the next 11 years, until 2018. Concurrently, EPA is approving the Commonwealth's maintenance plan for the 8-hour ozone standard. EPA is not taking final action in this rulemaking on the Commonwealth's request that the 8-hour maintenance plan supersede the previous maintenance plan for the 1-hour standard. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Richmond 8-hour maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is also approving the 2002 base year emissions inventory for the Area. EPA is approving the redesignation request, the maintenance plan, and the 2002 base year emissions inventory as revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on June 18, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0917. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On April 12, 2007 (72 FR 18434), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. On May 10, 2007 (72 FR 26581), EPA published a correction to the NPR. The correction to the NPR fixed Table 5 in the original NPR. The NPR proposed approval of Virginia's redesignation request, a SIP revision that establishes a maintenance plan for the Richmond Area that sets forth how the Richmond Area will maintain attainment of the 8-hour ozone NAAQS for the next 11 years, and a 2002 base year emissions inventory. The formal SIP revisions were submitted by the VADEQ on September 18, 2006, September 20, 2006, September 25, 2006 and supplements on November 17, 2006 and February 13, 2007. Other specific requirements of Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. On May 14, 2007, EPA received a comment, from Dominion Resources Services, Inc., in support of its April 12, 2007 NPR. Also, On May 11, 2007, EPA received adverse comments on the said April 12, 2007 NPR. A summary of the comments submitted and EPA's responses are provided in Section II of this document.

II. Summary of Public Comments and EPA Responses

Comment: The commenter states that Dominion Resources Services, Inc. supports EPA's redesignation proposal for the Richmond-Petersburg Area and urges EPA to move forward with a final redesignation rulemaking.

Response: EPA acknowledges the comment of support for our final action.

Comment: We received comments that claimed Virginia had not fulfilled all applicable Part D requirements *under the 8-hour NAAQS*. Specifically, the comments claimed that because the Richmond area was initially designated as a moderate nonattainment area Virginia was required to have provisions in the SIP for the following three control technique guidelines (CTGs): (1) Reactor Processes and Distillation Processes (notice of release: 58 FR 60197, November 15, 1993); (2) Wood Furniture manufacturing Operations (notice of release: 61 FR 25223, May 20, 1996); and, (3) Shipbuilding and Ship repair Surface Coating Operations (notice of release: 61 FR 44050, August 27, 1996).

Response: EPA disagrees with the comment. While the Richmond area was initially classified as a moderate ozone nonattainment area for the 8-hour ozone NAAQS in an April 30, 2004 final rule (69 FR 23858), the area was reclassified as marginal by a September 22, 2004 final rule (69 FR 56697) pursuant to the authority of section 181(a)(4) of the CAA. Under section 181(a)(4), an ozone nonattainment area may be reclassified ''if an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based.'' *See* 69 FR at 56700, September 22, 2004.

Under subpart 2 to Part D, the classification of an ozone nonattainment area has three main consequences: First, certain control programs, required SIP submissions and other requirements are mandated by section 182; second, the area receives a statutorily mandated attainment date pursuant to section 181; and, last, in the case of marginal areas, certain requirements under section 172(c), such as an attainment demonstration or contingency measures, are not applicable. In addition, with respect to Reasonably Available Control Technology (RACT), section 182(a)(2)(A), which sets forth the specifics of the applicable Part D requirements for marginal areas, only requires states correct certain deficiencies in their RACT SIP which were required prior to enactment of the 1990 Amendments to the CAA on November 15, 1990. With respect to CTG RACT requirements, section 182(a)(2)(A) required correction of deficiencies in rules to implement CTGs issued before November 15, 1990. In contrast, for moderate areas section 182(b)(2) of the CAA requires among other things implementation of RACT for any existing sources covered by any CTG issued by EPA after November 15, 1990 until the date of attainment. The CTGs specified in the comment were all issued after November 15, 1990 and therefore not subject to section 182(a)(2)(A).

Comment: We received comments that claimed Virginia had not fulfilled all applicable Part D requirements *under the 1-hour NAAQS*. Specifically, the comments claimed that because the Richmond area was designated as a moderate nonattainment area Virginia was required to have provisions in the SIP for the following three control technique guidelines (CTGs): (1) Reactor Processes and Distillation Processes (notice of release: 58 FR 60197, November 15, 1993); (2) Wood Furniture manufacturing Operations (notice of release: 61 FR 25223, May 20, 1996); and, (3) Shipbuilding and Ship repair Surface Coating Operations (notice of release: 61 FR 44050, August 27, 1996).

Response: EPA redesignated the Richmond nonattainment area from nonattainment for attainment for the 1-hour NAAQS on November 17, 1997. In that action, EPA made a final determination that the area had fulfilled all applicable Part D requirements. We have not re-opened that issue in the context of this rulemaking.

Comment: The commenter states that the April 12, 2007 **Federal Register** states that EPA ''. . . notified Virginia

that it was required to implement the contingency measures contained in the SIP approved maintenance plan'' (referring to the 1-hour ozone plan). The commenter states that there were violations of the 1-hour ozone standard in 1998, 1999, 2000, 2001, 2002, 2003 and 2004. The commenter requests clarification whether contingency measures for the 1-hour ozone violations were implemented.

Response: EPA asserts that implementation of previous contingency measures for the 1-hour ozone standard is irrelevant to the approval of the 8-hour ozone redesignation request. The Richmond Area is currently in attainment with the 8-hour ozone standard. The redesignation of the Richmond Area for the 1-hour ozone standard (62 FR 61237, November 17, 1997) addressed the 1-hour ozone requirements adequate for redesignation of the 1-hour ozone standard. The status of contingency measures for the 1-hour maintenance plan is not an applicable Part D requirement for implementation of or redesignation for the 8-hour ozone standard and therefore is not relevant to this action.

However, in response to the request for clarification, several inaccuracies in the comment are of note. First, the commenter incorrectly references the April 12, 2007 **Federal Register**. The statement quoted is not found in the April 12, 2007 **Federal Register** notice of proposed rulemaking, nor in any of the supporting documents associated with the proposed 8-hour ozone redesignation request for the Richmond Area. The statement is actually found in an unrelated proposed rule dated October 7, 2002, pertaining to revisions to the 1-hour ozone maintenance plan. This proposed rule was not finalized. Second, the commenter incorrectly reports the violations of the 1-hour standard. There were violations of the 1-hour NAAQS only in the years 1998, 1999 and 2002.

Regarding the implementation of contingency measures for these 1-hour ozone violations, in response to the 1998 and 1999 violations, open burning restrictions were implemented by a state regulation as a contingency measure in 2000. Also, the Commonwealth implemented additional control measures, including the NO_X SIP Call, after the 2002 1-hour ozone violation.

Comment: The commenter states that the Henrico County Monitor measured exceedances of the 8-hour ozone standard during the 2005 and 2006 ozone season and that EPA should either delay final approval of the redesignation request until the end of the 2007 ozone season to determine if this monitor shows a violation of the 8-hour ozone standard, or EPA should conduct an evaluation on whether this monitor is projected to have no more than three exceedances during 2007.

Response: EPA acknowledges that preliminary 2006 air quality data indicates a fourth high value of 0.086 parts per million (ppm) at the Henrico County monitor.[1] However, in accordance with Appendix I to 40 CFR part 50, compliance with the 8-hour ozone NAAQS is met at an ambient air monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm; it is not based on the number of days which exceed the 8-hour ozone standard. 40 CFR 50.10 and Appendix I. The preliminary four highest 8-hour ozone monitoring values at the Henrico County, Virginia monitor (one of the monitors located in the Richmond Area) for 2006 were 0.097 ppm, 0.096 ppm, 0.086 ppm, and 0.086 ppm. The design value at the Henrico County monitor for monitoring years 2003–2005 shows attainment of the 8-hour NAAQS with a design value of 0.080 ppm. In addition, preliminary 2004–2006 air quality data indicate that the Henrico County monitor continues to show attainment of the 8-hour NAAQS with a design value of 0.081 ppm. Thus exceedances at this monitor did not prevent the area from reaching and continuing to show attainment of the 8-hour standard. Preliminary data from other monitors in the area also showed attainment. See Table 1 below for preliminary 2006 air quality monitoring data.

TABLE 1.—RICHMOND MONITORS, PRELIMINARY FOURTH HIGHEST 8-HOUR OZONE CONCENTRATIONS

[Parts per million (ppm)]

Monitor	AQS ID No.	2006
Chesterfield County	510410004	0.077
Henrico County	510870014	0.086
Hanover County	510850003	0.082
Charles City County	510360002	0.081

The Chesterfield County monitor would have an 8-hour design value for 2004–2006 of 0.076 ppm. The Henrico County monitor would have an 8-hour design value for 2004–2006 of 0.081 ppm. The Hanover County monitor would have an 8-hour design value for 2004–2006 of 0.081. The Charles City County monitor would have an 8-hour design value for 2004–2006 of 0.080. These preliminary data and design values show that the site-specific ozone design values (average fourth-high daily maximum 8-hour ozone concentrations over the period of 2004–2006) for all monitoring sites in the Richmond Area are below 0.084 ppm. Therefore, the EPA believes that the Richmond Area continues to attain the 8-hour ozone NAAQS.

With regard to delaying approval of the Richmond Area redesignation request and conducting an evaluation of the monitor, EPA may redesignate an Area to attainment of the 8-hour ozone NAAQS if three years of quality assured data indicate that the Area has attained the standard. The most recent quality-assured air quality data indicates that the Area is attaining the standard and preliminary data for 2006 show that the Area is still attaining the standard at the time of the redesignation. EPA has determined that the Richmond Area has attained the 8-hour standard and has met all of the applicable requirements for redesignation pursuant to section 107(d)(3)(E) of the Clean Air Act.[2] The Commonwealth's maintenance plan demonstrates that the Area is projected to maintain the standard. Consistent with the requirements of section 175A and 107(d)(3)(E) of the CAA, the Commonwealth has submitted a maintenance plan for the Richmond Area for the 8-hour ozone standard which shows continued maintenance and continuing reductions in NO_X and VOC emissions through 2018 further decreasing peak ozone levels and maintaining ozone attainment. Furthermore, as demonstrated by the contingency measure provisions required by section 175A(d), the CAA clearly anticipates and provides for situations where an area might monitor a violation of the NAAQS after having been redesignated to attainment. The Commonwealth has included contingency measure provisions consistent with CAA requirements in its

[1] It should be noted that the Hanover County Monitor was the design value monitor during monitoring years 2003–2005 having a design value of 0.082 ppm.

[2] Section 107(d)(3)(E) of the CAA, allows for redesignation, providing that: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) The State containing such area has met all requirements applicable to the area under section 110 and Part D.

maintenance plan to address any possible future violation of the NAAQS.

EPA believes that the contingency measures, which are a component of the maintenance plan, set forth the steps that the Commonwealth will undertake to preserve attainment of the 8-hour ozone standard if air quality indicators show that the air quality of the Richmond Area has declined to the point when contingency measures to reverse that deterioration of air quality should begin being implemented. Thus, for all the above reasons, EPA sees no reason to delay approval of the Commonwealth's redesignation request.

III. Final Action

EPA is approving the Commonwealth of Virginia's redesignation request, maintenance plan, and 2002 base year emissions inventory because the requirements for approval have been satisfied. EPA has evaluated Virginia's redesignation request, submitted on September 20, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Richmond Area has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Richmond Area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for the Richmond Area, submitted on September 25, 2006, as a revision to the Virginia SIP. EPA is approving the 8-hour maintenance plan for the Richmond Area because it meets the requirements of section 175A. EPA is not taking final action in this rulemaking on the Commonwealth's request that the 8-hour maintenance plan supersede the previous 1-hour maintenance plan. EPA is approving the MVEBs submitted by Virginia in conjunction with its redesignation request. EPA is also approving the 2002 base year emissions inventory, submitted on September 18, 2006 and supplemented by VADEQ on November 17, 2006 and February 13, 2007, as a revision to the Virginia SIP. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO_X and VOCs in the Richmond Area for the 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, the Cities of Petersburg, Colonial Heights, Hopewell, and Richmond, and the Counties of Prince George, Chesterfield, Hanover, Henrico, and Charles City, Virginia must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBS) IN TONS PER DAY (TPD)

Budget year	NO_X	VOC
2011	43.661	32.343
2018	26.827	23.845

Richmond is subject to the CAA's requirements for marginal ozone nonattainment areas until and unless it is redesignated to attainment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This final rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it affects the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, to approve the redesignation request, maintenance plan, adequacy determination for MVEBs, and the 2002 base year emissions inventory for the Richmond Area, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen Dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 25, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Richmond-Petersburg, VA Area at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Richmond-Petersburg, VA Area.	9/18/06; 9/20/06; 9/25/06; 11/17/06; 2/13/07.	6/1/07 [Insert page number where the document begins].	

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.347 the table entitled ''Virginia—Ozone (8-Hour Standard)'' is amended by revising the entry for the Richmond-Petersburg, VA area to read as follows:

§ 81.347 Virginia

* * * * *

VIRGINIA—OZONE

[8-hour standard]

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
*	*	*	*	*
Richmond-Petersburg, VA Area				
Charles City County	6/18/07	Attainment.		
Chesterfield County	6/18/07	Attainment.		
Colonial Heights City	6/18/07	Attainment.		
Hanover County	6/18/07	Attainment.		
Henrico County	6/18/07	Attainment.		
Hopewell City	6/18/07	Attainment.		
Petersburg City	6/18/07	Attainment.		
Prince George County	6/18/07	Attainment.		
Richmond City	6/18/07	Attainment.		
*	*	*	*	*

[a] Includes Indian country located in each county or area except otherwise noted.

[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E7–10582 Filed 5–31–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0919; FRL–8320–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Hampton Roads 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Norfolk-Virginia Beach-Newport News (Hampton Roads) nonattainment area (herein referred to as the ''Hampton Roads Area'' or the ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Hampton Roads Area that provides for continued attainment of the 8-hour ozone NAAQS for the next 11 years, until 2018. Concurrently, EPA is approving the Commonwealth's request that the 8-hour maintenance plan supersede the previous 1-hour maintenance plan. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Hampton Roads 8-hour maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is also approving the 2002 base year emissions inventory for the Area. EPA is approving the redesignation request, the maintenance plan, and the 2002 base year emissions inventory as revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on June 1, 2007 pursuant to the authority of 5 U.S.C. 553(d)(1).

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0919. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 13, 2007 (72 FR 18602), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Virginia's redesignation request, a SIP revision that establishes a maintenance plan for the Hampton Roads Area that sets forth how the Hampton Roads Area will maintain attainment of the 8-hour ozone NAAQS for the next 11 years, and a 2002 base year emissions inventory. The formal SIP revisions were submitted by the VADEQ on October 12, 2006, October 16, 2006, October 18, 2006, and supplemented on November 20, 2006 and February 13, 2007. Other specific requirements of Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the Commonwealth of Virginia's redesignation request, maintenance plan, and 2002 base year emissions inventory because the requirements for approval have been satisfied. EPA has evaluated Virginia's redesignation request, submitted on October 16, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Hampton Roads Area has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Hampton Roads Area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for the Hampton Roads Area, submitted on October 18, 2006, as a revision to the Virginia SIP. EPA is approving the maintenance plan for the Hampton Roads Area because it meets the requirements of section 175A. EPA is approving the Commonwealth's request that the 8-hour maintenance plan supersede the previous 1-hour maintenance plan. EPA is approving the MVEBs submitted by Virginia in conjunction with its redesignation request. EPA is also approving the 2002 base year emissions inventory, submitted on October 12, 2006 supplemented by VADEQ on November 20, 2006 and February 13, 2007, as a revision to the Virginia SIP. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO_X and VOCs in the Hampton Roads Area for the 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, and the Counties of Isle of Wight, James City, and York, Virginia must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBS) IN TONS PER DAY (TPD)

Budget year	NO_X	VOC
2011	50.387	37.846
2018	31.890	27.574

Hampton Roads is subject to the CAA's requirements for marginal ozone nonattainment areas until and unless it is redesignated to attainment.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May

22, 2001)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This final rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it affects the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, to approve the redesignation request, maintenance plan, adequacy determination for MVEBs, and the 2002 base year emissions inventory for the Hampton Roads Area, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen Dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 17, 2007.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e)* * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	* *	*	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area.	10/12/06; 10/16/06; 10/18/06; 11/20/06; 2/13/07.	6/1/07 [Insert page number where the document begins].	

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.347 the table entitled ''Virginia—Ozone (8-Hour Standard)'' is amended by revising the entry for the Norfolk-Virginia Beach-Newport News (Hampton Roads), VA area to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—OZONE

[8-hour standard]

Designated area	Designation [a]		Category/Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*		*	*
Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area				
Chesapeake City	6/1/07	Attainment.		
Gloucester County	6/1/07	Attainment.		
Hampton City	6/1/07	Attainment.		
Isle of Wight County	6/1/07	Attainment.		
James City County	6/1/07	Attainment.		
Newport News City	6/1/07	Attainment.		
Norfolk City	6/1/07	Attainment.		
Poquoson City	6/1/07	Attainment.		
Portsmouth City	6/1/07	Attainment.		
Suffolk City	6/1/07	Attainment.		
Virginia Beach City	6/1/07	Attainment.		
Williamsburg City	6/1/07	Attainment.		
* * * *	*		*	*

[a] Includes Indian country located in each county or area except otherwise noted.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E7–10581 Filed 5–31–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070518109–7109–01; I.D. 030107B]

RIN 0648–AU60

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2007

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement recreational management measures for the 2007 summer flounder fishery and to notify the public that the recreational management measures for the scup and black sea bass fisheries remain the same as in 2006. The actions of this final rule are necessary to comply with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) as well as to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Effective July 2, 2007, except for the amendment to § 648.107(a) introductory text, which is effective June 1, 2007.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov*. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational management measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern vessels fishing in the exclusive

economic zone (EEZ), as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The 2007 coastwide recreational harvest limits, after deduction of research set-aside (RSA), are 6,689,004 lb (3,034 mt) for summer flounder, 2,744,200 lb (1,245 mt) for scup, and 2,473,500 lb (1,122 mt) for black sea bass. The 2007 quota specifications, inclusive of the recreational harvest limits, were determined to be consistent with the 2007 target fishing mortality rate (F) for summer flounder and the target exploitation rates for scup and black sea bass.

The proposed rule to implement annual Federal recreational measures for the 2007 summer flounder, scup, and black sea bass fisheries was published on March 15, 2007 (72 FR 12158), and contained management measures (minimum fish sizes, possession limits, and fishing seasons) intended to keep annual recreational landings from exceeding the specified harvest limits.

Changes From the Proposed Rule

Subsequent to the publication of the proposed rule, NMFS concluded that the summer flounder precautionary default measures, as proposed by the Council and published in the March 15, 2007, proposed rule (72 FR 12158)(a 1–fish possession limit, 18.5–inch (46.99–cm) minimum fish size, with no closed season) are inconsistent with the requirements for the precautionary default measures as outlined in Framework Adjustment 2 (Framework 2) to the FMP and do not achieve the necessary level of reduction in landings set out in the proposed rule.

Framework 2 indicates that the precautionary default measures are the set of measures that would achieve the greatest reduction in landings required for any state. Further analysis conducted by NMFS subsequent to the publication of the proposed rule has shown that the combination of minimum fish size, possession limit, and season proposed as the precautionary default measures in the proposed rule will not achieve the required reduction in landings to constrain harvest within the 2007 recreational harvest for New York. Based on its 2007 recreational harvest limit, New York is required to reduce landings by 48.6–percent from 2006 to 2007, as was indicated in the proposed rule. The proposed precautionary default measures would only have reduced landings by 41.8 percent.

However, increasing the minimum fish size to 19.0 inches (48.26cm) with a 1–fish possession limit and no closed season will ensure that all states, including New York, would achieve the required reductions in landings necessary for 2007. These measures with the slightly larger minimum fish size would reduce landings in New York by 55.3–percent from 2006 levels, thereby achieving the necessary reduction in landings for 2007.

Therefore, NMFS is increasing the minimum fish size of the 2007 summer flounder precautionary default measures from 18.5 inches (46.99cm) to 19 inches (48.26 cm) to ensure the necessary reduction levels indicated in the proposed rule and to ensure consistency with the intent of Framework 2 that the precautionary default measures achieve the necessary level of reduction required for each individual state.

States that do not submit conservation equivalency proposals or for which proposals were disapproved by the Commission or NMFS, are required to adopt the precautionary default measures. Though no states are required to adopt the precautionary default measures for 2007, NMFS is modifying the precautionary default measures in this final rule from what was proposed, as outlined above, to ensure the reduction levels as outlined in Framework 2 are attained. The appropriate regulatory text modification to implement this change can be found following the classification section of this rule.

In addition, the coastwide measures for summer flounder contained in the proposed rule were analyzed by the Council for their effectiveness in constraining recreational landings to the coastwide recreational harvest limit as published in the **Federal Register** on December 14, 2006 (71 FR 75134). Following the Council's analysis, development of measures, and vote to implement conservation equivalency in 2007, the summer flounder recreational harvest limit for 2007 was increased by emergency rule (72 FR 2458, January 19, 2007). Additional analysis conducted by NMFS following the publication of the proposed rule has shown that the proposed coastwide measures would allow only 55–percent of the increased recreational harvest limit to be landed, if implemented for 2007. Instead, as discussed below, this rule implements state-by-state conservation equivalency measures for the 2007 summer flounder fishery. As such, the summer flounder coastwide measures are superceded by the conservation equivalency measures for the 2007 fishing year. However, these coastwide measures become the default regulatory provisions effective January 1, 2008, when conservation equivalent measures expire. As such, the coastwide measures remain in place in 2008 until such time that new measures, either conservation equivalency or coastwide measures, are developed by the Council and the Commission and implemented by NMFS for the 2008 fishery. NMFS has decided to conduct separate notice and comment rulemaking for summer flounder coastwide measures that would be less restrictive than the measures of the proposed rule while still constraining landings within the increased recreational harvest limit, as published in the emergency rule (72 FR 2458, January 19, 2007). A proposed rule containing these revised coastwide measures will be published in the **Federal Register** as soon as possible.

2007 Recreational Management Measures

Additional discussion on the development of the recreational management measures appeared in the preamble of the proposed rule and is not repeated here. All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

Based on the recommendation of the Commission, the Regional Administrator finds that the recreational summer flounder fishing measures proposed to be implemented by the states of Massachusetts through North Carolina for 2007 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. According to the regulation at § 648.107(a)(1), vessels subject to the recreational fishing measures of this part and landing summer flounder in a state with an approved conservation equivalency program shall not be subject to the more restrictive Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) has been amended accordingly. The management measures will vary according to the state of landing, as specified in the following table.

TABLE 1 - 2006 STATE RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum Fish Size	Possession Limit	Fishing Season
MA	17.5 inches (44.45 cm)	5 fish	June 10 through August 15
RI	19.0 inches (48.26 cm)	7 fish	May 18 through September 16
CT	18.0 inches (45.72 cm)	5 fish	April 30 through September 5
NY	19.5 inches (49.53 cm)	4 fish	January 1 through December 31
NJ	17.0 inches (43.18 cm)	8 fish	May 26 through September 10
DE	18.0 inches (45.72 cm)	4 fish	January 1 through December 31
MD[1]	15.5 inches (39.37 cm)	4 fish	January 1 through December 31
VA	18.5 inches (46.99 cm)	5 fish	April 1through July 22 and July 29 through December 31
NC[2]	14.5 inches (36.83 cm)	8 fish	January 1 through December 31

[1] Measures for the ocean waters off MD in the Atlantic Ocean and coastal bays; for the Chesapeake Bay, a 15.0-inch (38.1-cm) minimum fish size, a 2-fish possession limit, and a fishing season of January 1 through December 31 applies.
[2] Measures for the ocean waters off NC in the Atlantic Ocean; for internal waters, a 14.0-inch (35.56-cm) minimum fish size, a 8-fish possession limit, and a fishing season of January 1 through December 31 applies.

Table 2 contains the coastwide Federal measures for scup and black sea bass in effect for 2007 and codified. These measures are unchanged from those at 50 CFR Part 648 subparts H and I.

TABLE 2 - 2007 SCUP AND BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES

Fishery	Minimum Fish Size		Possession Limit	Fishing Season
	inches	cm		
Scup	10	25.4	50 fish	January 1 through February 28, and September 18 through November 30
Black Sea Bass	12	30.5	25 fish	January 1 through December 31

As has occurred in the past 5 years, the scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures, the Federal and state recreational scup management measures will differ for 2007.

Comments and Responses

Eight comments were received regarding the proposed recreational management measures (72 FR 12158, March 15, 2007). One individual submitted a single question as a comment, whose relevance to the recreational management measures could not be ascertained and therefore, is not responded to in this section.

Comment 1: The commenter expressed concern about the impact of commercial fishing on the summer flounder, scup, and black sea bass total stocks and supports reduction of the total allowable landings for these species by 50 percent in 2007, and by an additional 10 percent each subsequent year. This commenter also stated that the recreational harvest limit reductions for 2007 were not sufficient.

Response: This final rule implements management measures (minimum fish sizes, possession limits, and fishing seasons) intended to keep annual recreational landings from exceeding the specified harvest limits. These limits have been set for 2007 at levels that will effectively constrain harvest within the specified F for each species under the FMP. As described in the proposed rule, the FMP established Monitoring Committees (Committees) for the summer flounder, scup, and black sea bass fisheries, consisting of representatives from the Commission, the Mid-Atlantic, New England, and South Atlantic Councils, and NMFS. The FMP and its implementing regulations require the Committees to review scientific and other relevant information annually and to recommend management measures (i.e., minimum fish size, possession limit, and fishing season) necessary to achieve the recreational harvest limits established for each of the three fisheries for the upcoming fishing year. While NMFS acknowledges that consideration of total allowable landings and quota allocation are important, this final rule is not the proper mechanism to address these general issues.

Comment 2: The commenter stated that the models used to create catch limits are not accurate and are not an accurate reflection of future targets.

Response: It is assumed that this comment is in reference to the models used in the derivation of the summer flounder TAL and for the rebuilding target for the summer flounder stock, as the comment is similar to many that were received on the proposed rule for the 2007 initial specifications (71 FR 62972, October 27, 2006).

The information used to set the summer flounder TAL is the best scientific information available,

consistent with National Standard 2 of the Magnuson-Stevens Act. The information used in TAL setting, including the model and methods applied to it, have undergone substantial peer review in recent years. While recommendations have been made to develop additional modeling approaches, peer reviews have confirmed the current model and modeling approaches to be statistically valid for the annual stock assessment updates that provide the foundation for establishing the TAL. None of the peer-reviewed science utilized in setting summer flounder catch limits indicates that the rebuilding target cannot be attained within the rebuilding period or that the biomass target is incorrect.

Comment 3: This commenter wrote in opposition to the non-preferred coastwide alternative, stating that implementation of the coastwide measures would have significant economic impacts on her small bait and tackle shop in New Jersey.

Response: NMFS is implementing, though this final rule, conservation equivalency measures as developed by the individual states. Under this approach, each state, including New Jersey, developed and will implement unique management measures appropriate to that state that provide equivalent conservation as the Federal coastwide measures developed to achieve the overall recreational harvest limit. For 2007, New Jersey will implement a 17.0–inch (43.18–cm) minimum fish size, an 8–fish possession limit, and a May 26 through September 10 fishing season, as compared to the proposed coastwide measures of a 1–fish possession limit, 19.0–inch (48.26–cm) minimum fish size, and no closed season. It is expected that the measures developed by and implemented in New Jersey will assist in mitigating the economic impacts that would occur under the coastwide alternative, as outlined in the Initial Regulatory Flexibility Analysis (IRFA) contained in the proposed rule (71 FR 12158, March 15, 2007).

Comments 4 through 7: Several commenters urged NMFS to reject state-by-state conservation equivalency in favor of coastwide measures; advocated for the implementation of coastwide measures as developed by the Commission's Technical Committee following the emergency rule to increase the 2007 TAL (72 FR 2458, January 19, 2007), not those adopted by the Council and the Board that were based on the initial 2007 TAL published on December 14, 2006 (71 FR 75134); and questioned if the best available science was used in development of the 2007 recreational management measures. Specifically, one such commenterquestioned the use of applying data from the Marine Recreational Fishery Statistics Survey (MRFSS) and For-Hire Survey (FHS) on a state-by-state rather than a coastwide (regional) basis. Another commenter indicated that the coastwide measures adopted by the Council and the Board were not based on the January 19, 2007, emergency rule (72 FR 2458) and therefore, were not the best available science.

Response: NMFS is implementing, though this final rule, the Council and Board's preferred alternative of conservation equivalency, for the reasons previously outlined in the preamble to this final rule. Further, NMFS will be conducting a separate rulemaking, as previously discussed, to address potential changes to the coastwide measures in light of the increased TAL. That rulemaking will not replace conservation equivalency with coastwide measures.

NMFS acknowledges that the timing of the Magnuson-Stevens Act reauthorization that was passed by the 109th Congress on December 9, 2006, and the joint December 11, 2006, meeting at which the Council and Board voted for conservation equivalency, did not permit for detailed analysis of coastwide measures to constrain recreational harvest to what would eventually be the increased TAL as published on January 19, 2007 (72 FR 2458). However, a discussion was held at the joint Council and Board meeting wherein the assembled group discussed what impacts increasing the TAL might have on coastwide measures. Consequently both the Council and Board did consider this in their decision making. The Council and Board voted to adopt conservation equivalency for 2007, in light of these discussions, and forwarded that recommendation to NMFS. Further, NMFS acknowledges that the Council's analysis of the coastwide measures was crafted on the TAL as published on December 14, 2006 (71 FR 75134), and as such, would be highly conservative (i.e., would constrain landings to 55 percent of the recreational harvest limit as increased by the January 19, 2007, emergency rule (72 FR 2458)). NMFS is aware that subsequent analyses have been conducted by the Board's Technical Committee to craft more liberal coastwide measures that would still constrain recreational landings within the recreational harvest limit as increased by the January 19, 2007 (72 FR 2458), emergency rule. These alternative coastwide measures have not been forwarded, through a majority vote from their memberships, from the Council and Board as a recommendation to replace conservation equivalency for 2007. Consequently, NMFS does not have a reasonable basis upon which to disapprove the Council and Board's preferred alternative in favor of the coastwide measures analyzed by the Board's Technical Committee in this final rule. The Council and the Board have elected to utilize conservation equivalency as the means to manage the recreational summer flounder fishery each year since the implementation of Framework 2.

MRFSS and FHS-supplied data have been utilized each year since the 2001 implementation of Framework 2 to craft state-by-state conservation equivalent measures. NMFS acknowledges that a recent review of MRFSS by the National Academies of Science has made substantial recommendations for the overhaul and redesign of the survey so that the data provided will better inform the agency's management and policy decisions. However, in the interim period while these changes are being undertaken by NMFS, the MRFSS and FHS supplied data constitute the only available information to formulate recreational fisheries management advice and, as such, its use is consistent with National Standard 2. These data may be improved by using larger regional or coastwide aggregations, but their use on a state-by-state basis, as has been done for the past 6 years, is not inappropriate for creating the 2007 conservation equivalent measures.

Classification

NMFS has determined that the final rule is necessary for the conservation and management of the summer founder, scup, and black sea bass fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30–day delay in effective date for the summer flounder recreational management measures contained in this rule (§ 648.107(a)). The linchpin of NMFS's decision whether to proceed with the coastwide measures or to give effect to the conservation equivalent measures is advice from the Commission as to the results of its review of the plans of the individual states. This advice has only recently been received via a letter dated May 1, 2007. The recreational summer flounder fishery has commenced in all states and participation and landings are expected to increase through late spring and early summer. The party and charter vessels

from the various states are by far the largest component of the recreational fishery that fish in the EEZ. The Federal coastwide regulatory measures for the three species that were codified last year remain in effect. The Federal coastwide measures for the summer flounder fishery do not achieve the necessary reduction in recreational landings to constrain the fishery to the 2007 recreational harvest limit. It is, therefore, imperative that NMFS implement measures, as quickly as possible, for the 2007 recreational summer flounder fishery to ensure that the mortality objectives of the 2007 recreational harvest limit are not compromised. The conservation equivalent measures approved by the Commission and implemented by this rule are such measures. The state-by-state conservation equivalent measures will, upon their implementation, restrict the recreational summer flounder coastwide landings within the 2007 recreational harvest limit.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts described in the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses completed to support the action. A copy of the EA/RIR/IRFA is available from the Council (see **ADDRESSES**).

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here.

Summary of Significant Issues Raised in Public Comments

Two commenters raised the issue, supported by two additional commenters, that the non-preferred coastwide measures alternative, as analyzed and proposed by the Council and subsequently published in the proposed rule by NMFS, had been designed to constrain harvest to the recreational harvest level contained in the December 14, 2006 (71 FR 75134), specification final rule, not to the recreational harvest level of the January 19, 2007 (72 FR 2458), emergency rule that increased the 2007 specifications. NMFS finds these comments compelling and is, as previously indicated, planning on conducting notice and comment rule making to re-propose coastwide measures designed to constrain landings within the increased recreational harvest limit, as published in the January 19, 2007 (72 FR 2458), emergency rule. However, as these coastwide measures serve as the backstop in 2008 once conservation equivalent measures expire on December 31, 2007, addressing these comments in a later rulemaking does not affect actions taken herein. Additional information on this change is outlined in the preamble under the ''Changes from the Proposed Rule'' section. No additional changes to the proposed rule were required to be made as a result of the public comments. A summary of the comments received, and the responses thereto, are contained in the ''Comments and Responses'' section of this preamble.

Description and Estimate of Number of Small Entities to Which This Rule Will Apply

The Council estimated that the proposed measures could affect any of the 920 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2005, the most recent year for which complete permit data are available. However, only 331 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2005.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken to Minimize Economic Impact on Small Entities

Under the conservation equivalency approach, each state may implement unique management measures appropriate to that state to achieve state-specific harvest limits, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the annual recreational harvest limit. The conservation equivalency approach allows states flexibility in the specification of management measures, unlike the application of one set of uniform coastwide measures. It is not possible to further mitigate economic impacts on small entities because the specification of the recreational management measures (minimum fish size, possession limits, and fishing seasons) contained in this final rule is constrained by the conservation objectives of the FMP.

The economic analysis conducted in support of this action assessed the impacts of the various management alternatives. In the EA, the no action alternative for each species is defined as the continuation of the management measures as codified for the 2006 fishing season. For summer flounder, state-specific implications of the no-action (coastwide) alternative of a 17–inch (43.18–cm) minimum fish size, a 4–fish possession limit, and no closed season would not achieve the mortality objectives required, and, therefore, cannot be continued for the 2007 fishing season.

The implications of the no-action alternative are not substantial for scup and black sea bass. Landings of these species in 2006 were less than their respective target for black sea bass and within the percent standard error for scup, and the status quo measures are expected to constrain landings to the 2007 targets. The no-action measures were analyzed in Summer Flounder Alternative 2, Scup Alternative 1, and Black Sea Bass Alternative 1.

At this time, it is not possible to determine the economic impact of summer flounder conservation equivalency on each state. The specific measures adopted for each state were only made available to NMFS on May 1, 2007, and were unavailable for analysis during this rulemaking. However, economic impact is likely to be proportional to the level of landings reductions required for each individual state. If the conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP.

Further, NMFS has no authority to dictate, prescribe, or otherwise modify the measures adopted by each state under conservation equivalency. NMFS discretion in this regard is limited to a decision on whether to allow conservation equivalency as a replacement for uniform coastwide measures, and the basis for this decision is limited to a determination of whether the measures adopted under conservation equivalency achieve the biological objectives of the FMP.

Under § 648.107, vessels landing summer flounder in any state that does not implement conservation equivalent measures are subject to the

precautionary default measures, consisting of an 19–inch (48.26–cm) minimum fish size, a possession limit of one fish, and no closed season. The suites of conservation equivalent measures proposed by each state are less restrictive than the precautionary default measures. Therefore, because states have a choice as to the specific measures to apply to landings in each state, it is more rational for the states to adopt the conservation equivalent measures that they have proposed and that result in fewer adverse economic impacts than to adopt the more restrictive measures that contained in the precautionary default alternative.

For the proposed rule, average party/charter losses for each of the 18 potential combinations of alternatives were estimated for federally permitted vessels. Predicted average losses for New York were presented as an example, and ranged from $4,834 per vessel under the combined effects of Summer Flounder Alternative 1, Scup Alternative 1, and Black Sea Bass Alternative 2, to $6,122 per vessel under the combined effects of the Summer Flounder Alternative 2, Scup Alternative 2, and Black Sea Bass Alternative 3 (assuming a 25–percent reduction in effort for affected trips).

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as the small entity compliance guide was prepared and will be sent to all holders of Federal party/charter permits issued for the summer flounder, scup, and black sea bass fisheries. In addition, copies of this final rule and the small entity compliance guide are available from NMFS (see **ADDRESSES**) and at the following website: *http://www.nero.noaa.gov*.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 25, 2007.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 648 to read as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.107, paragraph introductory text (a) and paragraph (b) are revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2007 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season – January 1 through December 31; minimum size – 19.0 inches (48.26 cm); and possession limit – one fish.

[FR Doc. E7–10614 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 105
Friday, June 1, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–27911; Airspace Docket No. 07–ANM–8]

Proposed Revision of Class E Airspace; Hailey, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Hailey, ID. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Required Navigational Performance (RNP) Instrument Approach Procedure (IAP) at Friedman Memorial Airport. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Friedman Memorial Airport, Hailey, ID.

DATES: Comments must be received on or before July 16, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2007–27911; Airspace Docket No. 07–ANM–8, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area Office, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 917–6714.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2007–27911 and Airspace Docket No. 07–ANM–8) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2007–27911 and Airspace Docket No. 07–ANM–8''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Hailey, ID. Controlled airspace is necessary to accommodate aircraft using the new RNAV (RNP) IAP at Friedman Municipal Airport. This action would enhance the safety and management of IFR aircraft operations at Friedman Memorial Airport, Hailey, ID.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 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 FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA 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.

* * * * *

ANM ID, E5 Hailey, ID [Revised]

Friedman Memorial Airport, ID
(Lat. 43°30′14″ N., long. 114°17′45″ W.)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Friedman Memorial Airport, and within 2 miles west and 5.5 miles east of the 328° bearing from the airport extending from the 5.5-mile radius to 10 miles northwest of the airport, and within 2 miles west and 4 miles east of the 159° bearing from the airport extending from the 5.5-mile radius to 15.5 miles southeast of the airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 44°00′00″ N., long. 114°55′00″ W., thence to lat. 44°00′00″ N., long. 113°53′00″ W., thence to lat. 43°00′00″ N., long. 113°49′00″ W., thence to lat. 43°00′00″ N., long. 114°55′00″ W., thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on May 11, 2007.

Clark Desing,

Manager, System Support Group, Western Service Area.

[FR Doc. E7–10569 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25788; Airspace Docket No. 06–ANM–9]

Proposed Revision of Class E Airspace; Hoquiam, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Hoquiam, WA. Additional controlled airspace is necessary to accommodate aircraft using the Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Bowerman Airport. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Bowerman Airport, Hoquiam, WA.

DATES: Comments must be received on or before July 16, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2006–25788; Airspace Docket No. 06–ANM–9, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area Office, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 917–6714.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2006–25788 and Airspace Docket No. 06–ANM–9) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2006–25788 and Airspace Docket No. 06–ANM–9''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Hoquiam, WA. Controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS)

SIAP at Bowerman Airport. This action would enhance the safety and management of IFR aircraft operations at Bowerman Airport, Hoquiam, WA.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 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 FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA 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.

* * * * *

ANM WA, E5 Hoquiam, WA [Revise]

Bowerman Airport, WA
(Lat. 46°58′16″ N., long. 123°56′12″ W.)
Hoquiam VORTAC
(Lat. 46°56′49″ N., long. 124°08′57″ W.)

That airspace extending upward from 700 feet above the surface within a 4.0-mile radius of Bowerman Airport and within a 13-mile radius arc of the airport bounded on the north by a line 1.8 miles north of and parallel to the Hoquiam VORTAC 068° radial and on the south by a line 3 miles south of and parallel to the Hoquiam VORTAC 088° radial; that airspace extending upward from 1,200 feet above the surface beginning lat. 47°20′00″ N., long. 124° 40′00″ W.; thence to lat. 47°20′00″ N., long. 123°30′00″ W.; thence to lat. 46°30′00″ N., long. 123°30′00″ W.; thence to lat. 46°30′00″ N., long. 124°30′00″ W.; thence to lat. 47°00′00″ N., long. 124°39′00″ W.; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on May 11, 2007.

Clark Desing,

Manager, System Support Group, Western Service Area.

[FR Doc. E7–10567 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–27374; Airspace Docket No. 07–ANM–2]

Proposed Establishment of Class E Airspace; Everett, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E surface airspace at Everett, WA. Controlled airspace is necessary to accommodate aircraft executing Special Visual Flight Rules (SVFR) operations at Everett, Snohomish County Airport (Paine Field), Everett, WA.

DATES: Comments must be received on or before July 16, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; *telephone:* (202) 366–9826. You must identify FAA Docket No. FAA–2007–27374; Airspace Docket No. 07–ANM–2, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area Office, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 917–6714.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2007–27374 and Airspace Docket No. 07–ANM–2) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2007–27374 and Airspace Docket No. 07–ANM–2''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register's** Web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the

ADDRESSES section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Everett, WA. Class E surface airspace is required to accommodate aircraft executing SVFR operations at Everett, Snohomish County Airport (Paine Field), Everett, WA.

Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 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 FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6002. Class E Airspace Areas Designated as a Surface Area.

* * * * *

ANM WA, E2 Everett, WA [New]

Everett, Snohomish County Airport (Paine Field), WA
(Lat. 47°54′27″ N., long. 122°16′53″ W.)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.5-mile radius of the Snohomish County Airport. This Class E airspace is effective when the tower is not in operation. The effective date and time will be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on May 7, 2007.

Clark Desing,

Manager, System Support Group, Western Service Area.

[FR Doc. E7–10565 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–143797–06]

RIN 1545–BF97

Employer Comparable Contributions to Health Savings Accounts Under Section 4980G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations providing guidance on employer comparable contributions to Health Savings Accounts (HSAs) under section 4980G in instances where an employee has not established an HSA by December 31st and in instances where an employer accelerates contributions for the calendar year for employees who have incurred qualified medical expenses. In general, these proposed regulations affect employers that contribute to employees' HSAs. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by August 30, 2007. Outlines of topics to be discussed at the public hearing scheduled for September 28, 2007, at 10 a.m., must be received by August 28, 2007.

ADDRESSES: *Send submissions to:* CC:PA:LPD:PR (REG–143797–06), Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered to CC:PA:LPD:PR (REG–143797–06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–143797–06). The public hearing will be held in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Mireille Khoury at (202) 622–6080; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Kelly Banks at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, *Attn:* Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, *Attn:* IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:S Washington, DC 20224. Comments on the collection of information should be received by July 31, 2007.

Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information; How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in these proposed regulations is in Q & A–14. This information is needed for purposes of making HSA contributions to employees who establish an HSA after the end of the calendar year but before the last day of February. The likely respondents are employers that contribute to employees' HSAs.

Estimated total annual reporting burden: 1,250,000 hours.

The estimated annual burden per respondent is: .25 hour.

Estimated number of respondents: 5,000,000.

The estimated annual frequency of responses: 1.

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 control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed Pension Excise Tax Regulations (26 CFR part 54) under section 4980G of the Internal Revenue Code (Code). Under section 4980G, an excise tax is imposed on an employer that fails to make comparable contributions to the HSAs of its employees.

Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Act), Public Law 108–173, (117 Stat. 2066, 2003) added section 223 to the Code to permit eligible individuals to establish HSAs for taxable years beginning after December 31, 2003. Section 4980G was also added to the Code by the Act. Section 4980G(a) imposes an excise tax on the failure of an employer to make comparable contributions to the HSAs of its employees for a calendar year. Section 4980G(b) provides that rules and requirements similar to section 4980E (the comparability rules for Archer Medical Savings Accounts (Archer MSAs)) apply for purposes of section 4980G. Section 4980E(b) imposes an excise tax equal to 35% of the aggregate amount contributed by the employer to the Archer MSAs of employees during the calendar year if an employer fails to make comparable contributions to the Archer MSAs of its employees in a calendar year. Accordingly, if an employer fails to make comparable contributions to the HSAs of its employees during a calendar year, an excise tax equal to 35% of the aggregate amount contributed by the employer to the HSAs of its employees during that calendar year is imposed on the employer. See sections 4980G(a) and (b) and 4980E(b). See also Notice 2004–2 (2004–2 CB 269), Q & A–32. See § 601.601(d)(2).

On August 26, 2005, proposed regulations (REG–138647–04) on the comparability rules of section 4980G were published in the **Federal Register** (70 FR 50233). On July 31, 2006, final regulations (REG–138647–04) on the comparability rules were published in the **Federal Register** (71 FR 43056). The final regulations clarified and expanded upon the guidance regarding the comparability rules published in Notice 2004–2 and in Notice 2004–50 (2004–33 IRB 196), Q & A–46 through Q & A–54. See § 601.601(d)(2). Q & A–6(b) of the final regulations reserved the issue dealing with an employee who has not established an HSA by the end of the calendar year. These proposed regulations address that reserved issue and one additional issue concerning the acceleration of employer contributions.

Section 4980G was amended by section 306 of the Tax Relief and Health Care Act of 2006, Public Law 109–432 (120 Stat. 2922), effective for taxable years beginning after December 31, 2006. The Treasury Department and IRS expect to publish guidance on the amendment to section 4980G.

Explanation of Provisions

Employee Has Not Established HSA by December 31

The proposed regulations provide a means for employers to comply with the comparability requirements with respect to employees who have not established an HSA by December 31, as well as with respect to employees who may have established an HSA but not notified the employer of that fact. The proposed regulations provide that, in order to comply with the comparability rules for a calendar year with respect to such employees, the employer must comply with a notice requirement and a contribution requirement. In order to comply with the notice requirement, the employer must provide all such employees, by January 15 of the following calendar year, written notice that each eligible employee who, by the last day of February, both establishes an HSA and notifies the employer that he or she has established the HSA will receive a comparable contribution to the HSA. For each such eligible employee who establishes an HSA and so notifies the employer by the end of February, the employer must contribute to the HSA by April 15 comparable amounts (taking into account each month that the employee was a comparable participating employee) plus reasonable interest. The notice may be delivered electronically. The proposed regulations provide sample language that employers may use as a basis in preparing their own notices.

Acceleration of Employer Contributions

The proposed regulations also address a second issue relating to acceleration of contributions. They provide that, for any calendar year, an employer may accelerate part or all of its contributions for the entire year to the HSAs of employees who have incurred during the calendar year qualified medical expenses exceeding the employer's cumulative HSA contributions at that time. If an employer accelerates contributions for this reason, these contributions must be available on an equal and uniform basis to all eligible employees throughout the calendar year and employers must establish reasonable uniform methods and requirements for acceleration of contributions and the determination of medical expenses. An employer is not required to contribute reasonable interest on either accelerated or non-accelerated HSA contributions. But see Q & A–6 and Q & A–12 in § 54.4980G–4 for when reasonable interest must be paid.

Other Issues

These proposed regulations concern only section 4980G. Other statutes may impose additional requirements (for example, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (sections 9801–9803)).

Proposed Effective Date

It is proposed that these regulations apply to employer contributions made on or after the date the final regulations are published in the **Federal Register**. However, taxpayers may rely on these regulations for guidance pending the issuance of final regulations. Alternatively, until the publication of final regulations, an employer may continue to rely on the last sentence of Q&A 6(a) of § 54.4980G–4 of the proposed regulations published in the **Federal Register** on August 26, 2005, which provides that, an employer is not required to make comparable contributions for a calendar year to an employee's HSA if the employee has not established an HSA by December 31st of the calendar year.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact the estimated burden associated with the information collection averages 15 minutes per respondent. Moreover, a model notice has been provided for employers who are subject to this collection of information any burden imposed on employees due to the collection of information in these regulations will be outweighed by the benefit of receiving HSA contributions. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 27, 2007, beginning at 10 a.m. in the Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by August 30, 2007 and an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight (8) copies) August 28, 2007. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Mireille Khoury, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

Proposed Amendment to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

Paragraph 1. The authority citation for part 54 continues to read in part as follows:

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

Par. 2. Section 54.4980g–0 is amended by adding entries under § 54.4980g–4 for Q–14, Q–15 and Q–16 to read as follows:

§ 54.4980g–0 Table of contents.

* * * * *

§ 54.4980g–4 Calculating comparable contributions.

* * * * *

Q–14: How does an employer comply with the comparability rules if an employee has not established an HSA by December 31st?

Q–15: For any calendar year, may an employer accelerate part or all of its contributions for the entire year to the HSAs of employees who have incurred, during the calendar year, qualified medical expenses (as defined in section 223(d)(2)) exceeding the employer's cumulative HSA contributions at that time?

Q–16: What is the effective date for the rules in Q & A–14 and 15 of this section?

Par. 3. Section 54.4980g–4 is amended by:

1. Removing paragraph (b) and redesignating paragraph (c) as paragraph (b) in Q & A–6.

2. Adding Q & A–14, Q & A–15 and Q & A–16.

The additions read as follows:

§ 54.4980G–4 Calculating comparable contributions.

* * * * *

Q–14: Does an employer fail to satisfy the comparability rules for a calendar year if the employer fails to make contributions with respect to eligible employees because the employee has not established an HSA or because the employer does not know that the employee has established an HSA?

A–14: (a) *In general.* An employer will not fail to satisfy the comparability rules for a calendar year merely because the employer fails to make contributions with respect to an eligible employee because the employee has not established an HSA or because the employer does not know that the employee has established an HSA, if—

(1) The employer provides timely written notice to all such eligible employees that it will make comparable contributions for eligible employees who, by the last day of February of the following calendar year, both establish an HSA and notify the employer (in accordance with a procedure specified in the notice) that they have established an HSA; and

(2) For each such eligible employee who establishes an HSA and so notifies the employer on or before the last day of February of such following calendar year, the employer contributes to the HSA comparable amounts (taking into account each month that the employee was a comparable participating employee) plus reasonable interest by April 15th of such following calendar year.

(b) *Notice.* The notice described in paragraph (a) of this Q & A–14 must be

provided to each eligible employee who has not established an HSA by December 31 or if the employer does not know if the employee established an HSA. The employer may provide the notice to other employees as well. However, if the employee has earlier notified the employer that he or she has established an HSA, or if the employer has previously made contributions to that employee's HSA, the employer may not condition making comparable contributions on receipt of any additional notice from that employee. For each calendar year, a notice is deemed to be timely if the employer provides the notice no earlier than 90 days before the first HSA employer contribution for that calendar year and no later than January 15 of the following calendar year.

(c) *Model notice.* Employers may use the following sample language as a basis in preparing their own notices.

Notice to Employees Regarding Employer Contributions to HSAs:

This notice explains how you may be eligible to receive contributions from [employer] if you are covered by a High Deductible Health Plan (HDHP). [Employer] provides contributions to the Health Savings Account (HSA) of each employee who is [insert employer's eligibility requirements for HSA contributions] (''eligible employee''). If you are an eligible employee, you must do the following in order to receive an employer contribution:

(1) Establish an HSA on or before the last day in February of [insert year after the year for which the contribution is being made] and;

(2) Notify [insert name and contact information for appropriate person to be contacted] of your HSA account information on or before the last day in February of [insert year after year for which the contribution is being made]. [Specify the HSA account information that the employee must provide (e.g., account number, name and address of trustee or custodian, etc.) and the method by which the employee must provide this account information (e.g., in writing, on a certain form, etc.)].

If you establish your HSA on or before the last day of February in [insert year after year for which the contribution is being made] and notify [employer] of your HSA account information, you will receive your HSA contributions, plus reasonable interest, for [insert year for which contribution is being made] by April 15 of [insert year after year for which contribution is being made]. If, however, you do not establish your HSA or you do not notify us of your HSA account information by the deadline, then we are not required to make any contributions to your HSA for [insert applicable year]. You may notify us that you have established an HSA by sending an [e-mail or] a written notice to [insert name, title and, if applicable, e-mail address]. If you have any questions about this notice, you can contact [insert name and title] at [insert telephone number or other contact information].

(e) *Electronic delivery.* An employer may furnish the notice required under this section electronically. See § 1.401(a)–21 of this chapter.

(f) *Examples.* The following examples illustrate the rules in this Q & A–14:

Example 1. In a calendar year, Employer Q contributes to the HSAs of current employees who are eligible individuals covered under any HDHP. For the 2009 calendar year, Employer Q contributes $50 per month on the first day of each month, beginning January 1st, to the HSA of each employee who is an eligible employee on that date. For the 2009 calendar year, Employer Q provides written notice satisfying the content requirements on October 16, 2008 to all employees regarding the availability of HSA contributions for eligible employees. For eligible employees who are hired after October 16, 2008, Employer Q provides such a notice no later than January 15, 2010. Employer Q's notice satisfies the notice requirements in paragraph (a)(1) of this Q & A–14.

Example 2. Employer R's written cafeteria plan permits employees to elect to make pre-tax salary reduction contributions to their HSAs. Employees making this election have the right to receive cash or other taxable benefits in lieu of their HSA pre-tax contribution. Employer R automatically contributes a non-elective matching contribution to the HSA of each employee who makes a pre-tax HSA contribution. Because Employer R's HSA contributions are made through the cafeteria plan, the comparability requirements do not apply to the HSA contributions made by Employer R. Consequently, Employer R is not required to provide written notice to its employees regarding the availability of this matching HSA contribution. See Q & A–1 in § 54.4980G–5 for treatment of HSA contributions made through a cafeteria plan.

Example 3. In a calendar year, Employer S maintains an HDHP and only contributes to the HSAs of eligible employees who elect coverage under its HDHP. For the 2009 calendar year, Employer S employs ten eligible employees. For the 2009 calendar year, all ten employees have elected coverage under Employer S's HDHP and have established HSAs. For the 2009 calendar year, Employer S makes comparable contributions to the HSAs of all ten employees. Employer S satisfies the comparability rules. Thus, Employer S is not required to provide written notice to its employees regarding the availability of HSA contributions for eligible employees.

Example 4. In a calendar year, Employer T contributes to the HSAs of current full-time employees with family coverage under any HDHP. For the 2009 calendar year, Employer T provides timely written notice satisfying the content requirements to all employees regardless of HDHP coverage. Employer T makes identical monthly contributions to all eligible employees (meaning full time employees with family HDHP coverage) that establish HSAs. Employer T contributes comparable amounts (taking into account each month that the employee was a comparable participating employee) plus reasonable interest to the HSAs of the eligible employees that establish HSAs and provide the necessary information after the end of the year but on or before the last day of February, 2010. Employer T makes no contribution to the HSAs of employees that do not establish an HSA and provide the necessary information on or before the last day of February, 2008. Employer T satisfies the comparability requirements.

Example 5. For 2007, Employer V contributes to the HSAs of current full time employees with family coverage under any HDHP. Employer V has 500 current full time employees. As of the date for Employer V's first HSA contribution for the 2007 calendar year, 450 employees have established HSAs. Employer V provides timely written notice satisfying the content requirements only to those 50 current full time employees who have not established HSAs. Employer V makes identical quarterly contributions to the 450 employees who established HSAs. Employer V contributes comparable amounts to the eligible employees who establish HSAs and provide the necessary information after the end of the year but on or before the last day of February, 2008. Employer V makes no contribution to the HSAs of employees that do not establish an HSA and provide the necessary information on or before the last day of February, 2008. Employer V satisfies the comparability rules.

Q–15: For any calendar year, may an employer accelerate part or all of its contributions for the entire year to the HSAs of employees who have incurred, during the calendar year, qualified medical expenses (as defined in section 223(d)(2)) exceeding the employer's cumulative HSA contributions at that time?

A–15: (a) *In general.* Yes. For any calendar year, an employer may accelerate part or all of its contributions for the entire year to the HSAs of employees who have incurred, during the calendar year, qualified medical expenses exceeding the employer's cumulative HSA contributions at that time. If an employer accelerates contributions to employees' HSAs, all accelerated contributions must be available throughout the calendar year on an equal and uniform basis to all eligible employees. Employers must establish reasonable uniform methods and requirements for accelerated contributions and the determination of medical expenses.

(b) *Satisfying comparability.* An employer that accelerates contributions to the HSAs of its employees will not fail to satisfy the comparability rules because employees who incur qualifying medical expenses exceeding the employer's cumulative HSA contributions at that time have received more contributions in a given period than comparable employees who do not incur such expenses, provided that all comparable employees receive the same

amount or the same percentage for the calendar year. Also, an employer that accelerates contributions to the HSAs of its employees will not fail to satisfy the comparability rules because an employee who terminates employment prior to the end of the calendar year has received more contributions on a monthly basis than employees who work the entire calendar year. An employer is not required to contribute reasonable interest on either accelerated or non-accelerated HSA contributions. But see Q & A–6 and Q & A–12 of this section for when reasonable interest must be paid.

Q–16: What is the effective date for the rules in Q & A–14 and 15 of this section?

A–16: It is proposed that these regulations apply to employer contributions made on or after the date the final regulations are published in the **Federal Register**. However, taxpayers may rely on these regulations for guidance pending the issuance of final regulations. Alternatively, until the publication of final regulations, an employer may continue to rely on the last sentence of Q&A 6(a) of section 54.4980G–4 of the proposed regulations published in the **Federal Register** on August 26, 2005, which provides that, an employer is not required to make comparable contributions for a calendar year to an employee's HSA if the employee has not established an HSA by December 31st of the calendar year.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–10529 Filed 5–31–07; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AL65

Loan Guaranty: Loan Servicing and Claims Procedures Modifications

AGENCY: Department of Veterans Affairs.

ACTION: Second supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document provides a second supplemental notice regarding a proposal to amend the Department of Veterans Affairs (VA) Loan Guaranty regulations related to several aspects of the servicing and liquidating of guaranteed housing loans in default, and submission of guaranty claims by loan holders. This notice provides specific information regarding VA's proposal to phase-in implementation of the new electronic reporting requirement and other provisions in the proposed rule published February 18, 2005 (70 FR 8472). In addition, VA is taking this opportunity to address certain comments raised by some members of industry in response to VA's publication of the first supplemental notice to this rulemaking (November 27, 2006 (71 FR 68948)), and to provide further explanation of the ongoing development of VA's computer-based tracking system. VA is reopening the comment period for the limited purpose of accepting public comments concerning the supplemental information provided in this notice.

DATES: Comments must be received on or before June 15, 2007. All comments previously received following publication of the proposed rule and the supplemental notice referenced above are being considered and do not need to be resubmitted.

ADDRESSES: Written comments may be submitted through *www.regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AL65.'' 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 Document Management System (FDMS). Comments previously received regarding the notice of proposed rulemaking for RIN 2900-AL65, published February 18, 2005 (70 FR 8472), and the supplemental notice published November 27, 2006 (71 FR 68948), will still be considered in the rulemaking process and do not need to be resubmitted.

FOR FURTHER INFORMATION CONTACT: Mike Frueh, Assistant Director for Loan Management (261), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at 202–273–7325. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: VA published a notice of proposed rulemaking in the **Federal Register** on February 18, 2005 (70 FR 8472), to amend regulations concerning the servicing and claims submission requirements on VA-guaranteed home loans. The extensive changes in the proposed rule package were the result of an in-depth business process reengineering project that consulted mortgage-industry and government experts to help develop a plan to ensure that the VA home loan program continued to provide the best possible service to veterans of our armed forces in recognition of their service to our country.

Included in the proposed rule were requirements for reporting information to VA under a new 38 CFR 36.4315a. Under the Revised Reporting Requirements preamble heading, 70 FR 8474–8475, VA stated that proposed § 36.4315a would require all loan holders to electronically report information to the Department by use of a computer system, and that VA would be providing more specific information on this system prior to implementation. As VA progressed in developing its tracking system necessary to receive reports from loan servicers, it more clearly defined the system events and data elements that would be reported under § 36.4315a. VA published more detailed information on those data elements and events in a supplemental notice dated November 27, 2006 (71 FR 68948). Public comments in response to that notice and the original proposed rules expressed concern that providing the amount of data requested by VA (and the corresponding need to adapt industry servicing systems to provide this data) would be extensive and time-consuming. The comments also expressed a desire for careful testing of all aspects of the new electronic reporting requirements. In response to these comments, VA proposes a phased implementation by industry segment and submits the following for public comment.

The purpose of this notice is to solicit views, suggestions and comments from program participants, as well as the general public, as to what extent VA's proposed phased implementation should be adopted or modified, or other action taken, and to ensure that participants, beneficiaries, and the general public have the information they need to provide informed comments. To facilitate consideration of the issues covered by this supplemental notice, VA has set forth below a few matters with respect to which views, suggestions, comments and information are requested. Interested persons, however, are encouraged to address any other matters they believe to be germane

to VA's consideration of implementation methods.

Proposed Phased System Implementation

VA proposes to implement its new, computer-based tracking system over an approximately 11-month timeframe, with program participants grouped into nine segments that will ''go live'' on VA's new system during designated phases of implementation. Each phase of implementation will incorporate time for data clean-up, system modifications, defect corrections, testing of interfaces and data transmission, and review of lessons learned before initiating the next phase. With respect to this proposal to designate phases of implementation, VA asks program participants and the general public to respond to or otherwise comment on the following questions:

1. Does this phased implementation approach, in which program participants would be grouped into nine industry segments, appear reasonable in light of VA's need to balance industry participation with the potential for risks to the Government and program beneficiaries?

2. Are there other ways that VA can segment the industry to effectively limit the risks to the Government and beneficiaries?

3. Is the industry segmentation information provided in this supplemental notice clear enough for program participants to understand their role in the implementation process?

4. What additional information would program participants need to prepare for implementation of their industry segment?

5. Do program participants have any concerns about being unprepared for their scheduled, phased implementation? If so, what alternatives for implementation are available to VA?

Industry Segmentation Decisions

VA proposes to phase-in the implementation based on criteria unique to each industry segment defined below. By implementing the new tracking system in this way, VA's goal is to bring on board the largest number of loans as early as its system can handle them, while also taking into account the number of servicers, the extent of servicers' interfaces, the types of loan portfolios, and other unique testing factors that VA can anticipate at this stage. The nine industry segments identified in this supplemental notice account for all current program participants. Each segment would have a corresponding effective date for the phased-in implementation.

Industry Segment One: With the first industry segment, VA will need to bring into the new tracking system a large number of loans that are in different stages of delinquency. This is important because VA must have a representative cross-sampling by which it can test its new system's capabilities at various milestones. However, VA cannot manage the risk associated with simultaneously bringing multiple servicers into the system and adding such a large number of loans. As such, VA will select the first industry segment based on the largest number of delinquent loans with a representative portfolio and a loan servicing system that is already common to the industry.

Industry Segment Two: The second segment would bring on-line a proprietary servicing system. Proprietary servicing systems are less common and, as a result, have characteristics that may present unique challenges to implementation. It is necessary for VA to determine early that its tracking system will be able to communicate seamlessly with such a servicing system, so that when VA is ready to begin taking on multiple servicers with proprietary systems, VA will be certain that its tracking system can handle the demands. Consequently, in Segment Two, VA will bring on-line a large program participant that is capable of participating at such an early stage and that uses a proprietary system to manage a high volume of delinquent loans.

Industry Segment Three: For Segment Three, VA would begin introducing to its system multiple program participants with medium-sized delinquent loan portfolios. Since this would be the first time that VA's system would have to handle an influx of multiple participants, however, VA would also limit Industry Segment Three to those who use the same servicing system as Industry Segment One, a common loan servicing platform with which VA's system would already be familiar.

Industry Segment Four: With the fourth industry segment, VA would introduce another servicing system common to the industry. VA would identify the program participant with the largest, most representative portfolio of delinquent loans. As with Industry Segments One and Two, this would allow VA to bring on-line a large number of loans without the risk of shutting down multiple program participants in the case of testing defects.

Industry Segment Five: Segment Five would focus on program participants with smaller portfolios where the program participants would use a variety of servicing systems. In the aggregate, this group would have a moderate number of delinquent loans. The increased complexity of interacting with multiple servicing systems would be offset by the ease of working with smaller portfolios. This segment would allow VA to verify its ability to implement with multiple servicers and multiple servicing systems for the first time.

Industry Segment Six: At this stage, VA would be ready to bring large numbers of program participants into the system. VA would list the remaining servicers in descending order by size of delinquent loan portfolio. From this list, VA would create three groups of approximately equal size. From these three groups, VA would randomly select a group for Industry Segment Six. By selecting Industry Segment Six in this way, VA would focus for the first time on large numbers of servicers while keeping implementation risks low by selecting servicers with relatively small delinquent loan portfolios.

Industry Segment Seven: For Industry Segment Seven, VA would randomly select the second group of servicers with relatively small delinquent loan portfolios for implementation.

Industry Segment Eight: Industry Segment Eight would include the remaining group of servicers with relatively small delinquent loan portfolios.

Industry Segment Nine: VA would reserve Industry Segment Nine for any servicers that have not been brought into the new tracking system in a previous industry segment.

Proposed Effective Dates of New Rules

For most of the regulatory changes proposed on February 18, 2005 (70 FR 8472), the effective date of the new rules for each industry segment would correspond to the date that segment ''goes live'' on the new system. Final implementation of the new rules would occur approximately 11 months after publication of the final rule. The table below provides the approximate effective date that we anticipate for each industry segment. These approximate effective dates are based on an anticipated publication of the final rules in September of 2007. The schedule would maintain the general timeframes described below, but could change due to unforeseen circumstances. There may be other factors at time of implementation that would influence the ordering of the industry segments (for example, industry consolidation and/or unacceptable testing results

discovered during preparations for an industry segment implementation). Because we cannot predict with certainty the precise date on which we will be ready to begin phase one, or the precise dates on which we will be ready to move from segment to segment, we intend to publish as notices in the **Federal Register** the actual effective dates for the industry segments.

Segment No.	Effective date of phased-in rules (by calendar year quarter)
1	4th Quarter, 2007.
2	4th Quarter, 2007.
3	1st Quarter, 2008.
4	1st Quarter, 2008.
5	1st Quarter, 2008.
6	1st Quarter, 2008.
7	2nd Quarter, 2008.
8	2nd Quarter, 2008.
9	3rd Quarter, 2008.

Proposed Exceptions to the Effective Dates of the New Rules

There would be three exceptions to the phased implementation for the new rules, meaning that all program participants would be subject to these proposed exceptions upon the date of the final rules' publication. These exceptions can be implemented immediately because they are not dependent on the new tracking system. The first exception is the proposed revision to § 36.4313(b)(5) on allowable legal fees, which would be effective upon publication of the final rule. The second exception is the provision in new § 36.4321(d) that allows 1 year after termination for filing a claim under the guaranty, which would be effective upon publication of the final rule. The third exception is the new authority proposed in § 36.4344a for the Servicer Appraisal Processing Program, which would be effective upon publication of the final rule.

Proposed New 38 CFR 36.4800, *et seq.*

All program participants not yet brought online would be governed by the existing regulations in 38 CFR 36.4300 through 36.4393, as amended through this rulemaking. Program participants would also be immediately subject to the three exceptions described earlier. As industry segments are brought on-line, however, they would then be subject to the phased-in rules, which would be found at a new 4800 series in 38 CFR part 36.

To make implementation less confusing, the 4800 series would reprint the existing rules not affected by this rulemaking. To illustrate: If a servicer were brought on-line and wanted to know the definition of a key term, it would look to 38 CFR 36.4801 to determine the meaning. The servicer would find the new § 36.4801 different from the existing § 36.4301 in the way that VA has proposed. On the other hand, if the same servicer wanted information about how guaranties are computed, it would look to § 36.4802 in the new environment, and would find it identical to the existing rule in 38 CFR 36.4302 because VA has not proposed a change to that section as a part of this rulemaking.

When all industry segments have been brought on-line, VA will remove current §§ 36.4300 through 36.4393, and redesignate the new 4800 series to replace current §§ 36.4300 through 36.4393. At that time, all program participants would be subject to the new rules.

Anticipated Effect of the Phase-in on Veterans and the Lending Industry

The impact on veterans by this phasing of effective dates of the new rules would be minimal. Under the existing rules, veterans experiencing payment problems receive financial counseling and other assistance from VA to help them avoid foreclosure whenever possible. Under the new rules, loan servicers would be responsible for providing similar assistance to veterans and VA would be assuming an oversight role, monitoring the servicers' direct intervention, while retaining the ability to intervene on the veteran's behalf when necessary. VA would do everything possible to mitigate potential disparities and to minimize the time to move to full implementation of the new rules. VA would, to the maximum extent permitted by law, help veterans who may be affected by any differences. Nevertheless, VA believes the phase-in approach offers the least risk with the most opportunity for success, as other alternatives contemplated might severely impact VA's ability to serve any veteran. VA recognizes that mortgage servicers would incur some expenses for conversion to the new reporting requirements through the use of VA's new tracking system. However, as servicers shift over to VA's new system, they would become eligible for certain incentives authorized under the new rules. VA believes that the overall impact on servicers would be minimized by phasing in implementation of the new rules in accordance with the schedule for bringing servicers on-line with VA's new system, and this approach also offers the least risk to VA in the event the new system requires modifications.

With respect to the effect of the proposed phased implementation, VA asks program participants and the general public to respond to or otherwise comment on the following questions:

1. Does VA's proposal balance the competing interests of the Government, beneficiaries, and program participants?

2. Are there program participants who would want to be brought in to the system at an earlier or later date than proposed in this supplemental notice?

3. How could VA modify the proposal for implementing the new system to accommodate program participants who seek an alternative phase-in date?

4. Are there other issues, such as the impact of incentives authorized under the new rules or the cost of preparing to be brought in to the system, which VA should consider in deciding whether there is any other feasible alternative to the phased implementation?

Proposed Clarification on Servicer or Holder

The holder is the entity ultimately responsible for compliance with VA regulations and under § 36.4301 ''holder'' means ''the authorized servicing agent of the lender or assignee or transferee.'' However, for purposes of tier ranking (§ 36.4316) and loss mitigation options and incentives (§ 36.4317), VA's intent is to measure performance of the actual loan servicer and reward it accordingly. In order to make this distinction clearer, VA proposes to add a new definition in § 36.4301 to describe the duties, responsibilities and rights of servicers.

Proposed Clarifications on Loan Modifications

VA proposed extensive changes to the existing rule in § 36.4314 to clarify the conditions under which a loan holder could modify an existing loan without the prior approval of VA. In reviewing the proposed rule VA realized that two aspects of it remained confusing and in need of clarification.

First, proposed paragraph (a)(1) includes the phrase ''or default is imminent.'' Because VA is proposing a hierarchy of loss mitigation options for consideration within the new regulatory package, it would not be appropriate for a holder to consider modification of a loan until after first considering a repayment plan or a period of forbearance in order to allow loan reinstatement. Therefore, it would not normally be feasible for a holder to consider modification of a loan where default is only imminent, because that would not allow for prior consideration of a repayment plan or a period of forbearance. Accordingly, in addition to the amendments noted in the notice of

proposed rulemaking published on February 18, 2005 (70 FR 8472), VA proposes to eliminate the words ''or default is imminent'' from the proposed rule.

Second, proposed paragraph (a)(4) includes the phrase, ''At least 12 months must have elapsed since the closing of the loan.'' As we reviewed this proposal, we realized that the intent of the redesign group had been misconstrued with this language. VA actually intended for a holder to be empowered to consider a loan modification without VA's prior approval if the borrower had made at least 12 payments on the loan. The actual language in the proposed rule did not accurately convey this condition, and could allow loan modification even if a borrower had made no payments on the loan, but 12 months had elapsed since origination. VA would definitely want to review such a unique case prior to loan modification. However, if a borrower has made 12 payments after origination, then a holder should be allowed to modify the loan without prior VA approval, provided the other conditions are satisfied. Therefore, in addition to the amendments noted in the notice of proposed rulemaking published on February 18, 2005 (70 FR 8472), VA proposes to replace ''months must have elapsed'' with ''payments must have been paid'' in proposed § 36.4314(a)(4).

Paperwork Reduction Act

While the proposed rule sets forth collections of information pertaining to proposed § 36.4315a, this supplemental notice of proposed rulemaking contains no new or proposed revised collections of information outside those referenced in the proposed rule.

Executive Order 12866

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 Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this supplemental notice of proposed rulemaking have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This supplemental notice of proposed rulemaking would have no such effect on State, local, or tribal governments, or the private sector.

Regulatory Flexibility Act

The Secretary hereby certifies that this supplemental notice of proposed rulemaking would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The vast majority of VA loans are serviced by very large financial companies. Only a handful of small entities service VA loans and they service only a very small number of loans. This supplemental notice of proposed rulemaking, which only impacts veterans, other individual obligors with guaranteed loans, and companies that service VA loans, will have a very minor impact on a very small number of small entities servicing such loans. Therefore, pursuant to 5 U.S.C. 605(b), the supplemental notice of proposed rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number is 64.114, Veterans Housing Guaranteed and Insured Loans.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and record keeping requirements, Veterans.

Approved: April 24, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 36 as follows:

PART 36—LOAN GUARANTY

1. The authority citation for part 38 continues to read as follows:

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

2. Amend § 36.4301 as proposed to be amended on February 18, 2005 (70 FR 8483) by revising the following terms in alphabetical order to read as follows:

§ 36.4301 Definitions.

* * * * *

Compromise sale. A sale to a third party for an amount less than is sufficient to repay the unpaid balance on the loan where the holder has agreed in advance to release the lien in exchange for the proceeds of such sale.

* * * * *

Holder. The lender or any subsequent assignee or transferee of the guaranteed obligation or the authorized servicing agent (also referred to as ''the servicer'') of the lender or of the assignee or transferee.

* * * * *

Liquidation sale. * * * This term also includes a compromise sale.

* * * * *

Servicer. The authorized servicer may be the servicing agent of a holder or the holder itself if the holder is performing all servicing functions on a loan. The servicer is typically the entity reporting all loan activity to VA and filing claims under the guaranty on behalf of the holder. VA will generally issue guaranty claims and other payments to the servicer, which will be responsible for forwarding funds to the holder in accordance with its servicing agreement. Incentives under § 36.4317 will generally be paid directly to the servicer based on its performance under that section and in accordance with its tier ranking under § 36.4316.

* * * * *

Total indebtedness. For purposes of 38 U.S.C. 3732(c), the veteran's ''total indebtedness'' shall be the sum of: The unpaid principal on the loan as of the date of the liquidation sale, accrued

unpaid interest permitted by § 36.4321(a), and fees and charges permitted to be included in the guaranty claim by § 36.4313.

* * * * *

3. Revise § 36.4314 to read as follows:

§ 36.4314 Loan modifications.

(a) Subject to the provisions of this section, the terms of any guaranteed loan may be modified by written agreement between the holder and the borrower, without prior approval of the Secretary, if all of the following conditions are met:

(1) The loan is in default;

(2) The event or circumstances that caused the default have been or will be resolved and it is not expected to re-occur.

(3) The obligor is considered to be a reasonable credit risk, based on a review by the holder of the obligor's creditworthiness under the criteria specified in § 36.4337, including a current credit report. The fact of the recent default will not preclude the holder from determining the obligor is now a satisfactory credit risk provided the holder determines that the obligor is able to resume regular mortgage installments when the modification becomes effective based upon a review of the obligor's current and anticipated income, expenses, and other obligations as provided in § 36.4337.

(4) At least 12 monthly payments have been paid since the closing date of the loan;

(5) The current owner occupies the property securing the loan and is obligated to repay the loan.

(6) All current owners of the property are parties to, and have agreed to the terms of, the loan modification.

(7) The loan will be reinstated to performing status by virtue of the loan modification.

(b) A loan can be modified no more than once in a 3-year period and no more than three times during the life of the loan.

(c) All modified loans must bear a fixed-rate of interest, which may not exceed the lesser of—

(1) A rate which is 100 basis points above the interest rate in effect on this loan just prior to the execution of the modification agreement, or

(2) The Government National Mortgage Association (GNMA) current month coupon rate that is closest to par (100) in effect at the close of business on the business day immediately preceding the date the modification agreement is executed by the obligor plus 50 basis points.

(d) The unpaid balance of the modified loan may be re-amortized over the remaining life of the loan. The loan term may extend the maturity date to the shorter of—

(1) 360 months from the due date of the first installment required under the modification, or

(2) 120 months after the original maturity date of the loan.

(e) Only unpaid principal, accrued interest, and deficits in the taxes and insurance impound accounts may be included in the modified indebtedness. Late fees and other charges may not be capitalized.

(f) Holders will ensure the first lien status of the modified loan. No current owner of the property will be released from liability as a result of executing the modification agreement without prior approval from VA. Releasing a current owner obligor from liability without prior approval will release the Secretary from liability under the guaranty.

(g) The dollar amount of the guaranty may not exceed the greater of the original guaranty amount of the loan being modified or 25 percent of the loan being modified subject to the statutory maximum specified at 38 U.S.C. 3703(a)(1)(B).

(h) The obligor may not receive any cash back from the modification.

[FR Doc. E7–10630 Filed 5–31–07; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2007–0324; FRL–8321–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Johnstown (Cambria County) 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Johnstown (Cambria County) ozone nonattainment area (Cambria Area) be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). EPA is proposing to approve the ozone redesignation request for the Cambria Area. In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Cambria Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is proposing to make a determination that the Cambria Area has attained the 8-hour ozone NAAQS, based upon three years of complete, quality-assured ambient air quality monitoring data for 2003–2005. EPA's proposed approval of the 8-hour ozone redesignation request is based on its determination that the Cambria Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA). In addition, the Commonwealth has also submitted a 2002 base year inventory for the Cambria Area which EPA is proposing to approve as a SIP revision. EPA is also providing information on the status of its adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the maintenance plan for the Cambria Area for purposes of transportation conformity, which EPA is also proposing to approve. EPA is proposing approval of the redesignation request and of the maintenance plan and 2002 base year inventory SIP revisions in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before July 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–0324 by one of the following methods:

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

B. *E-mail: miller.linda@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–0324, Linda Miller, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–0324. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. What Are the Actions EPA Is Proposing to Take?

On March 27, 2007, PADEP formally submitted a request to redesignate the Cambria Area from nonattainment to attainment of the 8-hour NAAQS for ozone. Concurrently, Pennsylvania submitted a maintenance plan for the Cambria Area as a SIP revision to ensure continued attainment in the area over the next 11 years. Pennsylvania also submitted a 2002 base year inventory for the Cambria Area as a SIP revision. The Cambria Area is currently designated a basic 8-hour ozone nonattainment area. EPA is proposing to determine that the Cambria Area has attained the 8-hour ozone NAAQS and that it has met the requirements for redesignation pursuant to section 107(d)(3)(E) of the CAA. EPA is, therefore, proposing to approve the redesignation request to change the designation of the Cambria Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve the Cambria Area maintenance plan as a SIP revision (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to ensure continued attainment in the Cambria Area for the next 11 years. EPA is also proposing to approve the 2002 base year inventory for the Cambria Area as a SIP revision. Additionally, EPA is announcing its action on the adequacy process for the MVEBs identified in the Cambria maintenance plan, and proposing to approve the MVEBs identified for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for the Cambria Area for transportation conformity purposes.

II. What Is the Background for These Proposed Actions?

A. General

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone. The air pollutants NO_X and VOC are referred to as precursors of ozone. The CAA establishes a process for air quality management through the attainment and maintenance of the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard. EPA designated, as nonattainment, any area violating the 8-hour ozone NAAQS based on the air quality data for the three years of 2001–2003. These were the most recent three years of data at the time EPA designated 8-hour areas. The Cambria Area was designated a basic 8-hour ozone nonattainment area in a **Federal Register** notice signed on April 15, 2004 and published on April 30, 2004 (69 FR 23857), based on its exceedance of the 8-hour health-based standard for ozone during the years 2001–2003.

On April 30, 2004, EPA issued a final rule (69 FR 23951, 23996) to revoke the 1-hour ozone NAAQS in the Cambria Area (as well as most other areas of the country) effective June 15, 2005. *See*, 40 CFR 50.9(b); 69 FR at 23966 (April 30, 2004); and see 70 FR 44470 (August 3, 2005).

However, on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard, (69 FR 23951, April 30, 2004), *See, South Coast Air Quality Management Dist.* v. *EPA*, 472 F. 3d 882 (D.C. Cir. 2006) (hereafter ''*South Coast.*''). The Court held that certain provisions of EPA's Phase 1 Rule were inconsistent with the requirements of the CAA. The Court rejected EPA's reasons for implementing the 8-hour standard in nonattainment areas under subpart 1 in lieu of subpart 2 of Title I, part D of the Act. The Court also held that EPA improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or failure to attain that NAAQS; and (4) the certain conformity requirements for certain types of Federal actions. The Court upheld EPA's authority to revoke the 1-hour standard provided there were adequate anti-backsliding provisions. Elsewhere in this document, mainly section VI.B. ''The Cambria Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has Fully Approved SIP Under Section

110(k) of the CAA,'' EPA discusses its rationale why the decision in *South Coast* is not impediment to redesignating the Cambria Area to attainment of the 8-hour ozone NAAQS.

The CAA, Title I, Part D, contains two sets of provisions—subpart 1 and subpart 2—that address planning and control requirements for nonattainment areas. Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general, less prescriptive requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for ozone nonattainment areas. In 2004, the Cambria Area was classified a basic 8-hour ozone nonattainment area based on air quality monitoring data from 2001–2003 and therefore, is subject to the requirements of subpart 1 of Part D.

Under 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). *See* 69 FR 23857 (April 30, 2004) for further information. Ambient air quality monitoring data for the 3-year period must meet data completeness requirements. The data completeness requirements are met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of 40 CFR part 50. The ozone monitoring data indicates that the Cambria Area has a design value of 0.077 ppm for the 3-year period of 2003–2005, using complete, quality-assured data. Therefore, the ambient ozone data for the Cambria Area indicates no violations of the 8-hour ozone standard.

B. The Cambria Area

The Cambria Area consists of Johnstown (Cambria County), Pennsylvania. Prior to its designation as an 8-hour ozone nonattainment area, the Cambria Area was a marginal 1-hour ozone nonattainment area, and therefore, was subject to requirements for marginal nonattainment areas pursuant to section 182(a) of the CAA. *See* 56 FR 56694 (November 6, 1991). EPA determined that the Cambria Area has attained the 1-hour ozone NAAQS by the November 15, 1993 attainment date (60 FR 3349, January 17, 1995).

On March 27, 2007, PADEP requested that the Cambria Area be redesignated to attainment for the 8-hour ozone standard. The redesignation request included three years of complete, quality-assured data for the period of 2003–2005, indicating that the 8-hour NAAQS for ozone had been achieved in the Cambria Area. The data satisfies the CAA requirements that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration (commonly referred to as the area's design value), must be less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). Under the CAA, a nonattainment area may be redesignated if sufficient complete, quality-assured data is available to determine that the area has attained the standard and the area meets the other CAA redesignation requirements set forth in section 107(d)(3)(E).

III. What Are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA, allows for redesignation, providing that:

(1) EPA determines that the area has attained the applicable NAAQS;

(2) EPA has fully approved the applicable implementation plan for the area under section 110(k);

(3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(5) The State containing such area has met all requirements applicable to the area under section 110 and Part D.

EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

- ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, June, 18, 1990;
- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
- ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
- ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni Director, Air Quality Management Division, October 28, 1992;
- ''Technical Support Documents (TSDs) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
- ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
- Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' dated November 30, 1993;
- ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
- ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why Is EPA Taking These Actions?

On March 27, 2007, PADEP requested redesignation of the Cambria Area to attainment for the 8-hour ozone standard. On March 27, 2007, PADEP submitted a maintenance plan for the Cambria Area as a SIP revision, to ensure continued attainment of the 8-hour ozone NAAQS over the next 11 years, until 2018. PADEP also submitted a 2002 base year inventory concurrently

with its maintenance plan as a SIP revision.

V. What Would Be the Effect of These Actions?

Approval of the redesignation request would change the official designation of the Cambria Area from nonattainment to attainment for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Pennsylvania SIP a 2002 base year inventory and a maintenance plan ensuring continued attainment of the 8-hour ozone NAAQS in the Cambria Area for the next 11 years, until 2018. The maintenance plan includes contingency measures to remedy any future violations of the 8-hour NAAQS (should they occur), and identifies the NO_X and VOC MVEBs for transportation conformity purposes for the years 2009 and 2018. These MVEBs are displayed in the following table:

TABLE 1.—MOTOR VEHICLE EMISSIONS BUDGETS IN TONS PER SUMMER DAY (TPSD)

Year	VOC	NO_X
2009	3.8	5.6
2018	2.3	2.7

VI. What Is EPA's Analysis of the Commonwealth's Request?

EPA is proposing to determine that the Cambria Area has attained the 8-hour ozone standard and that all other redesignation criteria have been met. The following is a description of how the PADEP's March 27, 2007 submittal satisfies the requirements of section 107(d)(3)(E) of the CAA.

A. The Cambria Area Has Attained the Ozone NAAQS

EPA is proposing to determine that the Cambria Area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the design value, which is the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations, measured at each monitor within the area over each year, must not exceed the ozone standard of 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In the Cambria Area, there is one ozone monitor, located in Cambria County that measures air quality with respect to ozone. As part of its redesignation request, Pennsylvania referenced ozone monitoring data for the years 2003–2005 for the Cambria Area. This data has been quality assured and is recorded in the AQS. PADEP uses the AQS as the permanent database to maintain its data and quality assures the data transfers and content for accuracy. The fourth-high 8-hour daily maximum concentrations, along with the three-year average are summarized in Table 2.

TABLE 2.—CAMBRIA AREA FOURTH HIGHEST 8-HOUR AVERAGE VALUES CAMBRIA COUNTY MONITOR/AQS ID 42–021–0011

Year	Annual 4th highest reading (ppm)
2003	0.083
2004	0.071
2005	0.077
2006	0.073

The average for the 3-year period 2003–2005 is 0.077 ppm.

The average for the 3-year period 2004–2006 is 0.074 ppm.

The air quality data for 2003–2005 show that the Cambria Area has attained the standard with a design value of 0.077 ppm. The data collected at the Cambria Area monitor satisfies the CAA requirement that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. EPA believes this conclusion remains valid after review of the certified 2006 data because the design value for 2004–2006 would be 0.074 ppm. PADEP's request for redesignation for the Cambria Area indicates that the data is complete and was quality assured in accordance with 40 CFR part 58. In addition, as discussed below with respect to the maintenance plan, PADEP has committed to continue monitoring in accordance with 40 CFR part 58. In summary, EPA has determined that the data submitted by Pennsylvania and data taken from AQS indicate that the Cambria Area has attained the 8-hour ozone NAAQS.

B. The Cambria Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA

EPA has determined that the Cambria Area has met all SIP requirements applicable for purposes of this redesignation under section 110 of the CAA (General SIP Requirements) and that it meets all applicable SIP requirements under Part D of Title I of the CAA, in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii) of the CAA. In making these proposed determinations, EPA ascertained which requirements are applicable to the Cambria Area and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to applicable requirements.

The September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, States requesting redesignation to attainment must meet only the relevant CAA requirements that came due prior to the submittal of a complete redesignation request. *See also*, Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). *See also*, 68 FR at 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

This action also sets forth EPA's views on the potential effect of the Court's ruling in *South Coast* on this redesignation action. For the reasons set forth below, EPA does not believe that the Court's ruling alters any requirements relevant to this redesignation action so as to preclude redesignation, and does not prevent EPA from finalizing this redesignation.

EPA believes that the Court's decision, as it currently stands or as it may be modified based upon any petition for rehearing that has been filed, imposes no impediment to moving forward with redesignation of this area to attainment, because in either circumstance redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

1. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD));
- Provisions for the implementation of part D requirements for New Source Review (NSR) permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a State from significantly contributing to air quality problems in another State. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants in accordance with the NO_X SIP Call, October 27, 1998 (63 FR 57356), amendments to the NO_X SIP Call, May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222), and the Clean Air Interstate Rule (CAIR), May 12, 2005 (70 FR 25162). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular nonattainment area's designation and classification in that State. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the State. Thus, we do believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Cambria Area will still be subject to these requirements after it is redesignated. The section 110 and Part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. *See*, Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also*, the discussion on this issue in the Cincinnati redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh redesignation (66 FR at 53099, October 19, 2001). Similarly, with respect to the NO_X SIP Call rules, EPA noted in its Phase 1 Final Rule to Implement the 8-hour Ozone NAAQS, that the NO_X SIP Call rules are not ''an'' 'applicable requirement' for purposes of section 110(1) because the NO_X rules apply regardless of an area's attainment or nonattainment status for the 8-hour (or the 1-hour) NAAQS.'' 69 FR 23951, 23983 (April 30, 2004).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. As we explain later in this notice, no Part D requirements applicable for purposes of redesignation under the 8-hour standard became due for the Cambria Area prior to the submission of the redesignation request.

Because the Pennsylvania SIP satisfies all of the applicable general SIP elements and requirements set forth in section 100(a)(2), EPA concludes that Pennsylvania has satisfied the criterion of section 107(d)(3)(e) regarding section 110 of the CAA.

2. Part D Nonattainment Requirements Under the 8-Hour Standard

Pursuant to an April 30, 2004, final rule (69 FR 23951), the Cambria Area was designated a basic nonattainment area under subpart 1 for the 8-hour ozone standard. Sections 172–176 of the CAA, found in subpart 1 of Part D, set forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of Part D, establishes additional specific requirements depending on the area's nonattainment classification.

With respect to the 8-hour standard, the court's ruling rejected EPA's reasons for classifying areas under subpart 1 for the 8-hour standard, and remanded that matter to the Agency. Consequently, it is possible that this area could, during a remand to EPA, be reclassified under subpart 2. Although any future decision by EPA to classify this area under subpart 2 might trigger additional future requirements for the area, EPA believes that this does not mean that redesignation of the area cannot now go forward. This belief is based upon (1) EPA's longstanding policy of evaluating redesignation requests in accordance with the requirements due at the time the request is submitted; and (2) consideration of the inequity of applying retroactively any requirements that might in the future be applied.

At the time the redesignation request was submitted, the Cambria Area was classified under subpart 1 and was obligated to meet subpart 1 requirements. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the CAA, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. *See*, September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division). *See also*, Michael Shapiro Memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (Redesignation of Detroit-Ann Arbor); *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004), which upheld this interpretation; 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted. The D.C. Circuit has recognized the inequity

in such retroactive rulemaking. *See, Sierra Club* v. *Whitman*, 285 F. 3d 63 (D.C. Cir. 2002), in which the DC Circuit upheld a District Court's ruling refusing to make retroactive an EPA determination of nonattainment that was past the statutory due date. Such determination would have resulted in the imposition of additional requirements on that area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory time frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the States, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' *Id.* at 68. Similarly, here it would be unfair to penalize the area by applying to it for purposes of redesignation, additional SIP requirements under subpart 2 that were not in effect at the time it submitted its redesignation request.

With respect to 8-hour subpart 2 requirements, if the Cambria Area initially had been classified under subpart 2, the first two Part D subpart 2 requirements applicable to the Cambria Area under section 182(a) of the CAA would be a base year inventory requirement pursuant to section 182(a)(1) of the CAA, and the emissions statement requirement pursuant to section 182(a)(3)(B).

As stated previously, these requirements are not due for purposes of redesignation of the Cambria Area, but nevertheless, Pennsylvania already has in its approved SIP, an emissions statement rule for the 1-hour standard that covers all portions of the designated 8-hour nonattainment area, and that satisfies the emissions statement requirement for the 8-hour standard. *See*, 25 Pa. Code 135.21(a)(1) codified at 40 CFR 52.2020; 60 FR 2881, January 12, 1995. With respect to the base year inventory requirement, in this notice of proposed rulemaking, EPA is proposing to approve the 2002 base year inventory for the Cambria Area, which was submitted on March 27, 2007, concurrently with its maintenance plan, into the Pennsylvania SIP. EPA is proposing to approve the 2002 base year inventory as fulfilling the requirements, if necessary, of both sections 182(a)(1) and 172(c)(3) of the CAA. A detailed evaluation of Pennsylvania's 2002 base year inventory for the Cambria Area can be found in a Technical Support Document (TSD) prepared by EPA for this rulemaking. EPA has determined that the emission inventory and the emissions statement for the Cambria Area have been satisfied.

In addition to the fact that Part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, EPA believes that the general conformity and NSR requirements do not require approval prior to redesignation.

With respect to section 176, Conformity Requirements, section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (''transportation conformity'') as well as to all other Federally supported or funded projects (''general conformity''). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required the EPA to promulgate. EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) since State conformity rules are still required after redesignation and Federal conformity rules apply where State rules have not been approved. *See, Wall* v. *EPA*, 265 F. 3d 426, 438–440 (6th Cir. 2001), upholding this interpretation. *See also*, 60 FR 62748 (December 7, 1995).

In the case of the Cambria Area, EPA has also determined that before being redesignated, the Cambria Area need not comply with the requirement that a NSR program be approved prior to redesignation. EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without Part D NSR in effect. The rationale for this position is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D NSR Requirements of Areas Requesting Redesignation to Attainment.'' Normally, State's Prevention of Significant Deterioration (PSD) program will become effective in the area immediately upon redesignation to attainment. *See* the more detailed explanations in the following redesignation rulemakings: Detroit, MI (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorrain, OH (61 FR 20458, 20469–70, May 7, 1996); Louisville, KY (66 FR 53665, 53669, October 23, 2001); Grand Rapids, MI (61 FR 31831, 31836–31837, June 21, 1996). In the case of the Cambria Area, the Chapter 127 Part D NSR regulations in the Pennsylvania SIP (codified at 40 CFR 52.2020(c)(1)) explicitly apply the requirements for NSR in section 184 of the CAA to ozone attainment areas within the ozone transport region (OTR). The OTR NSR requirements are more stringent than that required for a marginal or basic ozone nonattainment area. On October 19, 2001 (66 FR 53094), EPA fully approved Pennsylvania's NSR SIP revision consisting of Pennsylvania's Chapter 127 Part D NSR regulations that cover the Cambria Area.

EPA has also interpreted the section 184 OTR requirements, including the NSR program, as not being applicable for purposes of redesignation. The rationale for this is based on two considerations. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the State remains obligated to have NSR, as well as reasonably available control technology (RACT), and Vehicle Inspection and Maintenance (I/M) programs even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to the Cambria Area by virtue of the area's designation and classification. *See*, 61 FR 53174, 53175–53176 (October 10, 1996) and 62 FR 24826, 24830–32 (May 7, 1997).

3. Part D Nonattainment Area Requirements Under the 1-Hour Standard

In its December 22, 2006 decision in *South Coast*, the Court also addressed EPA's revocation of the 1-hour ozone standard. The current status of the revocation and associated anti-backsliding rules is dependent on whether the Court's decision stands as originally issued or is modified in response to any petition for rehearing or request for clarification that has been filed. As described more fully below, EPA determined that the Cambria Area has attained the 1-hour standard by its attainment date (60 FR 3349, January 17, 1995), continuous to attain that attain that standard, and has fulfilled any requirements of the 1-hour standard that would apply even if the 1-hour standard is reinstated and those requirements are viewed as applying under the statute itself. Thus, the Court's decision, as it currently stands, imposes no impediment to moving forward with redesignation of the Cambria Area to attainment.

The conformity portion of the Court's ruling does not impact the redesignation request for the Cambria Area because there are no conformity requirements that are relevant to redesignation request for any standard, including the requirement to submit a transportation conformity SIP.[1] As we have previously noted, under longstanding EPA policy, EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. 40 CFR 51.390. *See, Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See also*, 60 FR 62748 (Dec. 7, 1995) (Tampa, FL redesignation).

With respect to the requirement for submission of contingency measures for the 1-hour standard, section 182(a) does not require contingency measures for marginal areas, and, therefore, that portion of the Court's ruling does not impact the redesignation request for the Cambria Area.

Prior to its designation as an 8-hour ozone nonattainment area, the Cambria Area was designated a marginal nonattainment area for the 1-hour standard. With respect to the 1-hour standard, the applicable requirements of subpart 1 and subpart 2 of Part D (section 182) for the Cambria Area are discussed in the following paragraphs.

Section 182(a)(2)(A) required SIP revisions to correct or amend RACT for sources in marginal areas, such as the Cambria Area, that were subject to control technique guidelines (CTGs) issued before November 15, 1990 pursuant to CAA section 108. On December 22, 1994, EPA fully approved into the Pennsylvania SIP all corrections required under section 182(a)(2)(A) of the CAA (59 FR 65971, December 22, 1994). EPA believes that this requirement applies only to marginal and higher classified areas under the 1-hour NAAQS pursuant to the 1990 amendments to the CAA; therefore, this is a one-time requirement. After an area has fulfilled the section 182(a)(2)(A) requirement for the 1-hour NAAQS, there is no requirement under the 8-hour NAAQS.

Section 182(a)(2)(B) of the CAA relates to the savings clause for vehicle I/M. It requires marginal areas to adopt vehicle I/M programs. This provision was not applicable to the Cambria Area because this area did not have nor was required to have an I/M program before November 15, 1990.

Section 182(a)(3)(A) is a provision of the CAA that requires a triennial periodic emissions inventory for the nonattainment area. The most recent inventory for the Cambria Area compiled for 2002 and submitted to EPA as a SIP revision with the maintenance for the Cambria Area.

With respect to NSR, EPA has determined that areas being redesignated need not have an approved New Source Review program for the same reasons discussed previously with respect to the applicable Part D requirements for the 8-hour standard.

Section 182(a)(3)(B) is a provision of the CAA that requires sources of VOCs and NO_X in the nonattainment area to submit annual Emissions Statements regarding the quantity of emissions from the previous year. As discussed previously, Pennsylvania already has in its approved SIP, a previously approved emissions statement rule for the 1-hour standard which applies to the Cambria Area.

Section 182(a)(1) is a provision of the CAA that provides for the submission of a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator. In this proposed rule, EPA is proposing to approve a 2002 base year emissions inventory for the Cambria Area as meeting the requirement of section 182(a)(1). While EPA generally required that the base year inventory for the 1-hour standard be for calendar year 1990, EPA believes that Pennsylvania's 2002 inventory fulfills this requirement because it meets EPA's guidance and because it is more current than 1990. EPA also proposes to determine that, if the 1-hour standard is deemed to be reinstated, the 2002 base year inventory for the 8-hour standard will provide an acceptable substitute for the base year inventory for the 1-hour standard.

EPA has previously determined that the Cambria Area attained the 1-hour ozone NAAQS by the November 15, 1993 attainment date (60 FR 3349, January 17, 1995) and we believe that the Cambria Area is still in attainment for the 1-hour ozone NAAQS based upon the ozone monitoring data for the years 2003–2005. To demonstrate attainment, *i.e.*, compliance with this standard, the annual average of the number of exceedances of the 1-hour standard over a three-year period must be less than or equal to 1. Table 3 provides a summary of the number of expected exceedances for each of the years 2003 through 2006 and three-year annual average.

TABLE 3.—CAMBRIA AREA NUMBER OF EXPECTED EXCEEDANCES OF THE 1-HOUR OZONE STANDARD; CAMBRIA COUNTY MONITOR/AQS ID 42–021–0011

Year	Number of expected exceedances
2003	0.0
2004	0.0
2005	0.0
2006	0.0

The average number of exceedances for the 3-year period 2003 through 2005 is 0.0.
The average number of exceedances for the 3-year period 2004 through 2006 is 0.0.

In summary, EPA has determined that the data submitted by Pennsylvania and taken from AQS indicates that the Cambria Area is maintaining air quality that conforms to the 1-hour ozone NAAQS. EPA believes this conclusion remains valid after review of the available 2006 data because no exceedances were recorded in the Cambria Area in 2006.

4. Transport Region Requirements

All areas in the OTR, both attainment and nonattainment, are subject to additional control requirements under section 184 for the purpose of reducing interstate transport of emissions that may contribute to downwind ozone nonattainment. The section 184 requirements include RACT, NSR, enhanced vehicle I/M, and Stage II vapor recovery or a comparable measure.

In the case of the Cambria Area, which is located in the OTR, nonattainment NSR will be applicable after redesignation. As discussed previously, EPA fully approved Pennsylvania's NSR SIP revision which applies the requirements for NSR of section 184 of the CAA to attainment areas within the OTR.

As discussed previously in this notice, EPA has interpreted the section 184 OTR requirements, including NSR, as not being applicable for purposes of redesignation. *See*, 61 FR 53174, October 10, 1996, and 62 FR 24826 at 24830–24832, May 7, 1997 (Reading, Pennsylvania Redesignation).

[1] Clean Air Act section 176(c)(4)(E) currently requires States to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the motor vehicle emissions budgets that are established in control strategy SIPs and maintenance plans.

5. Cambria Area Has a Fully Approved SIP for Purposes of Redesignation

EPA has fully approved the Pennsylvania SIP for the purposes of this redesignation. EPA may rely on prior SIP approvals in approving a redesignation request. Calcagni Memo, p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F. 3d 984, 989–90 (6th Cir. 1998); *Wall* v. *EPA*, 265 F. 3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. *See also*, 68 FR at 25425 (May 12, 2003) and citations therein.

C. The Air Quality Improvement in the Cambria Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

EPA believes that the Commonwealth has demonstrated that the observed air quality improvement in the Cambria Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures. Emissions reductions attributable to these rules are shown in Table 4.

TABLE 4.—TOTAL VOC AND NO_X EMISSIONS FOR 2002 AND 2004 IN TONS PER SUMMER DAY (TPSD)

Year	Point	Area	Nonroad	Mobile	Total
Volatile Organic Compounds (VOC)					
2002	0.4	6.4	3.0	6.3	16.1
2004	0.5	6.1	2.9	5.3	14.8
Diff. (02–04)	0.1	−0.3	−0.1	−1.0	−1.3
Nitrogen Oxides (NO_X)					
2002	5.8	0.7	5.6	9.5	21.6
2004	6.0	0.7	5.3	8.2	20.2
Diff. (02–04)	0.2	0.0	−0.3	−1.3	−1.4

Between 2002 and 2004, VOC emissions decreased by 1.3 tpsd, and NO_X emissions decreased by 1.4 tpsd. These reductions, and anticipated future reductions, are due to the following permanent and enforceable measures.

1. Stationary Point Sources

Federal NO_X SIP Call (66 FR 43795, August 21, 2001).

2. Stationary Area Sources

Solvent Cleaning (68 FR 2206, January 16, 2003).

Portable Fuel Containers (69 FR 70893, December 8, 2004).

3. Highway Vehicle Sources

Federal Motor Vehicle Control Programs (FMVCP).

—Tier 1 (56 FR 25724, June 5, 1991).

—Tier 2 (65 FR 6698, February 10, 2000).

Heavy-duty Engine and Vehicle Standards (62 FR 54694, October 21, 1997, and 65 FR 59896, October 6, 2000).

National Low Emission Vehicle (NLEV) Program (PA) (64 FR 72564, December 28, 1999).

Vehicle Emission Inspection/Maintenance Program (70 FR 58313, October 6, 2005).

4. Non-Road Sources

Non-road Diesel (69 FR 38958, June 29, 2004).

EPA believes that permanent and enforceable emissions reductions are the cause of the long-term improvement in ozone levels and are the cause of the Cambria Area achieving attainment of the 8-hour ozone standard.

D. The Cambria Area Has a Fully Approvable Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate the Cambria Area to attainment status, Pennsylvania submitted a SIP revision to provide for maintenance of the 8-hour ozone NAAQS in the Cambria Area for at least 11 years after redesignation. The Commonwealth is requesting that EPA approve this SIP revision as meeting the requirement of CAA 175A. Once approved, the maintenance plan for the 8-hour ozone NAAQS will ensure that the SIP for the Cambria Area meets the requirements of the CAA regarding maintenance of the applicable 8-hour ozone standard.

What Is Required in a Maintenance Plan?

Section 175 of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the Commonwealth must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memo provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address the following provisions:

(a) an attainment emissions inventory;

(b) a maintenance demonstration;

(c) a monitoring network;

(d) verification of continued attainment; and

(e) a contingency plan.

Analysis of the Cambria Area Maintenance Plan

(a) Attainment inventory—An attainment inventory includes the emissions during the time period associated with the monitoring data showing attainment. PADEP determined that the appropriate attainment inventory year is 2004. That year establishes a reasonable year within the three-year block of 2003–2005 as a baseline and accounts for reductions attributable to implementation of the CAA requirements to date. The 2004

inventory is consistent with EPA guidance and is based on actual ''typical summer day'' emissions of VOC and NO_X during 2004 and consists of a list of sources and their associated emissions.

The 2002 and 2004 point source data was compiled from actual sources. Pennsylvania requires owners and operators of larger facilities to submit annual production figures and emission calculations each year. Throughput data are multiplied by emission factors from Factor Information Retrieval (FIRE) Data Systems and EPA's publication series AP–42, and are based on Source Classification Codes (SCC).

The 2002 area source data was compiled using county-level activity data, from census numbers, from county numbers, etc. The 2004 area source data was projected from the 2002 inventory using temporal allocations provided by the Mid-Atlantic Regional Air Management Association (MARAMA).

The on-road mobile source inventories for 2002 and 2004 were compiled using MOBILE6.2 and Pennsylvania Department of Transportation (PENNDOT) estimates for VMT. The PADEP has provided detailed data summaries to document the calculations of mobile on-road VOC and NO_X emissions for 2002, as well as for the projection years of 2004, 2009, and 2018 (shown in Tables 5 and 6 below).

The 2002 and 2004 emissions for the majority of non-road emission source categories were estimated using the EPA NONROAD 2005 model. The NONROAD model calculates emissions for diesel, gasoline, liquefied petroleum gasoline, and compressed natural gas-fueled non-road equipment types and includes growth factors. The NONROAD model does not estimate emissions from locomotives or aircraft. For 2002 and 2004 locomotive emissions, the PADEP projected emissions from a 1999 survey using national fuel consumption information and EPA emission and conversion factors. There are no significant air carrier operations (aircraft that can seat over 60 passengers) in Cambria County. The Johnstown Airport supports some air taxi operations that account for a very small amount of emissions. For 2002 and 2004 aircraft emissions, PADEP estimated emissions using small airport operations statistics from *http://www.airnav.com*, and emission factors and operational characteristics in the EPA-approved model, Emissions and Dispersion Modeling System (EDMS).

More detailed information on the compilation of the 2002, 2004, 2009, and 2018 inventories can found in the Technical Appendices, which are part of this submittal.

(b) Maintenance Demonstration—On March 27, 2007, the PADEP submitted a maintenance plan as required by section 175A of the CAA. The Cambria Area maintenance plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that current and future emissions of VOC and NO_X remain at or below the attainment year 2004 emissions levels throughout the Cambria Area through the year 2018. A maintenance demonstration need not be based on modeling. *See*, *Wall* v. *EPA*, *supra*; *Sierra Club* v. *EPA, supra. See also,* 66 FR at 53099–53100; 68 FR at 25430–32.

Tables 5 and 6 specify the VOC and NO_X emissions for the Cambria Area for 2004, 2009, and 2018. The PADEP chose 2009 as an interim year in the maintenance demonstration period to demonstrate that the VOC and NO_X emissions are not projected to increase above the 2004 attainment level during the time of the maintenance period.

TABLE 5.—TOTAL VOC EMISSIONS FOR 2004–2018 (TPSD)

Source category	2004 VOC emissions	2009 VOC emissions	2018 VOC emissions
Point*	0.5	0.3	0.4
Area	6.1	5.5	5.4
Mobile**	5.3	3.8	2.3
Nonroad	2.9	2.4	2.1
Total	14.8	12.0	10.2

* The stationary point source emissions shown here do not include available banked emission credits as indicated in Appendix A–4 submitted with the maintenance plan.
** Includes safety margin identified in the motor vehicle emission budgets for transportation conformity.

TABLE 6.—TOTAL NO_X EMISSIONS FOR 2004–2018 (TPSD)

Source category	2004 NO_X emissions	2009 NO_X emissions	2018 NO_X emissions
Point*	6.0	6.5	6.9
Area	0.7	0.7	0.8
Mobile**	8.2	5.6	2.7
Non-road	5.3	4.5	3.4
Total	20.2	17.3	13.7

* The stationary point source emissions shown here do not include available banked emission credits as indicated in Appendix A–4.
** Includes safety margin identified in the motor vehicle emission budgets for transportation conformity.

Additionally, the following programs are either effective or due to become effective and will further contribute to the maintenance demonstration of the 8-hour ozone NAAQS:

- The Clean Air Interstate Rule (CAIR) (71 FR 25328, April 28, 2006).
- The Federal NO_X SIP Call (66 FR 43795, August 21, 2001).
- Area VOC regulations concerning portable fuel containers (69 FR 70893, December 8, 2004), consumer products (69 FR 70895, December 8, 2004), and architectural and industrial maintenance coatings (AIM) (69 FR 68080, November 23, 2004).
- Federal Motor Vehicle Control Programs (light-duty) (Tier 1, Tier 2; 56 FR 25724, June 5, 1991; 65 FR 6698, February 10, 2000).

• Vehicle emission/inspection/maintenance program (70 FR 58313, October 6, 2005).

• Heavy duty diesel on-road (2004/2007) and low sulfur on-road (2006); 66 FR 5002, (January 18, 2001).

• Non-road emission standards (2008) and off-road diesel fuel 2007/2010); 69 FR 38958 (June 29, 2004).

• NLEV/PA Clean Vehicle Program (54 FR 72564, December 28, 1999)—Pennsylvania will implement this program in car model year 2008.

• Pennsylvania Heavy-Duty Diesel Emissions Control Program. (May 10, 2002).

Based on the comparison of the projected emissions and the attainment year emissions along with the additional measures, EPA concludes that PADEP has successfully demonstrated that the 8-hour ozone standard should be maintained in the Cambria Area.

(c) Monitoring Network—There is currently one monitor measuring ozone in the Cambria Area. PADEP will continue to operate its current air quality monitor (located in Cambria County), in accordance with 40 CFR part 58.

(d) Verification of Continued Attainment—In addition to maintaining the key elements of its regulatory program, the Commonwealth will track the attainment status of the ozone NAAQS in the Cambria Area by reviewing air quality and emissions data during the maintenance period. The Commonwealth will perform an annual evaluation of Vehicle Miles Traveled (VMT) data and emissions reported from stationary sources, and compare them to the assumptions about these factors used in the maintenance plan. The Commonwealth will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR part 51, subpart A) to see if they exceed the attainment year inventory (2004) by more than 10 percent. PADEP will also continue to operate the existing ozone monitoring station in the Area pursuant to 40 CFR part 58 throughout the maintenance period and submit quality-assured ozone data to EPA through the AQS system. Section 175A(b) of the CAA states that eight years following the redesignation of the Cambria Area, PADEP will be required to submit a second maintenance plan that will ensure attainment through 2028. PADEP has made that commitment to meet the requirement of section 175A(b).

(e) The Maintenance Plan's Contingency Measures—The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that the State will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

The ability of the Cambria Area to stay in compliance with the 8-hour ozone standard after redesignation depends upon VOC and NO_X emissions in the area remaining at or below 2004 levels. The Commonwealth's maintenance plan projects VOC and NO_X emissions to decrease and stay below 2004 levels through the year 2018. The Commonwealth's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur.

Contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the Cambria County monitor are above 84 ppb. If this trigger point occurs, the Commonwealth will evaluate whether additional local emission control measures should be implemented in order to prevent a violation of the air quality standard. PADEP will also analyze the conditions leading to the excessive ozone levels and evaluate which measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of Federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing any selected measures.

Contingency measures will also be considered in the event that a violation of the 8-hour ozone standard occurs at the Cambria County, Pennsylvania monitor. In the event of a violation of the 8-hour ozone standard, PADEP will adopt additional emissions reduction measures as expeditiously as practicable in accordance with the implementation schedule listed later in this notice and the Pennsylvania Air Pollution Control Act in order to return the area to attainment with the standard. Contingency measures to be considered for the Cambria Area will include, but not be limited to the following:

Regulatory measures:

—Additional controls on consumer products.

—Additional controls on portable fuel containers.

Non-Regulatory measures:

—Voluntary diesel engine ''chip reflash'' (installation software to correct the defeat device option on certain heavy-duty diesel engines).

—Diesel retrofit, including replacement, repowering or alternative fuel use, for public or private local on-road or off-road fleets.

—Idling reduction technology for Class 2 yard locomotives.

—Idling reduction technologies or strategies for truck stops, warehouses and other freight-handling facilities.

—Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment.

—Additional promotion of alternative fuel (e.g., biodiesel) for home heating and agricultural use.

The plan lays out a process to have any regulatory contingency measures in effect within 19 months of the trigger. The plan also lays out a process to implement the non-regulatory contingency measures within 12–24 months of the trigger.

VII. Are the Motor Vehicle Emissions Budgets Established and Identified in the Cambria Area Maintenance Plan Adequate and Approvable?

A. What are the Motor Vehicle Emissions Budgets?

Under the CAA, States are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (i.e., RFP SIPs and attainment demonstration SIPs) and maintenance plans identify and establish MVEBs for certain criteria pollutants and/or their precursors to address pollution from on-road mobile sources. In the maintenance plan, the MVEBs are termed ''on-road mobile source emission budgets.'' Pursuant to 40 CFR part 93 and 51.112, MVEBs must be established in an ozone maintenance plan. An MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. An MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish and revise the MVEBs

in control strategy SIPs and maintenance plans.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. ''Conformity'' to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of or reasonable progress towards the NAAQS. If a transportation plan does not ''conform,'' most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of such transportation activities to a SIP.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein ''adequate'' for use in determining transportation conformity. After EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by state and federal agencies in determining whether proposed transportation projects ''conform'' to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining ''adequacy'' of a MVEB are set out in 40 CFR 93.118(e)(4)

EPA's process for determining ''adequacy'' consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' on July 1, 2004 (69 FR 40004). EPA consults this guidance and follows this rulemaking in making its adequacy determinations.

The MVEBS for the Cambria Area are listed in Table 1 of this document for 2009 and 2018, and are the projected emissions for the on-road mobile sources plus any portion of the safety margin allocated to the MVEBs (safety margin allocation for 2009 and 2018 only). These emission budgets, when approved by EPA, must be used for transportation conformity determinations.

B. What is a Safety Margin?

A safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The safety margin is the extra emissions that can be allocated as long as the total attainment level of emissions is maintained. The credit, or a portion thereof, can be allocated to any of the source categories. The following example is for the 2018 safety margin: the Cambria Area first attained the 8-hour ozone NAAQS during the 2002 to 2004 time period. The Commonwealth used 2004 as a year to determine attainment levels of emissions for the Cambria Area.

The total emissions from point, area, mobile on-road, and mobile non-road sources in 2004 equaled 14.8 tpd of VOC and 20.2 tpd of NO_X. PADEP projected emissions out to the year 2018 and projected a total of 10.2 tpd of VOC and 13.7 tpd of NO_X from all sources in the Cambria Area. The safety margin for the Cambria Area for 2018 is the difference between these amounts, or 4.6 tpd of VOC and 6.5 tpd of NO_X. The emissions up to the level of the attainment year including the safety margins are projected to maintain the area's air quality consistent with the 8-hour ozone NAAQS. Table 7 shows the safety margins for the 2009 and 2018 years.

TABLE 7.—2009 AND 2018 SAFETY MARGINS FOR THE CAMBRIA AREA

Inventory year	VOC emissions (tpd)	NO_X emissions (tpd)
2004 Attainment	14.8	20.2
2009 Interim	12.0	17.3
2009 Safety Margin	2.8	2.9
2004 Attainment	14.8	20.2
2018 Final	10.2	13.7
2018 Safety Margin	4.6	6.5

PADEP allocated 0.2 tpd VOC and 0.2 tpd NO_X to the 2009 interim VOC projected on-road mobile source emissions projection and the 2009 interim NO_X projected on-road mobile source emissions projection to arrive at the 2009 MVEBs. For the 2018 MVEBs, PADEP allocated 0.3 tpd VOC and 0.3 tpd NO_X from the 2018 safety margins to arrive at the 2018 MVEBs. Once allocated to the mobile source budgets, these portions of the safety margins are no longer available, and may not be allocated to any other source category. Table 8 shows the final 2009 and 2018 MVEBs for the Cambria Area.

TABLE 8.—2009 AND 2018 FINAL MVEBS FOR THE CAMBRIA AREA

Inventory year	VOC emissions (tpd)	NO_X emissions (tpd)
2009 Projected On-road Mobile Source Projected Emissions	3.6	5.4
2009 Safety Margin Allocated to MVEBs	0.2	0.2
2009 MVEBs	3.8	5.6
2018 Projected On-road Mobile Source Projected Emissions	2.0	2.4
2018 Safety Margin Allocated to MVEBs	0.3	0.3

TABLE 8.—2009 AND 2018 FINAL MVEBS FOR THE CAMBRIA AREA—Continued

Inventory year	VOC emissions (tpd)	NO_X emissions (tpd)
2018 MVEBs	2.3	2.7

C. Why Are the MVEBs Approvable?

The 2009 and 2018 MVEBs for the Cambria Area are approvable because the MVEBs for NO_X and VOCs continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations.

D. What Is the Adequacy and Approval Process for the MVEBs in the Cambria Area Maintenance Plan?

The MVEBs for the Cambria Area maintenance plan are being posted to EPA's conformity Web site concurrently with this proposal. The public comment period will end at the same time as the public comment period for this proposed rule. In this case, EPA is concurrently processing the action on the maintenance plan and the adequacy process for the MVEBs contained therein. In this proposed rule, EPA is proposing to find the MVEBs adequate and also proposing to approve the MVEBs as part of the maintenance plan. The MVEBs cannot be used for transportation conformity until the maintenance plan and associated MVEBs are approved in a final **Federal Register** notice, or EPA otherwise finds the budgets adequate in a separate action following the comment period.

If EPA receives adverse written comments with respect to the proposed approval of the Cambria Area MVEBs, or any other aspect of our proposed approval of this updated maintenance plan, we will respond to the comments on the MVEBs in our final action or proceed with the adequacy process as a separate action. Our action on the Cambria Area MVEBs will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/index.htm* (once there, click on ''Adequacy Review of SIP Submissions).

VIII. Proposed Actions

EPA is proposing to determine that the Cambria Area has attained the 8-hour ozone NAAQS. EPA is also proposing to approve the redesignation of the Cambria Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA has evaluated Pennsylvania's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Cambria Area has attained the 8-hour ozone standard. The final approval of this redesignation request would change the designation of the Cambria Area from nonattainment to attainment for the 8-hour ozone standard. EPA is proposing to approve the maintenance plan for the Cambria Area, submitted on March 27, 2007, as a revision to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan for the Cambria Area because it meets the requirements of section 175A as described previously in this notice. EPA is also proposing to approve the 2002 base-year inventory for the Cambria Area, and the MVEBs submitted by Pennsylvania for the Cambria Area in conjunction with its redesignation request. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule, proposing to approve

the redesignation of the Cambria Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year inventory, and the MVEBs identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness Areas.

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

Dated: May 25, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7–10584 Filed 5–31–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2007–0323; FRL–8321–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Harrisburg-Lebanon-Carlisle Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) is requesting that the Harrisburg-Lebanon-Carlisle ozone nonattainment area (''Harrisburg Area'' or ''Area'') be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). The Area is comprised of the counties of Cumberland, Dauphin, Lebanon, and Perry. EPA is proposing to approve the ozone redesignation request for the Harrisburg Area. In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Harrisburg Area that provides for continued attainment of the 8-hour ozone NAAQS for at least 10 years after redesignation. EPA is proposing to make a determination that the Harrisburg Area has attained the 8-hour ozone NAAQS, based upon three years of complete, quality-assured ambient air quality monitoring data for 2003–2005. EPA's proposed approval of the 8-hour ozone redesignation request is based on its determination that the Harrisburg Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA). In addition, the Commonwealth of Pennsylvania has also submitted a 2002 base-year inventory for the Harrisburg Area, and EPA is proposing to approve that inventory for the Harrisburg Area as a SIP revision. EPA is also providing information on the status of its adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the maintenance plan for the Harrisburg Area for purposes of transportation conformity, and is also proposing to approve those MVEBs. EPA is proposing approval of the redesignation request and of the maintenance plan and 2002 base-year inventory SIP revisions in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before July 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–0323 by one of the following methods:

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

B. *E-mail: miller.linda@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–0323, Linda Miller, Acting Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–0323. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. What Are the Actions EPA Is Proposing to Take?

On March 27, 2007, the PADEP formally submitted a request to redesignate the Harrisburg Area from nonattainment to attainment of the 8-hour NAAQS for ozone. Concurrently, Pennsylvania submitted a maintenance plan for the Harrisburg Area as a SIP revision to ensure continued attainment in the Area over the next 11 years. PADEP also submitted a 2002 base-year inventory for the Harrisburg Area as a SIP revision. The Harrisburg Area is comprised of the counties of Cumberland, Dauphin, Lebanon, and Perry, and is currently designated a basic 8-hour ozone nonattainment area. EPA is proposing to determine that the Harrisburg Area has attained the 8-hour ozone NAAQS and that it has met the requirements for redesignation pursuant to section 107(d)(3)(E) of the CAA. EPA is, therefore, proposing to approve the redesignation request to change the designation of the Harrisburg Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve the Harrisburg Area maintenance plan as a SIP revision for the Area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to ensure continued attainment in the Harrisburg Area for the next 11 years. EPA is also proposing to approve the 2002 base-year inventory for the Harrisburg Area as a SIP revision. Additionally, EPA is announcing its action on the adequacy process for the MVEBs identified in the Harrisburg Area maintenance plan, and proposing to approve the MVEBs identified for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for the Harrisburg Area for transportation conformity purposes.

II. What Is the Background for These Proposed Actions?

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone. The air pollutants NO_X and VOC are referred to as precursors of ozone. The CAA establishes a process for air quality management through the attainment and maintenance of the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard. EPA designated, as nonattainment, any area violating the 8-hour ozone NAAQS based on the air quality data for the three years of 2001–2003. These were the most recent three years of data at the time EPA designated 8-hour areas. The Harrisburg Area was designated a basic 8-hour ozone nonattainment area, in a **Federal Register** notice signed on April 15, 2004 and published on April 30, 2004 (69 FR 23857), based on its exceedance of the 8-hour health-based standard for ozone during the years 2001–2003.

On April 30, 2004, EPA issued a final rule (69 FR 23951, 23996) to revoke the 1-hour ozone NAAQS in the Harrisburg Area (as well as in most other areas of the country) effective June 15, 2005. *See,* 40 CFR 50.9(b); 69 FR at 23996 (April 30, 2004); 70 FR 44470 (August 3, 2005).

However, on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *See, South Coast Air Quality Management Dist.v.EPA*, 472 F. 3d 882 (D.C. Cir. 2006) (hereafter ''*South Coast.*''). The Court held that certain provisions of EPA's Phase 1 Rule were inconsistent with the requirements of the CAA. The Court rejected EPA's reasons for implementing the 8-hour standard in nonattainment areas under subpart 1 in lieu of subpart 2 of Title I, part D of the Act. The Court also held that EPA improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) (requirements based on an area's 1-hour nonattainment classification); (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS; and (4) the certain conformity requirements for certain types of federal actions. The Court upheld EPA's authority to revoke the 1-hour standard provided there were adequate anti-backsliding provisions. Elsewhere in this document, mainly in section VI.B, ''The Harrisburg Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA,'' EPA discusses its rationale why the decision in *South Coast* is not an impediment to redesignating the Harrisburg Area to attainment of the 8-hour ozone NAAQS.

The CAA, title I, part D, contains two sets of provisions—subpart 1 and subpart 2—that address planning and control requirements for nonattainment areas. Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general, less prescriptive requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for ozone nonattainment areas.

In 2004, the Harrisburg Area was classified a basic 8-hour ozone nonattainment area based upon air quality monitoring data from 2001–2003. Therefore, the Harrisburg Area is subject to the requirements of subpart 1 of part D.

Under 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (*i.e.*, 0.084 ppm when rounding is considered). *See* 69 FR 23857 (April 30, 2004) for further information. Ambient air quality monitoring data for the 3-year period must meet data completeness requirements. The data completeness requirements are met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of 40 CFR part 50. The ozone monitoring data indicates that the Harrisburg Area has a design value of 0.078 ppm for the 3-year period of 2003–2005, using complete, quality-assured data. Additionally, certified 2006 ozone monitoring data indicates that the Harrisburg Area continues to attain the ozone NAAQS. Therefore the ambient ozone data for the Harrisburg Area indicates no violations of the 8-hour ozone standard.

The Harrisburg Area

The Harrisburg Area consists of the counties of Cumberland, Dauphin, Lebanon, and Perry, Pennsylvania. Prior to its designation as an 8-hour basic ozone nonattainment area (69 FR 23857, April 30, 2004), the Harrisburg Area was a marginal 1-hour ozone nonattainment Area, and therefore, was subject to requirements for marginal nonattainment areas pursuant to section 182(a) of the CAA. *See* 56 FR 56694 (November 6, 1991). EPA determined that the Harrisburg Area has attained the 1-hour ozone NAAQS by the November

15, 1993 attainment date (60 FR 3349, January 17, 1995).

On March 27, 2007, the PADEP requested that the Harrisburg Area be redesignated to attainment for the 8-hour ozone standard. The redesignation requested included three years of complete, quality-assured data for the period of 2003–2005, indicating that the 8-hour NAAQS for ozone had been achieved in the Harrisburg Area. The data satisfies the CAA requirements that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration (commonly referred to as the area's design value), must be less than or equal to 0.08 ppm (*i.e.*, 0.084 ppm when rounding is considered). Under the CAA, a nonattainment area may be redesignated if sufficient complete, quality-assured data is available to determine that the area has attained the standard and the area meets the other CAA redesignation requirements set forth in section 107(d)(e)(E).

III. What Are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA, allows for redesignation, providing that:

(1) EPA determines that the area has attained the applicable NAAQS;

(2) EPA has fully approved the applicable implementation plan for the area under section 110(k);

(3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(5) The State containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

- ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, June 18, 1990;
- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
- ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
- ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
- ''Technical Support Documents (TSDs) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
- ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
- Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' dated November 30, 1993;
- ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
- ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why Is EPA Taking These Actions?

On March 27, 2007, the PADEP requested redesignation of the Harrisburg Area to attainment for the 8-hour ozone standard. On March 27, 2007, PADEP submitted a maintenance plan for the Harrisburg Area as a SIP revision, to ensure continued attainment of the 8-hour ozone NAAQS over the next 11 years until 2018. PADEP also submitted a 2002 base-year inventory concurrently with its maintenance plan as a SIP revision. EPA has determined that the Harrisburg Area has attained the 8-hour ozone standard and has met the requirements for redesignation set forth in section 107(d)(3)(E).

V. What Would Be the Effect of These Actions?

Approval of the redesignation request would change the official designation of the Harrisburg Area from nonattainment to attainment for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Pennsylvania SIP, a 2002 base-year inventory and a maintenance plan ensuring continued attainment of the 8-hour ozone NAAQS in the Harrisburg Area for the next 11 years, until 2018. The maintenance plan includes contingency measures to remedy any future violations of the 8-hour NAAQS (should they occur), and identifies the NO_X and VOC MVEBs for transportation conformity purposes for the years 2009 and 2018. These MVEBs (including safety margins) are displayed in Table 1 below. Note that separate conformity budgets are being established for each Metropolitan Planning Organization (MPO). The transportation conformity regulations (40 CFR 93.124(d)) allow a SIP to establish MVEBs for each MPO if a nonattainment area includes more than one MPO, which is the case in the Harrisburg Area. The responsible agency for the counties of Cumberland, Dauphin, and Perry is the Harrisburg Area Transportation Study (HATS), and the responsible agency for the county of Lebanon is LEBCO (Lebanon County MPO), both designated Metropolitan Planning Organizations (MPOs) under Federal transportation planning requirements. The Pennsylvania Department of Transportation (PENNDOT) has requested separate budgets to allow the planning organizations to move their transportation conformity determinations through the approval process separately.

TABLE 1.—MOTOR VEHICLE EMISSIONS BUDGETS IN KILOGRAMS PER DAY (TONS PER DAY—ROUNDED)

Year	VOC	NO_X
Harrisburg Area Transportation Study (HATS)—Cumberland, Dauphin, and Perry Counties		
2009	23,014 (25.4)	41,917 (46.2)
2018	16,136 (17.8)	18,409 (20.3)
Lebanon County MPO (LEBCO)		
2009	4,301 (4.7)	8,928 (9.8)
2018	2,512 (2.8)	3,684 (4.1)

* **Note:** Tons per day are informational only. Differences occur due to rounding.

VI. What Is EPA's Analysis of the Commonwealth's Request?

EPA is proposing to determine that the Harrisburg Area has attained the 8-hour ozone standard and that all other redesignation criteria have been met. The following is a description of how the PADEP's March 27, 2007 submittal satisfies the requirements of section 107(d)(3)(E) of the CAA.

A. The Harrisburg Area Has Attained the 8-Hour NAAQS

EPA is proposing to determine that the Harrisburg Area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the design value, which is the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor, within the area, over each year must not exceed the ozone standard of 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value at every monitor is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In the Harrisburg Area, there are three monitors that measure air quality with respect to ozone. There are two monitors in Dauphin County, (the Harrisburg monitor, and the Hershey monitor), and one monitor in Perry County, (the Little Buffalo State Park monitor). As part of its redesignation request, Pennsylvania referenced ozone monitoring data for the years 2003–2005 (the most recent three years of data available as of the time of the redesignation request) for the Harrisburg Area. This data has been quality assured and is recorded in the AQS. PADEP uses the AQS as the permanent database to maintain its data and quality assures the data transfers and content for accuracy. The fourth-high 8-hour daily maximum concentrations for the three monitors in the Harrisburg Area, along with the three-year average are summarized in Table 2 below.

TABLE 2.—HARRISBURG NONATTAINMENT AREA FOURTH HIGHEST 8-HOUR OZONE VALUES

Year	Annual 4th highest reading (ppm)
Harrisburg Monitor, Dauphin County, AQS ID 42–043–0401	
2003	0.074
2004	0.076
2005	0.084
2006	0.077
The average for the 3-year period 2003–2005 is 0.078 The average for the 3-year period 2004–2006 is 0.079	
Hershey Monitor, Dauphin County, AQS ID 42–043–1100	
2003	0.079
2004	0.072
2005	0.085
2006	0.081
The average for the 3-year period 2003–2005 is 0.078 The average for the 3-year period 2004–2006 is 0.079	
Little Buffalo State Park Monitor, Perry County, AQS ID 42–099–0301	
2003	0.084
2004	0.069
2005	0.082
2006	0.077

TABLE 2.—HARRISBURG NONATTAINMENT AREA FOURTH HIGHEST 8-HOUR OZONE VALUES—Continued

Year	Annual 4th highest reading (ppm)
The average for the 3-year period 2003–2005 is 0.078 The average for the 3-year period 2004–2006 is 0.076	

The air quality data show that the Harrisburg Area has attained the standard with a design value of 0.078 ppm. The data collected at the Area monitors satisfies the CAA requirement that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. EPA believes this conclusion remains valid after a review of the quality assured 2006 data because the Area is still attaining the standard with a design value at each monitor of 0.084 ppm or less for 2004 through 2006. The PADEP's request for redesignation for the Harrisburg Area indicates that the data is complete and was quality assured in accordance with part 58. In addition, as discussed below with respect to the maintenance plan, PADEP has committed to continue monitoring in accordance with 40 CFR part 58. In summary, EPA has determined that the data submitted by Pennsylvania and data taken from AQS indicate that the Harrisburg Area has attained the 8-hour ozone NAAQS.

B. The Harrisburg Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA

EPA has determined that the Harrisburg Area has met all SIP requirements applicable for purposes of this redesignation under section 110 of the CAA (General SIP Requirements) and that it meets all applicable SIP requirements under part D of Title I of the CAA, in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Harrisburg Area and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to applicable requirements.

The September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, States requesting redesignation to attainment must meet only the relevant CAA requirements that came due prior to the submittal of a complete redesignation request. *See also,* Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–12466 (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also,* 68 FR at 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

This section also sets forth EPA's views on the potential effect of the Court's ruling in *South Coast* on this redesignation action. For the reasons set forth below, EPA does not believe that the Court's ruling alters any requirements relevant to this redesignation action so as to preclude redesignation, and does not prevent EPA from finalizing this redesignation. EPA believes that the Court's decision, as it currently stands or as it may be modified based upon any petition for rehearing that has been filed, imposes no impediment to moving forward with the redesignation of this Area to attainment, because in either circumstance, redesignation is appropriate under the relevant redesignation provisions of the Act and longstanding policies regarding redesignation requests.

1. Section 110 General SIP Requirements

Section 110(a)(2) of Title 1 of the CAA delineates the general requirements for a SIP, which includes enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD));
- Provisions for the implementation of part D requirements for New Source Review (NSR) permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants in accordance with the NO_X SIP Call, October 27, 1998 (63 FR 57356), amendments to the NO_X SIP Call, May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222), and the Clean Air Interstate Rule (CAIR), May 12, 2005 (70 FR 25162). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular nonattainment area's designation and classification in that State. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the State. Thus, we do not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Harrisburg Area will still be subject to these requirements after it is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also,* the discussion on this issue in the Cincinnati redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh redesignation (66 FR at 53099, October 19, 2001). Similarly, with respect to the NO_X SIP Call rules, EPA noted in its Phase 1 Final Rule to Implement the 8-hour Ozone NAAQS, that the NO_X SIP Call rules are not ''an'' 'applicable requirement' for purposes of section 110(1) because the NO_X rules apply regardless of an area's attainment or nonattainment status for the 8-hour (or the 1-hour) NAAQS.'' 69 FR 23951, 23983 (April 30, 2004). EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. As we explain later in this notice, no part D requirements applicable for purposes of redesignation under the 8-hour standard became due for the Harrisburg Area prior to submission of the redesignation request.

Because the Pennsylvania SIP satisfies all of the applicable general SIP elements and requirements set forth in section 110(a)(2), EPA concludes that Pennsylvania has satisfied the criterion of section 107(d)(3)(E) regarding section 110 of the Act.

2. Part D Nonattainment Requirements Under the 8-Hour Standard

Pursuant to an April 30, 2004 final rule (69 FR 23951), the Harrisburg Area was designated a basic nonattainment area under subpart 1 for the 8-hour ozone standard. Sections 172–176 of the CAA, found in subpart 1 of part D, set forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's nonattainment classification.

With respect to the 8-hour standard, the court's ruling rejected EPA's reasons for classifying areas under subpart 1 for the 8-hour standard, and remanded that matter to the Agency. Consequently, it is possible that this Area could, during a remand to EPA, be reclassified under subpart 2. Although any future decision by EPA to classify this Area under subpart 2 might trigger additional future requirements for the Area, EPA believes that this does not mean that redesignation of the Area cannot now go forward. This belief is based upon (1) EPA's longstanding policy of evaluating redesignation requests in accordance with the requirements due at the time the request is submitted; and (2) consideration of the inequity of applying retroactively any requirements that might in the future be applied.

First, at the time the redesignation request was submitted, the Harrisburg Area was classified under subpart 1 and was obligated to meet subpart 1 requirements. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the CAA, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. *See* September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division). See also, Michael Shapiro Memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor); *Sierra Club* v. *EPA*, 375 F. 3d 537 (7th Cir. 2004), which upheld this interpretation. *See* 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted. The D.C. Circuit has recognized the inequity in such retroactive rulemaking. *See Sierra Club* v. *Whitman*, 285 F. 3d 63 (D.C. Cir. 2002), in which the D.C. Circuit upheld a District Court's ruling refusing to make retroactive an EPA determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory time frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the States, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' *Id.* at 68. Similarly here it would be unfair to penalize the Area by applying to it for purposes of redesignation, additional SIP requirements under subpart 2 that were not in effect at the time it submitted its redesignation request.

With respect to 8-hour subpart 2 requirements, if the Harrisburg Area initially had been classified under subpart 2, the first two part D subpart 2 requirements applicable to the Harrisburg Area under section 182(a) of the CAA would be a base-year inventory requirement pursuant to section 182(a)(1) of the CAA, and, the emissions statement requirement pursuant to section 182(a)(3)(B).

As stated previously, these requirements are not yet due for purposes of redesignation of the Harrisburg Area, but nevertheless, Pennsylvania already has in its approved SIP, an emissions statement rule for the 1-hour standard that covers all portions of the designated 8-hour nonattainment area and, that satisfies the emissions statement requirement for the 8-hour standard. *See,* 25 Pa. Code 135.21(a)(1), codified at 40 CFR 52.2020; 60 FR 2881, January 12, 1995. With respect to the base year inventory requirement, in this notice of proposed rulemaking, EPA is proposing to approve the 2002 base-year inventory for the Harrisburg Area, which was submitted on March 27, 2007, concurrently with its maintenance plan, into the Pennsylvania SIP. EPA is proposing to approve the 2002 base-year inventory as fulfilling the requirements, if necessary, of both section 182(a)(1) and section 172(c)(3) of the CAA. A detailed evaluation of Pennsylvania's 2002 base-year inventory for the Harrisburg Area can be found in a Technical Support Document (TSD) prepared by EPA for this rulemaking. EPA has determined that the emission inventory and emissions statement requirements for the Harrisburg Area have been satisfied.

In addition to the fact that part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, EPA believes that the general conformity and NSR requirements do not require approval prior to redesignation.

With respect to section 176, Conformity Requirements, section 176(c) of the CAA requires states to

establish criteria and procedures to ensure that Federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (''transportation conformity'') as well as to all other Federally supported or funded projects (''general conformity''). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required the EPA to promulgate. EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) since State conformity rules are still required after redesignation and Federal conformity rules apply where State rules have not been approved. See, *Wall* v. *EPA*, 265 F. 3d 426, 438–440 (6th Cir. 2001), upholding this interpretation. *See also,* 60 FR 62748 (December 7, 1995).

In the case of the Harrisburg Area, EPA has also determined that before being redesignated, the Harrisburg Area need not comply with the requirement that a NSR program be approved prior to redesignation. EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR in effect. The rationale for this position is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D NSR Requirements or Areas Requesting Redesignation to Attainment.'' Normally, State's Prevention of Significant Deterioration (PSD) program will become effective in the area immediately upon redesignation to attainment. *See* the more detailed explanations in the following redesignation rulemakings: Detroit, MI (60 FR 12467–12468), (March 7, 1995); Cleveland-Akron-Lorrain, OH (61 FR 20458, 20469–20470, May 7, 1996); Louisville, KY (66 FR 53665, 53669, October 23, 2001); Grand Rapids, MI (61 FR 31831, 31836–31837, June 21, 1996). In the case of the Harrisburg Area, the Chapter 127 part D NSR regulations in the Pennsylvania SIP (codified at 40 CFR 52.2020(c)(1)) explicitly apply the requirements for NSR in section 184 of the CAA to ozone attainment areas within the OTR. The OTR NSR requirements are more stringent than that required for a marginal or basic ozone nonattainment area. On October 19, 2001 (66 FR 53094), EPA fully approved Pennsylvania's NSR SIP revision consisting of Pennsylvania's Chapter 127 part D NSR regulations that cover the Harrisburg Area.

EPA has also interpreted the section 184 OTR requirements, including the NSR program, as not being applicable for purposes of redesignation. The rationale for this is based on two considerations. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the State remains obligated to have NSR, as well as RACT, and Vehicle Inspection and Maintenance programs even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to the Harrisburg Area by virtue of the Area's designation and classification. *See* 61 FR 53174, 53175–53176 (October 10, 1996) and 62 FR 24826, 24830–24832 (May 7, 1997).

3. Part D Nonattainment Area Requirements Under the 1-Hour Standard

In its December 22, 2006 decision in *South Coast*, the Court also addressed EPA's revocation of the 1-hour ozone standard. The current status of the revocation and associated anti-backsliding rules is dependent on whether the Court's decision stands as originally issued or is modified in response to any petition for rehearing or request for clarification that has been filed. As described more fully below, EPA determined that the Harrisburg Area attained the 1-hour standard by its attainment date (60 FR 3349, January 17, 1995), continues to attain that standard, and has fulfilled any requirements of the 1-hour standard that would apply even if the 1-hour standard is reinstated and those requirements are viewed as applying under the statute itself. Thus, the Court's decision, as it currently stands, imposes no impediment to moving forward with redesignation of the Area to attainment.

The conformity portion of the Court's ruling does not impact the redesignation request for the Harrisburg Area because there are no conformity requirements that are relevant to a redesignation request for any standard, including the requirement to submit a transportation conformity SIP.[1] As we have previously noted, under longstanding EPA policy, EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. 40 CFR 51.390. *See, Wall* v. *EPA*, 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. *See also,* 60 FR 62748 (December 7, 1995) (Tampa, FL redesignation).

With respect to the requirement for submission of contingency measures for the 1-hour standard, section 182(a) does not require contingency measures for marginal areas, and, therefore, that portion of the Court's ruling does not impact the redesignation request for the Harrisburg Area.

Prior to its designation as an 8-hour ozone nonattainment area, the Harrisburg Area was designated a marginal nonattainment area for the 1-hour standard. With respect to the 1-hour standard, the applicable requirements of subpart 1 and of subpart 2 of part D (section 182) for the Harrisburg Area are discussed in the following paragraphs: Section 182(a)(2)(A) required SIP revisions to correct or amend RACT for sources in marginal areas, such as the Harrisburg Area, that were subject to control technique guidelines (CTGs) issued before November 15, 1990 pursuant to CAA section 108. On December 22, 1994, EPA fully approved into the Pennsylvania SIP all corrections required under section 182(a)(2)(A) of the CAA (59 FR 65971, December 22, 1994). EPA believes that this requirement applies only to marginal and higher classified areas under the 1-hour NAAQS pursuant to the 1990 amendments to the CAA; therefore, this is a one-time requirement. After an area has fulfilled the section 182(a)(2)(A) requirement for the 1-hour NAAQS, there is no requirement under the 8-hour NAAQS.

Section 182(a)(2)(B) relates to the savings clause for vehicle inspection and maintenance (I/M). It requires marginal areas to adopt vehicle I/M programs. This provision was not applicable to the Harrisburg Area because this Area did not have and was not required to have an I/M program before November 15, 1990.

Section 182(a)(3)(A) requires a triennial Periodic Emissions Inventory

[1] Clean Air Act section 176(c)(4)(E) currently requires States to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the motor vehicle emissions budgets that are established in control strategy SIPs and maintenance plans.

for the nonattainment area. The most recent inventory for the Harrisburg Area was compiled for 2002 and submitted to EPA as a SIP revision with the maintenance plan for the Harrisburg Area.

With respect to NSR, EPA has determined that areas being redesignated need not have an approved New Source Review program for the same reasons discussed previously with respect to the applicable part D requirements for the 8-hour standard.

Section 182(a)(3)(B) requires sources of VOCs and NO_X in the nonattainment area to submit annual Emissions Statements regarding the quantity of emissions from the previous year. As discussed previously, Pennsylvania already has in its approved SIP, a previously approved emissions statement rule for the 1-hour standard which applies to the Harrisburg Area.

Section 182(a)(1) provides for the submission of a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator. In this proposed rule, EPA is proposing to approve a 2002 base-year emissions inventory for the Harrisburg Area as meeting the requirement of section 182(a)(1). While EPA generally required that the base-year inventory for the 1-hour standard be for calendar year 1990, EPA believes that Pennsylvania's 2002 inventory fulfills this requirement because it meets EPA's guidance and because it is more current than 1990. EPA also proposes to determine that, if the 1-hour standard is deemed to be reinstated, the 2002 base-year inventory for the 8-hour standard will provide an acceptable substitute for the base-year inventory for the 1-hour standard.

EPA has previously determined that the Harrisburg Area attained the 1-hour ozone NAAQS by the November 15, 1993 attainment date (60 FR 3349, January 17, 1995), and we believe that the Harrisburg Area is still in attainment for the 1-hour ozone NAAQS based upon the ozone monitoring data for the years 2003–2005. To demonstrate attainment, *i.e.*, compliance with this standard, the annual average of the number of expected exceedances of the 1-hour standard over a 3-year period must be less than or equal to 1. Table 3 provides a summary of the number of expected exceedances for each of the years 2003 through 2005 and 3-year annual average at each of the Harrisburg Area monitors.

TABLE 3.—HARRISBURG AREA NUMBER OF EXPECTED EXCEEDANCES OF THE 1-HOUR OZONE STANDARD

Year	Number of expected exceedances
Harrisburg Monitor/AIRS ID 41–043–0401	
2003	0.0
2004	0.0
2005	0.0
2006	0.0
The average number of expected exceedances for the 3-year period 2003 through 2005 is 0.0 The average number of expected exceedances for the 3-year period 2004 through 2006 is 0.0	
Hershey Monitor/AIRS ID 42–043–1100	
2003	0.0
2004	0.0
2005	0.0
2006	0.0
The average number of expected exceedances for the 3-year period 2003 through 2005 is 0.0 The average number of expected exceedances for the 3-year period 2004 through 2006 is 0.0	
Perry County Monitor/AIRS ID 42–099–0301	
2003	0.0
2004	0.0
2005	0.0
2006	0.0
The average number of expected exceedances for the 3-year period 2003 through 2005 is 0.0 The average number of expected exceedances for the 3-year period 2004 through 2006 is 0.0	

In summary, EPA has determined that the data submitted by Pennsylvania and taken from AQS indicate that the Harrisburg Area is maintaining air quality that conforms to the 1-hour ozone NAAQS. EPA believes this conclusion remains valid after review of the quality assured 2006 data because no exceedances were recorded in the Harrisburg Area in 2006.

4. Transport Region Requirements

All areas in the Ozone Transport Region (OTR), both attainment and nonattainment, are subject to additional control requirements under section 184 for the purpose of reducing interstate transport of emissions that may contribute to downwind ozone nonattainment. The section 184 requirements include RACT, NSR, enhanced vehicle inspection and maintenance, and Stage II vapor recovery or a comparable measure.

In the case of the Harrisburg Area, which is located in the OTR, nonattainment NSR will be applicable after redesignation. As discussed previously, EPA has fully approved Pennsylvania's NSR SIP revision which applies the requirements for NSR of section 184 of the CAA to attainment areas within the OTR.

As discussed previously in this notice, EPA has also interpreted the section 184 OTR requirements, including NSR, as not being applicable for purposes of redesignation. *See* 61 FR 53174, October 10, 1996, and 62 FR 24826, May 7, 1997 (Reading, Pennsylvania Redesignation).

5. Harrisburg Has a Fully Approved SIP for Purposes of Redesignation

EPA has fully approved the Pennsylvania SIP for the purposes of this redesignation. EPA may rely on prior SIP approvals in approving a redesignation request. Calgagni Memo, p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F. 3d 984, 989–990 (6th Cir. 1998), *Wall* v. *EPA*, 265 F. 3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR at 25425 (May 12, 2003) and citations therein.

C. The Air Quality Improvement in the Harrisburg Area Is Due to Permanent and Enforceable Reductions in Emissions From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

EPA believes that the Commonwealth has demonstrated that the observed air quality improvement in the Harrisburg Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures. Emission reductions attributable to these rules are shown in Table 4.

TABLE 4.—TOTAL VOC AND NO_X EMISSIONS FOR 2002 AND 2004 IN TONS PER DAY (TPD)

Year	Point	Area	Mobile	Nonroad	Total
Volatile Organic Compounds (VOC)					
2002	3.0	29.5	43.4	19.6	95.4
2004	2.4	28.9	36.9	19.0	87.2
Diff (02–04)	0.6	0.6	6.5	0.6	8.2
Nitrogen Oxides (NO_X)					
2002	16.7	3.0	86.8	21.4	127.9
2004	12.9	3.1	76.2	20.2	112.5
Diff (02–04)	3.8	−0.1	10.6	1.2	15.4

Between 2002 and 2004, VOC emissions decreased by 8.6 percent from 95.4 tpd to 87.2 tpd; NO_X emissions decreased by 12.1 percent from 127.9 tpd to 112.5 tpd. A comparison of the 2002 and 2004 emissions by county and source type can be found in the Technical Support Document prepared for this rulemaking. The reductions between 2002 and 2004, and anticipated future reductions, are due to the following permanent and enforceable measures.

1. Stationary Point Sources

Federal NO_X SIP Call (66 FR 43795, August 21, 2001).

2. Stationary Area Sources

Solvent Cleaning (68 FR 2206, January 16, 2003).

Portable Fuel Containers (69 FR 70893, December 8, 2004).

3. Highway Vehicle Sources

Federal Motor Vehicle Control Programs (FMVCP).

—Tier 1 (56 FR 25724, June 5, 1991).
—Tier 2 (65 FR 6698, February 10, 2000).

Heavy-duty Engine and Vehicle Standards (62 FR 54694, October 21, 1997, and 65 FR 59896, October 6, 2000).

National Low Emission Vehicle (NLEV) Program (PA) (64 FR 72564, December 28, 1999).

Vehicle Emission Inspection/Maintenance Program (70 FR 58313, October 6, 2005).

4. Non-Road Sources

Non-road Diesel (69 FR 38958, June 29, 2004).

EPA believes that permanent and enforceable emissions reductions are the cause of the long-term improvement in ozone levels and are the cause of the Area achieving attainment of the 8-hour ozone standard.

D. The Harrisburg Area Has a Fully Approvable Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate the Harrisburg Area to attainment status, Pennsylvania submitted a SIP revision to provide for maintenance of the 8-hour ozone NAAQS in the Area for at least 11 years after redesignation. The Commonwealth is requesting that EPA approve this SIP revision as meeting the requirement of section 175A of the CAA. Once approved, the maintenance plan for the 8-hour ozone NAAQS will ensure that the SIP for the Harrisburg Area meets the requirements of the CAA regarding maintenance of the applicable 8-hour ozone standard.

What Is Required in a Maintenance Plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the Commonwealth must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address the following provisions:

(a) an attainment emissions inventory;
(b) a maintenance demonstration;
(c) a monitoring network;
(d) verification of continued attainment; and
(e) a contingency plan.

Analysis of the Harrisburg Area Maintenance Plan

(a) Attainment inventory—An attainment inventory includes the emissions during the time period associated with the monitoring data showing attainment. PADEP determined that the appropriate attainment inventory year is 2004. That year establishes a reasonable year within the 3-year block of 2003–2005 as a baseline and accounts for reductions attributable to implementation of the CAA requirements to date. The 2004 inventory is consistent with EPA guidance and is based on actual ''typical summer day'' emissions of VOC and NO_X during 2004 and consists of a list of sources and their associated emissions.

The 2002 and 2004 point source data was compiled from actual sources. Pennsylvania requires owners and operators of larger facilities to submit annual production figures and emission calculations each year. Throughput data are multiplied by emission factors from Factor Information Retrieval (FIRE) Data Systems and EPA's publication series AP–42, and are based on Source Classification Codes (SCC).

The 2002 area source data was compiled using county-level activity data, from census numbers, from county numbers, etc. The 2004 area source data was projected from the 2002 inventory using temporal allocations provided by the Mid-Atlantic Regional Air Management Association (MARAMA).

The on-road mobile source inventories for 2002 and 2004 were compiled using MOBILE6.2 and Pennsylvania Department of Transportation (PENNDOT) estimates for VMT. The PADEP has provided detailed data summaries to document the calculations of mobile on-road VOC and NO_X emissions for 2002, as well as for the projection years of 2004, 2009, and 2018 (shown in Tables 5 and 6 below).

The 2002 and 2004 emissions for the majority of non-road emission source categories were estimated using the EPA NONROAD 2005 model. The NONROAD model calculates emissions for diesel, gasoline, liquefied petroleum gasoline, and compressed natural gas-fueled non-road equipment types and includes growth factors. The NONROAD model does not estimate emissions from locomotives or aircraft. For 2002 and 2004 locomotive emissions, the PADEP projected emissions from a 1999 survey using national fuel consumption information and EPA emission and conversion factors. Emissions from commercial aircraft for 2002 are estimated using the EPA-approved Emissions & Dispersion Modeling System (EDMS) 4.20, the latest version available at the time the inventory was developed. Commercial aircraft operations were significant in the Harrisburg Area and were modeled by the EDMS model directly. Harrisburg International Airport (HIA) accounts for all commercial operations in the area. Small aircraft emissions were calculated by using small airport operation statistics, which can be found at *http://www.airnav.com* and the Federal Aviation Administration's (FAA) Area Forecast Detailed Report.

More detailed information on the compilation of the 2002, 2004, 2009, and 2018 inventories can be found in the Technical Appendices which are part of this submittal.

(b) Maintenance Demonstration—On March 27, 2007, the PADEP submitted a maintenance plan as required by section 175A of the CAA. The Harrisburg maintenance plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that current and future emissions of VOC and NO_X remain at or below the attainment year 2004 emissions levels throughout the Harrisburg Area through the year 2018. A maintenance demonstration need not be based on modeling. *See, Wall* v. *EPA, supra; Sierra Club* v. *EPA, supra. See also*, 66 FR at 53099–53100; 68 FR at 25430–25432.

Tables 5 and 6 specify the VOC and NO_X emissions for the Harrisburg Area for 2004, 2009, and 2018. The PADEP chose 2009 as an interim year in the ten-year maintenance demonstration period to demonstrate that the VOC and NO_X emissions are not projected to increase above the 2004 attainment level during the time of the maintenance period. A breakdown of the 2004, 2009, and 2018 VOC and NO_X emissions by County and Source Type can be found in the TSD prepared for this rulemaking.

TABLE 5.—TOTAL VOC EMISSIONS FOR 2004–2018 (TPD)

Source category	2004 VOC emissions	2009 VOC emissions	2018 VOC emissions
Point	2.4	3.0	3.8
Area	28.9	27.4	29.4
Mobile*	36.9	30.1	20.6
Nonroad	19.0	16.0	13.4
Total	87.2	76.5	67.2

* Includes safety margin identified in the motor vehicle emission budgets for transportation conformity. Totals may vary due to rounding.

TABLE 6.—TOTAL NO_X EMISSIONS FOR 2004–2018 (TPD)

Source category	2004 NO_X emissions	2009 NO_X emissions	2018 NO_X emissions
Point	12.9	19.8	23.8
Area	3.1	3.2	3.4
Mobile*	76.2	56.0	24.4
Nonroad	20.2	17.1	12.3
Total	112.5	96.2	63.9

* Includes safety margin identified in the motor vehicle emission budgets for transportation conformity. Totals may vary due to rounding.

Additionally, the following programs are either effective or due to become effective and will further contribute to the maintenance demonstration of the 8-hour ozone NAAQS:

- The Clean Air Interstate Rule (71 FR 25328, April 28, 2006)
- The Federal NO_X SIP Call (66 FR 43795, August 21, 2001)
- Area VOC regulations concerning portable fuel containers (69 FR 70893, December 8, 2004)
- Pennsylvania's Consumer Products (December 8, 2004, 69 FR 70895)
- Pennsylvania's Architectural and Industrial Maintenance (AIM) Coatings (November 23, 2004, 69 FR 68080).

Additionally, the following mobile programs are either effective or due to become effective and will further contribute to the maintenance demonstration of the 8-hour ozone NAAQS:

- FMVCP for passenger vehicles and light-duty trucks and cleaner gasoline (2009 and 2018 fleet)—Tier 1 (56 FR 25724, June 5, 1991) and Tier 2 (65 FR 6698, February 10, 2000).
- Federal NLEV (64 FR 72564, December 28, 1999).
- PA Clean Vehicle Program (December 9, 2006)—Pennsylvania will implement this program in car model year 2008.
- Heavy-duty diesel on road (2004/2007) and low-sulfur on-road (2006) (66 FR 5002, January 18, 2001).
- Non-road emissions standards (2008) and off-road diesel fuel (2007/2010) (69 FR 38958, June 29, 2004).
- Vehicle emission/inspection/maintenance program (70 FR 58313, October 6, 2005).
- Pennsylvania Heavy-Duty Diesel Emissions Control Program (May 11, 2002)
- Truck Stop Electrification

Based on the comparison of the projected emissions and the attainment year emissions along with the additional measures, EPA concludes that PADEP has successfully demonstrated that the 8-hour ozone standard should be maintained in the Harrisburg Area.

(c) Monitoring Network—There are currently three monitors in the Harrisburg Area measuring ozone in the Harrisburg Area. The PADEP will continue to operate its current air quality monitors (located in Dauphin and Perry Counties), in accordance with 40 CFR part 58.

(d) Verification of Continued Attainment—In addition to maintaining the key elements of its regulatory program, the Commonwealth will track the attainment status of the ozone NAAQS in the Area by reviewing air quality and emissions data during the maintenance period. The Commonwealth will perform an annual evaluation of Vehicle Miles Traveled (VMT) data and emissions reported from stationary sources and compare them to the assumptions about these factors used in the maintenance plan. The Commonwealth will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, subpart A) to see if they exceed the attainment year inventory (2004) by more than 10 percent. The PADEP will also continue to operate the existing ozone monitoring stations in the Area pursuant to 40 CFR part 58 throughout the maintenance period and submit quality-assured ozone data to EPA through the AQS system. Section 175A(b) of the CAA states that eight years following redesignation of the Harrisburg Area, PADEP will be required to submit a second maintenance plan that will ensure attainment through 2028. PADEP has made that commitment to meet the requirement of section 175A(b).

(e) The Maintenance Plan's Contingency Measures—The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that the Commonwealth will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

The ability of the Harrisburg Area to stay in compliance with the 8-hour ozone standard after redesignation depends upon VOC and NO_X emissions in the Area remaining at or below 2004 levels. The Commonwealth's maintenance plan projects VOC and NO_X emissions to decrease and stay below 2004 levels through the year 2018. The Commonwealth's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur.

Contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design value monitor (the highest of the three area monitors) are above 84 ppb. If this trigger point occurs, the Commonwealth will evaluate whether additional local emission control measures should be implemented in order to prevent a violation of the air quality standard. PADEP will also analyze the conditions leading to the excessive ozone levels and evaluate which measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of Federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing any selected measures.

Contingency measures will also be considered in the event that a violation of the 8-hour ozone standard occurs at any one of the three monitors in the Harrisburg Area. In the event of a violation of the 8-hour ozone standard, PADEP will adopt additional emissions reduction measures as expeditiously as practicable in accordance with the implementation schedule listed later in this notice and in the Pennsylvania Air Pollution Control Act in order to return the Area to attainment with the standard. Contingency measures to be considered for Harrisburg will include, but not be limited to the following:

Regulatory measures:

—Additional controls on consumer products.
—Additional controls on portable fuel containers.

Non-regulatory measures:

—Voluntary diesel engine ''chip reflash''—installation software to correct the defeat device option on certain heavy-duty diesel engines.
—Diesel retrofit, including replacement, repowering or alternative fuel use, for public or private local on-road or off-road fleets.
—Idling reduction technology for Class 2 yard locomotives.
—Idling reduction technologies or strategies for truck stops, warehouses and other freight-handling facilities.
—Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment.
—Additional promotion of alternative fuel (*e.g.*, biodiesel) for home heating and agricultural use.

The plan lays out a process to have any regulatory contingency measures in effect within 19 months of the trigger. The plan also lays out a process to implement the non-regulatory contingency measures within 12–24 months of the trigger.

VII. Are the Motor Vehicle Emissions Budgets Established and Identified in the Harrisburg Maintenance Plan Adequate and Approvable?

A. What Are the Motor Vehicle Emissions Budgets?

Under the CAA, States are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (*i.e.*, RFP, SIPs and attainment demonstration SIPs) and maintenance plans identify and establish MVEBs for certain criteria pollutants and/or their precursors to address pollution from on-road mobile sources. In the maintenance plan, the MVEBs are termed ''on road-mobile source emission budgets.'' Pursuant to 40 CFR part 93 and 51.112, MVEBs must be established in an ozone maintenance plan. An MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. An MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993 transportation conformity rule (58 FR 62188). The preamble also describes how to establish and revise the MVEBs in control strategy SIPs and maintenance plans.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. ''Conformity'' to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of or reasonable progress towards the NAAQS. If a transportation plan does not ''conform,'' most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of such transportation activities to a SIP.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein ''adequate'' for use in determining transportation conformity. After EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by state and federal agencies in determining whether proposed transportation projects ''conform'' to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining ''adequacy'' of a MVEB are set out in 40 CFR 93.118(e)(4).

EPA's process for determining ''adequacy'' consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' on July 1, 2004 (69 FR 40004). EPA consults this guidance and follows this rulemaking in making its adequacy determinations.

MVEBs for the Harrisburg Area are listed in Table 1 of this document for 2009 and 2018, and are the projected emissions for the on-road mobile sources plus any portion of the safety margin allocated to the MVEBs (safety margin allocation for 2009 and 2018 only). These emission budgets, when approved by EPA, must be used for transportation conformity determinations.

B. What Is a Safety Margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The following example is for the 2018 safety margin. The Harrisburg Area first attained the 8-hour ozone NAAQS during the 2002 to 2004 time period. The Commonwealth used 2004 as the year to determine attainment levels of emissions for the Harrisburg Area. The total emissions from point, area, mobile on-road, and mobile non-road sources in 2004 equaled 87.2 tpd of VOC and 112.5 tpd of NO_X. PADEP projected emissions out to the year 2018 and projected a total of 67.2 tpd of VOC and 63.9 tpd of NO_X from all sources in the Harrisburg Area. The safety margin for the Harrisburg Area for 2018 would be the difference between these amounts. This difference is 20 tpd of VOC and 48.6 tpd of NO_X. The emissions up to the level of the attainment year including the safety margins are projected to maintain the Area's air quality consistent with the 8-hour ozone NAAQS. The safety margin is the extra emissions reduction below the attainment levels that can be allocated for emissions by various sources as long as the total emission levels are maintained at or below the attainment levels. Table 7 shows the safety margins for the 2009 and 2018 years for the Harrisburg Area.

TABLE 7.—2009 AND 2018 SAFETY MARGIN FOR THE HARRISBURG AREA

Inventory year	VOC emissions (tpd)	NO_X emissions (tpd)
2004 Attainment	87.2	112.5
2009 Interim	76.5	96.2
2009 Safety Margin	10.7	16.3
2004 Attainment	87.2	112.5
2018 Final	67.2	63.9
2018 Safety Margin	20.0	48.6

PADEP allocated 1,803 kilograms per day (2.0 tpd) VOC and 1,988 kilograms per day (2.2 tpd) NO_X to the 2009 interim VOC projected on-road mobile source emissions projection and the 2009 interim NO_X projected on-road mobile source emissions projection to arrive at the 2009 MVEBs for the portion of the planning area covered by the HATS. Likewise for the HATS portion, for the 2018 MVEBs, the PADEP allocated 2,497 kilograms per day (2.8 tpd) VOC and 2,035 kilograms (2.2 tpd) of NO_X from the 2018 safety margins to arrive at the 2018 MVEBs. The PADEP allocated 505 kilograms per day (0.6 tpd) VOC and 489 kilograms per day (0.5 tpd) NO_X to the 2009 interim VOC

projected on-road mobile source emissions projections and the 2009 interim NO_X projected on-road mobile source emissions projections to arrive at the 2009 MVEBs for the portion of the planning area covered by the LEBCO MPO. Likewise for the LEBCO MPO portion, for the 2018 MVEBs, the PADEP allocated 565 kilograms per day (0.6 tpd) VOC and 475 kilograms (0.5 tpd) NO_X from the 2018 safety margins to arrive at the 2018 MVEBs. Once allocated to the mobile source budgets, these portions of the safety margins are no longer available, and may no longer be allocated to any other source category. Table 8 shows the final 2009 and 2018 MVEBS for Cumberland, Dauphin, and Perry Counties, and table 9 shows the final 2009 and 2018 MVEBS for Lebanon County.

TABLE 8.—2009 AND 2018 FINAL MVEBS FOR CUMBERLAND, DAUPHIN AND PERRY COUNTIES (HATS)

Inventory year	VOC emissions	NO_X emissions
2009 projected on-road mobile source projected emissions	21,212 (23.4)	39,929 (44.0)
2009 Safety Margin Allocated to MVEBs	1,803 (2.0)	1,988 (2.2)
2009 MVEBs	23,014 (25.4)	41,917 (46.2)
2018 projected on-road mobile source projected emissions	13,639 (15.0)	16,374 (18.0)
2018 Safety Margin Allocated to MVEBs	2,497 (2.8)	2,035 (2.2)
2018 MVEBs	16,136 (17.8)	18,409 (20.3)

TABLE 9.—2009 AND 2018 FINAL MVEBS FOR LEBANON COUNTY (LEBCO)

Inventory year	VOC emissions	NO_X emissions
2009 projected on-road mobile source projected emissions	3,796 (4.2)	8,439 (9.3)
2009 Safety Margin Allocated to MVEBs	505 (0.6)	489 (0.5)
2009 MVEBs	4,301 (4.7)	8,928 (9.8)
2018 projected on-road mobile source projected emissions	1,947 (2.1)	3,209 (3.5)
2018 Safety Margin Allocated to MVEBs	565 (0.6)	475 (0.5)
2018 MVEBs	2,512 (2.8)	3,684 (4.1)

C. Why Are the MVEBs Approvable?

The 2009 and 2018 MVEBs for the Harrisburg Area are approvable because the MVEBs for NO_X and VOC continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations.

D. What Is the Adequacy and Approval Process for the MVEBs in the Harrisburg Area Maintenance Plan?

The MVEBs for the Harrisburg Area maintenance plan are being posted to EPA's conformity Website concurrently with this proposal. The public comment period will end at the same time as the public comment period for this proposed rule. In this case, EPA is concurrently processing the action on the maintenance plan and the adequacy process for the MVEBs contained therein. In this proposed rule, EPA is proposing to find the MVEBs adequate and also proposing to approve the MVEBs as part of the maintenance plan. The MVEBs cannot be used for transportation conformity until the maintenance plan update and associated MVEBs are approved in a final **Federal Register** notice, or EPA otherwise finds the budgets adequate in a separate action following the comment period.

If EPA receives adverse written comments with respect to the proposed approval of the Harrisburg Area MVEBs, or any other aspect of our proposed approval of this updated maintenance plan, we will respond to the comments on the MVEBs in our final action or proceed with the adequacy process as a separate action. Our action on the Harrisburg Area MVEBs will also be announced on EPA's conformity Web site: *http://www.epa.gov/oms/traq*, (once there, click on ''Adequacy Review of SIP Submissions for Conformity'').

VIII. Proposed Actions

EPA is proposing to determine that the Harrisburg Area has attained the 8-hour ozone NAAQS. EPA is also proposing to approve the redesignation of the Harrisburg Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA has evaluated Pennsylvania's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Harrisburg Area has attained the 8-hour ozone standard. The final approval of this redesignation request would change the designation of the Harrisburg Area from nonattainment to attainment for the 8-hour ozone standard. EPA is also proposing to approve the associated maintenance plan for the Harrisburg Area, submitted on March 27, 2007, as a revision to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan for the Harrisburg Area because it meets the requirements of section 175A as described previously in this notice. EPA is also proposing to approve the 2002 base-year inventory for the Harrisburg Area, and the MVEBs submitted by Pennsylvania for the Harrisburg Area in conjunction with its redesignation request. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not

contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This rule proposing to approve the redesignation of the Harrisburg Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year inventory, and the MVEBs identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: May 25, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7–10585 Filed 5–31–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[I.D. 021607C]

Endangered and Threatened Species: Extension of Public Comment Period and Notice of Public Hearings on Proposed Endangered Species Act Listing of Cook Inlet Beluga Whales

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

ACTION: Extension of public comment period; notice of public hearings.

SUMMARY: On April 20, 2007, NMFS proposed the listing of the Cook Inlet beluga whale as an endangered species under the Endangered Species Act of 1973 (ESA), as amended. As part of that proposal, NMFS announced a public comment period to end on June 19, 2007. NMFS has received requests for an extension to the comment period and for public hearings on this issue. In response to these requests, NMFS is extending the public comment period for the proposed listing action to August 3, 2007. Additionally, NMFS is announcing that hearings will be held at two locations in Alaska to provide additional opportunities and formats to receive public input.

DATES: The deadline for comments on the April 20, 2007 (72 FR 19854) proposed rule is extended from June 19, 2007, to August 3, 2007.

ADDRESSES: We will hold two public hearings on this issue: one in Homer and one in Anchorage. The dates for these hearings will be announced in a forthcoming notice in the Federal Register.

Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- E-mail: *CIB-ESA-Endangered@noaa.gov*. Include in the subject line the following document identifier: Cook Inlet Beluga Whale PR. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.
- Mail: P. O Box 21668, Juneau, AK 99802
- Hand delivery to the Federal Building : 709 W. 9th Street, Juneau, AK.
- Fax: (907) 586–7557.

FOR FURTHER INFORMATION CONTACT: Brad Smith, NMFS, 222 West 7th Avenue, Anchorage, AK 99517, telephone (907) 271–5006; Kaja Brix, NMFS, (907) 586–7235; or Marta Nammack, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On April 20, 2007, NMFS published a proposed rule (72 FR 19854) to list the Cook Inlet beluga whale as an endangered species. This action followed completion of a status review of the Cook Inlet beluga whale which found this population to be at risk of extinction within the next 100 years. The April 20, 2007, proposed rule also describes NMFS' determination that this population constitutes a ''species'', or distinct population segment, under the ESA.

Extension of Public Comment Period

Several requests have been received to extend the comment period for the proposed listing. The comment period for the proposed listing was to end on June 19, 2007. NMFS is extending the comment period until August 3, 2007, to allow for adequate opportunity for public comment and participation in

public hearings (see **DATES** and **ADDRESSES**).

Public Hearings

Joint Commerce-Interior ESA implementing regulations state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In past ESA rule-making NMFS has conducted traditional public hearings, consisting of recorded oral testimony from interested individuals. This format, although providing a means of public input, does not provide opportunities for dialogue and information exchange. NMFS believes that the traditional public hearing format can be improved upon by also including a brief presentation on the results of the Status Review and what may be considered topics of interest.

The preferred means of providing public comment for the official record is via written testimony prepared in advance of the meeting which may also be presented orally. Blank ''comment sheets'' will be provided at the meetings for those without prepared written comments, and opportunity will also be provided for additional oral testimony. There is no need to register for these hearings.

In scheduling these public hearings, NMFS has anticipated that many affected stakeholders and members of the public may prefer to discuss the proposed listing directly with staff during the public comment period. These public meetings are not the only opportunity for the public to provide input on this proposal. The public and stakeholders are encouraged to continue to comment and provide input to NMFS on the proposal (via correspondence, e-mail, and the Internet; see **ADDRESSES**, above) up until the scheduled close of the comment period on August 3, 2007.

References

The proposed rule, status review report, maps, a list of the references cited in this document, and other materials relating to the proposed listing can be found on the NMFS Alaska Region website *http://www.fakr.noaa.gov/*.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: May 25, 2007.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–10587 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 105
Friday, June 1, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–FV–07–0074; FV07–901–1NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved generic information collection for vegetables and specialty crop marketing order programs.

DATES: Comments on this notice must be received by July 31, 2007.

Additional Information or Comments: Contact Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, room 1406–S, Washington, DC 20250–0237; Tel: (202) 205–2829, Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov*, or Internet: *http://www.regulations.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*.

Small businesses may request information on this notice by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, room 1406–S, Washington, DC 20250–0237; telephone (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Vegetable and Specialty Crop Marketing Orders.

OMB Number: 0581–0178.

Expiration Date of Approval: October 31, 2007.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. This notice covers the following marketing order program citations: 7 CFR parts 932, 945, 946, 947, 948, 953, 955, 956, 958, 959, 966, 981, 982, 984, 985, 987, 989, 993, and 999. Order regulations help ensure adequate supplies of high quality products for consumers and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture (Secretary) is authorized to oversee the order operations and issue regulations recommended by a committee or board of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the marketing order programs. Under the Act, orders may authorize the following: Production and marketing research including paid advertising, volume regulations, reserves, including pools and producer allotments, container regulations, and quality control. Assessments are levied on handlers regulated under the marketing orders. Also pursuant to Section 8e of the Act, importers of raisins, dates, and dried prunes are required to submit certain information.

Several forms are required to be filed by USDA to enable its administration of each program. These include forms covering the selection process for industry members to serve on a marketing orders committee or board and ballots used in referenda to amend or continue marketing order programs.

Under Federal marketing orders, producers and handlers are nominated by their peers to serve as representatives on a committee or board which administers each program. Nominees must provide information on their qualifications to serve on the committee or board. Nominees are selected by the Secretary. Formal rulemaking amendments must be approved in referenda conducted by USDA and the Secretary. For the purposes of this action, ballots are considered information collections and are subject to the Paperwork Reduction Act. If an order is amended, handlers are asked to sign an agreement indicating their willingness to abide by the provisions of the amended order.

Some forms are required to be filed with the committee or board. The orders and their rules and regulations authorize the respective commodities committees and boards, the agencies responsible for local administration of the orders, to require handlers and producers to submit certain information. Much of the information is compiled in aggregate and provided to the respective industries to assist in marketing decisions. The committees and boards have developed forms as a means for persons to file required information relating to supplies, shipments, and dispositions of their respective commodities, and other information needed to effectively carry out the purpose of the Act and their respective orders, and these forms are utilized accordingly.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the orders, and their use is necessary to fulfill the intent of the Act as expressed in the orders, and the rules and regulations issued under the orders.

The information collected is used only by authorized employees of the committees and boards and authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarters' staff. Authorized committee/board employees are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.10 hours per response.

Respondents: Producers, handlers, processors, dehydrators, cooperatives, manufacturers, importers, and public members.

Estimated Number of Respondents: 20,626.

Estimated Number of Total Annual Responses: 174,142.

Estimated Number of Responses per Respondent: 8.47.

Estimated Total Annual Burden on Respondents: 17,498.50 hours.

Comments are invited on: (1) 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) 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference this docket number and the appropriate marketing order, and be mailed to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, room 1406–S, Washington, DC 20250–0237; Fax: (202) 720–8938; or e-mail: *moab.docketclerk@usda.gov* or *www.regulations.gov*. Comments should also reference the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 1400 Independence Ave., SW., STOP 0237, Washington, DC, room 1406–S, or can be viewed at: *http://www.regulations.gov*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 25, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–10522 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–07–0079; FV–07–326]

Notice of Request for an Extension and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service (AMS) intention to request approval from the Office of Management and Budget, for an extension and revision to a currently approved information collection for Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

DATES: Comments may be submitted on or before July 31, 2007.

ADDITIONAL INFORMATION OR COMMENTS: Interested persons are invited to submit written comments concerning this notice to Terry B. Bane, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0247, 1400 Independence Avenue, SW., Washington, DC 20250–0247; fax (202) 690–1527; or e-mail *terry.bane@usda.gov.* Comments should be submitted in triplicate. Comments may also be submitted electronically through *www.regulations.gov.* All comments should reference the docket number and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0247, Washington, DC 20250–0247, telephone (202) 720–4693, during regular business hours. A copy of this notice may also be found at: *http://www.ams.usda.gov/fv/ppbdocklist.htm.*

SUPPLEMENTARY INFORMATION: The ''Domestic Origin Verification System'' (DOVS) audit program is a user-fee service, available to suppliers, processors, and any financially interested party. It is designed to provide validation of the applicant's domestic origin verification system prior to bidding on contracts to supply food products to the Department of Agriculture's (USDA's) Domestic Feeding programs, and/or may be conducted after a contract is award.

DOVS was established to evaluate prospective applicants' systems for assurance that only domestic products are delivered to under USDA contracts, and to establish procedures for applicant system evaluations as well as acceptance and rejection criteria.

Title: ''Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products—7 CFR 52.''

OMB Number: 0581–0234.

Expiration Date of Approval: October 31, 2007.

Type of Request: Extension and Revision of a Currently Approved Information Collection.

Abstract: The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621–et seq.) The AMA directs and authorizes the Department to develop standards of quality, grades, grading programs, and other services to facilitate trading of agricultural products and assure consumers of quality products, which are graded and identified under USDA programs. Section 203(h) of the AMA specifically directs and authorizes the Secretary of Agriculture to inspect, certify, and identify the grade, class, quality, quantity, and condition of agricultural products under such rules and regulations as the Secretary may prescribe, including assessment and collection of fees for the cost of the service. The regulations for such services for processed fruits and vegetables and related products may be found at 7 CFR part 52. AMS also provides other types of voluntary services under the same regulations, e.g., contract and specification acceptance services, facility assessment services, and certifications of quantity and quality. Grading services are available on a resident basis or a lot-fee basis. Respondents may request resident service on a continuous basis or on an as-needed basis. The user (user-fee) pays for the service. The AMA and these regulations do not mandate the use of these services; they are provided only to those entities that request or apply for a specific service. In order for the Agency to satisfy those requests for service, the Agency must request certain information from those who apply for service. The information collected is used only by Agency personnel and is used to administer services requested by the respondents. The affected public may include any partnership, association, business trust, corporation, organized group, and State, County, or Municipal government, and any authorized agent that has a financial

interest in the commodity involved and requests service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.0 hour per response.

Respondents: Applicants who are applying for grading and inspection services.

Estimated Number of Respondents: 100.

Estimated Number of Responses: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1.0.

Comments are invited on: (1) 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) 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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 25, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–10526 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–LS–07–0064; LS–07–10]

Notice of Request for Extension and Revision of a Currently Approved Information Collection.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for an extension and revision to the currently approved information collection ''Referendum for the Lamb Promotion, Research and Information Order (Order).'' Once approved, AMS will request that OMB merge this information collection with the information collection for National Research, Promotion, and Consumer Information Programs.

DATES: Comments on this notice must be received by July 31, 2007 to be assured of consideration.

Additional Information or Comments: Interested persons are invited to submit written comments concerning this notice of request. Comments must be sent to Kenneth R. Payne, Chief, Marketing Programs Branch, Livestock and Seed Program, AMS, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; *Fax:* (202) 720–1125; or online at *www.regulations.gov.* All comments should reference the docket number, the date, and the page number of this issue of the **Federal Register**. Comments will be available for public inspection via the internet at *www.regulations.gov* or during regular business hours at the same address.

SUPPLEMENTARY INFORMATION:

Title: Lamb Promotion, Research, and Information Program.

OMB Number: 0581–0227.

Expiration Date of Approval: December 31, 2007.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The information collection request is essential to carry out the intent of the Commodity Promotion, Research, and Information Act of 1996 (Act) and the Order. According to the Order, the Secretary of Agriculture (Secretary) shall conduct a referendum among persons subject to assessments who, during a representative period, have engaged in the production, feeding, handling, or slaughter of lamb or the exportation of lamb or lamb products. The purpose of the referendum is to determine whether the persons subject to assessments favor the continuation, suspension, or termination of the Order. In accordance with the Act, a referendum must be held no later than 7 years after assessments begin, but may also be held at the request of the American Lamb Board, at the request of at least 10 percent or more of lamb producers, feeders, first handlers, and exporters eligible to vote, or by the Secretary. The form requires the minimum information necessary to effectively carry out the requirements of a referendum, and their use is necessary to fulfill the intent of the Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out the forms. The forms are simple, easy to understand, and place as small a burden as possible on the person required to file the information.

The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. In addition, the information included on this form is not available from other industry sources because such information relates specifically to individuals or organizations subject to the provisions of the Act and the Order.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.03 hours per response.

Respondents: Producers, seedstock producers, market agencies, first handlers, feeders, and exporters.

Estimated Number of Respondents: 69,761.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,093 hours.

Comments are invited on: (1) 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) 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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Kenneth R. Payne, Chief, Marketing Programs Branch, Livestock and Seed Program, AMS, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; Fax: (202) 720–1125; or online at *www.regulations.gov.* All comments should reference the docket number, the date, and the page number of this issue of the **Federal Register**. Comments will be available for public inspection via the internet at *www.regulations.gov* or during regular business hours. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 25, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–10527 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta-Trinity National Forest; California; Gemmill Thin Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: This notice for the Gemmill Thin project revises the first notice for the project which was published in the **Federal Register** on December 12, 2005 (page 73430). Comments received during the first comment period (December 12, 2006 to January 13, 2007) as well comments received during the comment period for this notice will be considered by the Responsible Official in the development of the draft environmental impact statement.

The Shasta-Trinity National Forest proposes to improve, maintain and protect wildlife habitat for late-successional and old-growth associated species in the Chanchelulla Late-Successional Reserve on the South Fork Management Unit. The proposal includes thinning trees in overcrowded natural stands, thinning plantations and reducing the amount of existing fuels on a total of approximately 1,610 acres of National Forest System land. The project area is located on South Fork Management Unit in T.29 and 30 N., R.10 and 11 W., Mt. Diablo Meridian, northeast of the community of Wildwood, California and south of Chanchelulla Wilderness. Wildwood has bee listed as a Wildland Urban Interface (WUI), identifying it as a community at risk from the threat of wildfire and giving it higher priority for fuels reduction treatments. The Forest Land and Resource Management Plan allocates this area to Late-Successional Reserve, Riparian Reserve (wetlands and areas adjacent to streams), and Matrix (commercial timber harvest emphasis). The project area is within designated critical habitat for the Northern spotted owl (CA–36).

DATES: Comments concerning the scope of the analysis must be received no later than 30 days after the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected in July 2007 and the final environmental impact statement is expected in October 2007.

ADDRESSES: Send written comments to Gemmill Thin Comments, South Fork Management Unit, P.O. Box 159, Hayfork, CA 96041. Electronic comments can be sent via e-mail to: *comments-pacificsouthwest-shasta-trinity-yollabolla-hayfork@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Jeff Paulo, Gemmill Thin IDT Lead, South Fork Management Unit, 2555 State Highway 36, Platina, CA 96076, Phone (530) 352–4211 or via E-mail at *jpaulo@fs.fed.us,* or visit the Shast-Trinity National Forest Web site at *www.fs.fed.us/r5/shastatrinity/projects.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Over the past 100 years the practice of excluding fire and the lack of thinning treatments in the Chancuelulla Late-Successional Reserve (LSR) have resulted in a forest ecosytem that is densely stocked and slow-growing. Overcrowded conditions in mature stands (80 to 100 years old) are causing a delay in the establishment of healthy functioning old-growth habitat. Overcrowded conditions in old-growth stands (100 to 150 years old) do not promote long-term health and maintenance because the largest and oldest treesand their replacements are at risk of mortality due to the proximity and number of competing trees. In both cases, tree vigor is reduced because smaller trees are competing with larger trees for limited amounts of water, nutrients and sunlight. This leaves the ecosystem more prone to disease and less resilient to fire. Without treatment, overstocked stands are not likely to remain healthy or meet the need for more old-growth habitat in the LSR. Most of the existing plantations scattered throughout the LSR have never been thinned so they are also overcrowded and hindered in their development of future old-growth habitat characteristics.

There is a need to thin overstocked mature stands that are 80–100 years old. Fewer and healthier trees per acre would serve two purposes: (1) Increase the rate of development of old-growth habitat characteristics and (2) reduce the loss of existing and developing old-growth habitat in the event of wildfire and outbreaks of disease. There is a need to thin below in old-growth stands over 100 years old. A thinning that leaves the oldest and largest trees would serve two purposes: (1) Decrease the risk of losing existing old-growth trees and (2) decrease the risk of losing future replacement old-growth trees.

There is a need to thin plantations to increase their growing space and reduce density to levels where flames are not likely to reach the canopy of the adjacent overstory trees during a wildfire.

There is also a need to spatially protect late-successional and old-growth habitat from the threat of fire that could start inside or outside the perimeter of the LSR. Current threats of fire include tree mortality from insect and disease in overcrowded stands, and natural or human-caused wildfire. The majority of private land closest to the Gemmill Thin project was harvested in the late 1960s to 1970s and more private harvesting is planned. Two public roads and a transmission line are within or directly adjacent to the project area. These linear features and past harvesting on private lands are associated with higher risk for fire starts that could affect the project area.

Proposed Action

The proposed action would include the following treatments:

1. Thinning treatments on approximately 750 acres of stands 80 to 100 year old. Implement a thinning from below in 14 stands of mature mixed conifer and hardwood forest. These are stands that do not yet exhibit old-growth characteristics, but have the potential to attain them. In these treatment units, the largest and healthiest trees would be retained. A sufficient number of trees would be removed to a level that maintains or increases growth rates of mature trees and removes fuel ladders. The post treatment stand would average 50% to 60% tree canopy cover.

2. Thinning treatments on approximately 530 acres of stands 100–150 years old. Implement a thinning from below in 10 stands of old-growth mixed conifer and hardwood forest over 100 years old. The largest and oldest trees within each stand would be retained. A sufficient number of smaller trees would be removed to reduce the number of trees per acre to a level that provides an improved competitive advantage for the larger, older trees and removes fuel ladders that may threaten the remaining trees. The post treatment stands would average 60% or more tree canopy cover.

3. Thinning treatments in approximately 45 acres of 20 year old plantations. Thinning and release treatments would be accomplished through mastication (grinding up excess trees) in three plantations. Sufficient numbers of trees would be removed to maintain an average of 150 trees per acre, a level that maintains stand growth

rate and reduces the amount ladder fuels.

4. Thinning from below to reconstruct fuelbreaks implemented 20 years ago on approximately 260 acres of stands aged 80 to 150 years old. Implement a thinning from below to retain approximately 40% canopy closure, and remove most understory vegetation. Shaded fuelbreaks are approximately 150 to 300 foot-wide strips on which vegetation has been modified so that fires burning into them can be more readily controlled. The residual canopy closure provides sufficient shade to reduce the growth of brush species in the understory.

5. Reduce hazardous fuels on approximately 25 acres of existing fuels buffers. All live trees would be retained. Dead trees under 10 inches in diameter would be removed. These small dead trees and ground fuels would be concentrated for burning by hand-treatment methods.

All proposed treatments would remove excess trees as commercial wood products wherever possible. No trees over 150 years old would be harvested. On approximately 1,460 acres small trees (5 to 10 inches in diameter) would be removed and most trees less than 5 inches in diameter would be removed as activity-generated fuels. The harvest systems used in the proposed action would include mechanized equipment, cable systems, and helicopter. There would be no road construction of new system roads. The project may include reconstruction of road segments, construction of short lengths of temporary roads and decommissioning of other roads. Based on public comment another alternative may be developed that places a diameter limit on all thinning.

Responsible Official

J. Sharon Heywood, Forest Supervisor, Shasta-Trinity National Forest, 3644 Avtech Parkway, Redding, CA 96002. (530) 226–2500.

Nature of Decision To Be Made

The Forest Supervisor will decide whether to implement the proposed action, implement an alternative action that meets the purpose and need or take no action. The decision may include a non-significant forest plan amendment that permits treatment of stands older than 80 years within Late-Successional Reserves.

Scoping Process

Notice of the proposed action will be published in the newspaper of record, the Redding Record Searchlight. It will also be published in the Trinity Journal. Scoping letters will be mailed to interested and affected public coincident with publication of this notice of intent in the **Federal Register** and information on the proposed action will be posted on the Forest Web site at *http://www.fs.fed.us/r5/shastatrinity/projects.* The Trinity County Firesafe Council has reviewed this proposal and a public meeting was held at the Harrison Gulch Ranger Station on Wednesday, September 28, 2005. This notice of intent initiates the current scoping process, which guides the development of the environmental impact statement. Comments submitted during this scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The results of scoping include: (a) Identifying potential issues, (b) identifying issues to be analyzed in depth, (c) eliminating non-significant issues or those previously covered by another environmental analysis, (d) exploring additional alternatives, and (e) identifying potential environmental effects of the proposed action and alternatives.

Preliminary Issues

Potential issues identified during the first public comment period include:

- Development of an alternative with a diameter limit for harvesting
- The potential for increased vehicle use as a result of proposed road activities
- Decommissioning roads that provide access for public use and fire fighting

Early Notice of Public Participation in Subsequent Environmental Review

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: May 25, 2007.

Scott G. Armentrout,

Deputy Forest Supervisor, Shasta-Trinity National Forest.

[FR Doc. 07–2718 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Wallowa-Whitman National Forest, Oregon; Wallowa-Whitman National Forest Travel Management Plan

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: On May 3, 2007, the USDA, Forest Service, Wallowa-Whitman National Forest, published a Notice of Intent in **Federal Register** (72 FR 24558) to prepare an environmental impact statement (EIS) for the Forest Travel Management Plan. The Notice of Intent is being revised to change the end of the scoping period for receiving comments on the proposed action. The end of the scoping period was originally June 30, 2007. The revised end of the scoping period is August 17, 2007.

DATES: Written comments concerning the proposed action should be submitted by August 17, 2007.

FOR FURTHER INFORMATION CONTACT: Jeff Stein, Interdisciplinary Team Leader, Wallowa-Whitman National Forest, Wallowa Mountains Office, 88401 Hwy. 82, Box A, Enterprise, OR, phone: (541) 426–5656.

Dated: May 25, 2007

Steven A. Ellis,

Wallowa-Whitman National Forest Supervisor.

[FR Doc. 07–2721 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this constitutes notice of the upcoming meeting of the Grain Inspection Advisory Committee. The Grain Inspection Advisory Committee meets twice annually to advise GIPSA on the programs and services we deliver under the U.S. Grain Standards Act. Recommendations by the committee help us to better meet the needs of our customers who operate in a dynamic and changing marketplace.

DATES: June 12, 8 a.m. to 5 p.m.; and June 13, 2007, 8 a.m. to 1 p.m.

ADDRESSES: The Advisory Committee meeting will take place at the Hampton Inn and Suites, Country Club Plaza, 4600 Summit, Kansas City, Missouri 64112.

Requests to address the Advisory Committee at the meeting or written comments may be sent to: Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 3601, Washington, DC 20250–3601. Requests and comments may also be faxed to (202) 690–2173.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Henry, (202) 205–8281 or by e-mail at *Terri.L.Henry@usda.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to the Administrator of the Grain Inspection, Packers and Stockyards Administration with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*). Relevant information about the Advisory Committee is available on the GIPSA Web site. Go to *http://www.gisa.usda.gov* and under the section ''I Want To * * *,'' click on ''Learn about the Advisory Committee.''

The agenda will include discussions on the agency's financial status, oversight and quality management for the official inspection system, service delivery and operations, the pilot study to contract for export service provision and supplemental labor, international market facilitation initiatives, GIPSA?s role in the ethanol market, and the relevance of the official standards for soybeans and other products.

For a copy of the agenda please contact Terri Henry, (202) 205–8281 or by e-mail *Terri.L.Henry@usda.gov*.

Public participation will be limited to written statements, unless permission is received from the Committee Chairman to orally address the Advisory Committee. The meeting will be open to the public.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Terri Henry, at the telephone number listed above.

Alan Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–10458 Filed 5–31–07; 8:45 am]

BILLING CODE 3410–KD–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

Comments Must be Received on or Before: June 1, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Custodial Services, Transportation Security Administration, O'Hare International Airport (TSA Leased and Congressionally Mandated Spaces), 10000 Bessie Coleman Drive, Chicago, IL.

NPA: Goodwill Services of Chicago, Chicago, IL.

Contracting Activity: GSA, Public Buildings Service, Region 5, Chicago, IL.

Service Type/Location: Document Destruction, Internal Revenue Service (9 locations in Florida), 1 Dependent Drive, 200 W. Forsyth Street, 4057 Carmichael Drive, 550 Water Street, 6800 Southpoint Parkway, 841 Prudential Drive, Jacksonville, FL; 104 N. Main Street, Gainsville, FL; 330 SW., 34th Avenue

(Paddock Park), Ocala, FL; 921 N. Nova Boulevard, Holly Hill, FL.
NPA: Challenge Enterprises of North Florida, Inc., Green Cove Springs, FL.
Contracting Activity: Department of Treasury, Internal Revenue Services, Chamblee, GA.
Service Type/Location: Facility Support Operations, Directorate of Public Works, Fort Bliss, El Paso, TX.
NPA: PRIDE Industries, Inc., Roseville, CA.
Contracting Activity: Directorate of Contracting, ARMY-Bliss, Fort Bliss, TX.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

End of Certification

The following services are proposed for deletion from the Procurement List:

Services

Service Type/Location: Family Housing Maintenance, Watervliet Arsenal (Rotterdam Housing Area), Watervliet, NY.
NPA: Uncle Sam's House, Inc., Schenectady, NY.
Contracting Activity: Watervliet Arsenal, Watervliet, New York.
Service Type/Location: Food Service Attendant, Air National Guard-Phoenix, 3200 E. Old Tower Road, Phoenix, AZ.
NPA: Goodwill Community Services, Inc., Phoenix, AZ.
Contracting Activity: Air National Guard-Phoenix, Phoenix, AZ.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–10597 Filed 5–31–07; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from the Procurement List services previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* June 1, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov*.

SUPPLEMENTARY INFORMATION:

Deletions

On March 30, 2007 and April 6, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 FR 15098; 17094) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services:

Service Type/Location: Carwash Service, U.S. Department of Interior, Bureau of Land Management, 1661 South Fourth Street, El Centro, CA.
NPA: ARC–Imperial Valley, El Centro, CA.
Contracting Activity: U.S. Department of Interior, Bureau of Land Management, El Centro, CA.
Service Type/Location: Grounds Maintenance, Point Molate Housing Facilities (Only), Richmond, CA.
NPA: North Bay Rehabilitation Services, Inc., Rohnert Park, CA.
Contracting Activity: Department of Homeland Security, U.S. Coast Guard.
Service Type/Location: Janitorial/Custodial, Agricultural Research Service, Southern Plains Range Research Station, 2000 18th Street, Woodward, OK.
NPA: Oklahoma's Action Rehabilitation Centers, Inc., Woodward, OK.
Contracting Activity: U.S. Department of Agriculture, ARS, OK.
Service Type/Location: Janitorial/Custodial, U.S. Immigration & Naturalization Service, Institutional Hearing Program, 7405CI Highway 75 South, Huntsville, TX.
NPA: Tri-County Mental Health and Mental Retardation Services, Conroe, TX.
Contracting Activity: U.S. Immigration and Naturalization Service, Houston, TX.
Service Type/Location: Publications Distribution, Naval Construction Battalion Center, Pascagoula, MS.
NPA: AbilityWorks, Inc. of Harrison County, Long Beach, MS.
Contracting Activity: Department of the Navy, Naval Supply Center, Pensacola, FL.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–10598 Filed 5–31–07; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213 (2002) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that

antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of June 2007,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

	Period
Antidumping Duty Proceedings	
Japan:	
A–588–850, Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ Inches)	6/1/06–5/31/07
A–588–851, Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches)	6/1/06–5/31/07
A–588–846, Certain Hot-Rolled Carbon Steel Flat Products	6/1/06–5/31/07
Republic of Korea: A–580–807, Polyethylene Terephthalate (Pet) Film	6/1/06–5/31/07
Spain: A–469–814, Chlorinated Isocyanurates	6/1/06–5/31/07
Taiwan:	
A–583–816, Stainless Steel Butt-Weld Pipe Fittings	6/1/06–5/31/07
A–583–820, Certain Helical Spring Lock Washers	6/1/06–5/31/07
The People's Republic of China:	
A–570–855, Apple Juice Concentrate, Non-Frozen	6/1/06–5/31/07
A–570–899, Artist Canvas	6/1/06–5/31/07
A–570–898, Chlorinated Isocyanurates	6/1/06–5/31/07
A–570–884, Color Television Receivers	6/1/06–5/31/07
A–570–868, Folding Metal Tables & Chairs	6/1/06–5/31/07
A–570–835, Furfuryl Alcohol	6/1/06–5/31/07
A–570–877, Lawn and Garden Steel Fence Posts	6/1/06–5/31/07
A–570–806, Silicon Metal	6/1/06–5/31/07
A–570–8804, Sparklers	6/1/06–5/31/07
A–570–601, Tapered Roller Bearings	6/1/06–5/31/07
Countervailing Duty Processing	
Italy: C–475–812, Grain-Oriented Electrical Steel	1/1/06–3/13/06
Suspension Agreements	
Russia: A–821–811, Ammonium Nitrate	6/1/06–5/31/07

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of June 2007. If the Department does not receive, by the last day of June 2007, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: May 23, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 07–2730 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for July 2007

The following Sunset Review is scheduled for initiation in July 2007 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

	Department contact
Antidumping Duty Proceedings	
Brake Rotors from China (A–570–846)	Juanita Chen, (202) 482–1904.
Countervailing Duty Proceedings	
No countervailing duty orders are scheduled for initiation in July 2007.	
Suspended Investigations	
No suspended investigations are scheduled for initiation in July 2007.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) . The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 15 days of the publication of the Notice of Initition.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: May 24, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–10473 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year (''Sunset Review'') of the antidumping and countervailing duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers this same order.

DATES: *Effective Date:* June 1, 2007.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review(s)* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders:

DOC case No.	ITC case No.	Country	Product	Department contact
A–337–806	731–TA–948	Chile	I Q F Red Raspberries	Brandon Farlander (202) 482–0182
A–533–824	731–TA–933	India	Polyethylene Terephthalate (PET) Film	Dana Mermelstein (202) 482–1391
A–583–837	731–TA–934	Taiwan	Polyethylene Terephthalate (PET) Film	Dana Mermelstein (202) 482–1391
C–533–825	701–TA–415	India	Polyethylene Terephthalate (PET) Film	Dana Mermelstein (202) 482–1391

Suspended Investigations

No Sunset Reviews of suspended investigations are scheduled for initiation in June 2007.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department's regulations regarding Sunset Reviews (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of Sunset Reviews, case history information (i.e., previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet Web site at the following address: ''*http://ia.ita.doc.gov/sunset/*.'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2) effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in 19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non-recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (''*Modification Notice*''). *See Modification Notice* for a discussion of the types of information and documentation the Department requires.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: May 24, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–10472 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–905]

Notice of Antidumping Duty Order: Certain Polyester Staple Fiber from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (''ITC''), the Department is issuing an antidumping duty order on certain polyester staple fiber (''PSF'') from the People's Republic of China (''PRC''). On May 24, 2007, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. *See Certain Polyester Staple Fiber from China*, Investigation No. 731–TA–1104 (Final), USITC Publication 3922 (June 2007).

EFFECTIVE DATE: June 1, 2007.

FOR FURTHER INFORMATION CONTACT: Michael Holton or Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1324, or (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the ''Act''), on April 19, 2007, the Department published the *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007) (''*Final Determination*'').

Scope of Order

The merchandise subject to this proceeding is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 5503.20.0025 and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low–melt PSF defined as a bi–component fiber with an outer, non–polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Certain PSF is classifiable under the HTSUS subheadings 5503.20.0045 and 5503.20.0065. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the orders is dispositive.

Antidumping Duty Order

On May 24, 2007, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of less–than-fair–value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (''CBP'') to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of PSF from the PRC. These antidumping duties will be assessed on all unliquidated entries of PSF from the PRC entered, or withdrawn from the warehouse, for consumption on or after December 26, 2006, the date on which the Department published its preliminary determination. *See Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373 (December 26, 2006) (''*Preliminary Determination*'').

With regard to the ITC's negative critical circumstances determination, we will instruct CBP to lift suspension, release any bond or other security, and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after September 27, 2006, but before December 26, 2006 (*i.e.*, the 90 days prior to the date of publication of the *Preliminary Determination*).

Effective on the date of publication of the ITC's final affirmative injury determination, CBP, pursuant to section 735(c)(3) of the Act, will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted–average antidumping duty margins as listed below. The ''PRC–wide'' rate applies to all exporters of subject merchandise not specifically listed. The weighted–average dumping margins are as follows:

PSF FROM THE PRC - WEIGHTED–AVERAGE DUMPING MARGINS

Exporter & Producer	Weighted–Average Deposit Rate
Cixi Jiangnan Chemical Co., Ltd.	*de minimis*
Far Eastern Industries (Shanghai) Ltd.	3.47%
Ningbo Dafa Chemical Fiber Co., Ltd.	4.86%
Cixi Sansheng Chemical Fiber Co., Ltd.	4.44%
Cixi Santai Chemical Fiber Co., Ltd.	4.44%
Cixi Waysun Chemical Fiber Co., Ltd.	4.44%
Hangzhou Best Chemical Fibre Co., Ltd.	4.44%
Hangzhou Hanbang Chemical Fibre Co., Ltd.	4.44%
Hangzhou Huachuang Co., Ltd.	4.44%
Hangzhou Sanxin Paper Co., Ltd.	4.44%
Hangzhou Taifu Textile Fiber Co., Ltd.	4.44%
Jiaxang Fuda Chemical Fibre Factory	4.44%
Nantong Luolai Chemical Fiber Co. Ltd.	4.44%
Nanyang Textile Co., Ltd.	4.44%
Suzhou PolyFiber Co., Ltd.	4.44%
Xiamen Xianglu Fiber Chemical Co.	4.44%
Zhaoqing Tifo New Fiber Co., Ltd.	4.44%
Zhejiang Anshun Pettechs Fibre Co., Ltd.	4.44%

PSF FROM THE PRC - WEIGHTED–AVERAGE DUMPING MARGINS—Continued

Exporter & Producer	Weighted–Average Deposit Rate
Zhejiang Waysun Chemical Fiber Co., Ltd.	4.44%
PRC–Wide Rate	44.30%

This notice constitutes the antidumping duty order with respect to PSF from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: May 21, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–10607 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–507–601]

Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Notice of Initiation of Countervailing Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 1, 2007.

SUMMARY: The Department of Commerce (''the Department'') has received a request to conduct a new shipper review of the countervailing duty (''CVD'') order on certain in–shell roasted pistachios from the Islamic Republic of Iran (''pistachios from Iran''). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(d), we are initiating a CVD new shipper review for Ahmadi's Agricultrual Productions, Processing, and Trade Complex (''Ahmadi'').

FOR FURTHER INFORMATION CONTACT: Christopher Hargett, 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) 482–4161.

SUPPLEMENTARY INFORMATION:

Background

On March 21, 2007, the Department received a timely request from Ahmadi, in accordance with 19 CFR 351.214(c), for a new shipper review of the CVD order on pistachios from Iran, which has an October anniversary month.[1]

As required by 19 CFR 351.214(b)(2)(i) and (iii)(A), Ahmadi certified that it did not export subject merchandise to the United States during the period of investigation (''POI''), and that it has never been affiliated with any exporter or producer that exported subject merchandise during the POI.[2] Pursuant to 19 CFR 351.214(b)(2)(iv), the company submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the date of entry and volume of that first shipment, and the date of the first sale to an unaffiliated customer in the United States. Ahmadi also certified that, in accordance with 19 CFR 351.214(b)(2)(v), it has informed the Government of the Islamic Republic of Iran that it will be required to provide a full response to the Department's questionnaire.[3] On April 30, 2007, and on May 23, 2007, the Western Pistachio Association and Cal Pure Pistachios, Inc., respectively, submitted letters in opposition to the request urging the Department to decline to initiate the requested review.[4]

Initiation of Review

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 (d), and based on information on the record, we are initiating a CVD new shipper review for Ahmadi. Consistent with section 751(a)(2)(B)(iv) of the Act, we intend to issue the preliminary results of this new shipper review no later than 180 days after initiation of this review[5] and the final results of this review no later than 90 days after the date on which the preliminary results are issued.[6]

New Shipper Review Proceeding	Period To Be Reviewed
Ahmadi	01/01/2006 - 12/31/2006

Cash Deposit Requirements

On August 17, 2006, the Pension Protection Act of 2006 (H.R. 4) was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct U.S. Customs and Border Protection to collect a bond or other security in lieu of a cash deposit in new shipper reviews during the period April 1, 2006, through June 30, 2009. Therefore, the posting of a bond or other security under section 751(a)(2)(B)(iii) of the Act in lieu of a cash deposit is not available in this case. Importers of subject merchandise manufactured and exported by Ahmadi must continue to pay a cash deposit of estimated antidumping duties on each entry of subject merchandise at the current all–others rate of 317.89%.[7]

Interested parties may submit applications for disclosure of business proprietary information under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and this notice are issued and published in accordance with section 751(a)(2)(B) of the Act of the Act and 19 CFR 351.214(d) and 351.221(c)(1)(i).

Dated: May 24, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–10605 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Roasted In-Shell Pistachios From Iran*, 51 FR 35679 (October 7, 1986).

[2] *See* the March 21, 2007, submission to the Department from Ali R. Ahmadi Kerman Corporation regarding Request for New Shipper CVD Review.

[3] *Id.*

[4] *See* the April 30, 2007, letter to the Department from the Western Pistachio Association in Opposition to Ahmadi's Agricultural Productions, Processing and Trade Complex's Request to Initiate a New Shipper Review of the Countervailing Duty Order on Roasted In-Shell Pistachios from Iran, *see also* the May 23, 2007, letter to the Department from Cal Pure Pistachios Inc., in Opposition to Initiation of New Shipper Review Request.

[5] *See* 19 CFR 351.214(i).

[6] *Id.*

[7] *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Roasted In-Shell Pistachios From Iran*, 51 FR 35679 (October 7, 1986).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 060616172–6172–01]

Privacy Act of 1974: System of Records

ACTION: Notice of Amendment of Privacy Act System of Records: COMMERCE/NIST–7, NIST Emergency Locator System.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (11), the Department of Commerce is issuing notice of intent to amend the system of records under COMMERCE/NIST–7, NIST Emergency Locator System to include the name change of the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST); update internal organizational unit names, contacts, locations; and reflect more current system descriptions.

DATES: To be considered, written comments must be submitted on or before July 2, 2007. Unless comments are received, the amendments to the system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Benjamin Overbey, Emergency Services Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3590.

SUPPLEMENTARY INFORMATION: In 1989 the name of the National Bureau of Standards (NBS) was changed to the National Institute of Standards and Technology (NIST). This system is updated to reflect that name change, along with updating internal organizational unit names; contacts; locations; and system descriptions.

COMMERCE/NIST–7

SYSTEM NAME:

NIST Emergency Locator System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Emergency Services Division, Director for Administration and Chief Financial Officer, National Institute of Standards and Technology, Gaithersburg, MD 20899–3590, Police Services Group, Fire Protection Services Group, Health Physics Group; National Institute of Standards and Technology, Boulder, Colorado.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIST employees and other authorized individuals using NIST facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and home telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 15 U.S.C. 271 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Home telephone numbers will be used by management officials to contact NIST employees or authorized individuals using NIST facilities in case of an emergency (*e.g.*, fire, explosion, power outage, heavy snow). Those contacted will typically be scientists or engineers whose experiments might be affected by such as emergency or other employees who will be required to deal with the emergency.

2. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

3. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

4. A record in this system of records may disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system or records within the meaning of 5 U.S.C. 552a(m).

5. A record in this system may be transferred to the Office of Personnel Management: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

6. A record from this system of records may be disclosed to the Administrator, General Services, or designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic.

RETRIEVABILITY:

Building, room number, and organizational unit number.

SAFEGUARDS:

Paper records will be kept in locked file cabinets with limited access; machine-readable records will be limited access with security key required.

RETENTION AND DISPOSAL:

Records will be updated every six months or more frequently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Emergency Services Division, Office of the Director for Administration and Chief Financial Officer, National Institute of Standards and Technology, Gaithersburg, MD 20899–3590.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief, Management and Organization Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3220. Requester should provide name and additional factual data, as appropriate, pursuant to the inquiry provisions of the Department's rules, which appear in 15 CFR part 4.

RECORDS ACCESS PROCEDURES:

Requests from individuals should be addressed to same address as stated in the Notification Section above.

CONTESTING RECORDS PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR part 4. Use above address.

RECORDS SOURCE CATEGORIES:

Subject individual and those authorized by the individual to furnish information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 24, 2007.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E7–10578 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 060616171–6171–01]

Privacy Act of 1974: System of Records

AGENCY: Department of Commerce, National Institute of Standards and Technology.

ACTION: Notice of Amendment of Privacy Act System of Records; COMMERCE/NIST–6, Participants in Experiments, Studies, and Surveys.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (11), the Department of Commerce (Department) is issuing notice of the intent to amend the system of records entitled COMMERCE/NIST-6, Participants in Experiments, Studies, and Surveys to include the name change of the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST); update internal organizational unit names, legal authorities, and research directions.

DATES: To be considered, written comments must be submitted on or before July 2, 2007. Unless comments are received, the amendments to the system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to Catherine Fletcher, Privacy Act Officer, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1710, Gaithersburg, MD 20899–1710.

FOR FURTHER INFORMATION CONTACT: Catherine Fletcher at (301) 975–4074 or by e-mail at *catherine.fletcher@nist.gov*.

SUPPLEMENTARY INFORMATION: In 1989 the name of the National Bureau of Standards (NBS) was changed to the National Institute of Standards and Technology (NIST). This system is updated to reflect that name change, along with updating internal organizational unit names; contacts; locations; and system descriptions.

COMMERCE/NIST-6

SYSTEM NAME:

Participants in Experiments, Studies, and Surveys.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Portions of the system may be located in any one of the following locations:

(a) Office of the Director, Room A1000, Building 101, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–1000;

(b) Technology Services, Room B311, 820 West Diamond Avenue, Gaithersburg, MD 20899–2000;

(c) Director for Administration and Chief Financial Officer, Room A1105, Building 101, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–3200;

(d) Advanced Technology Program, Room A407, Building 101, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–4701;

(e) Manufacturing Extension Partnership Program, Room C100, Building 301, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–4800;

(f) Electronics and Electrical Engineering Laboratory, Room B358, Building 220, NIST 100 Bureau Drive, Gaithersburg, MD 20899–8100;

(g) Manufacturing Engineering Laboratory, Room B322, Building 220, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–8200;

(h) Chemical Science and Technology Laboratory, Room A311, Building 227, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–8300;

(i) Physics Laboratory, Room B160, Building 221, NIST 100 Bureau Drive, Gaithersburg, MD 20899–8400;

(j) Materials Science and Engineering Laboratory, Room B310, Building 223, 100 Bureau Drive, Gaithersburg, MD 20899–8500;

(k) Building and Fire Research Laboratory, Room B216, Building 226, 100 Bureau Drive, Gaithersburg, MD 20899–8600;

(l) Information Technology Laboratory, Room B264, 820 West Diamond Avenue, Gaithersburg, MD 20899–8900.

(m) For those portions located with contractors, a complete list of contractors and addresses is available from the Chief, Acquisition and Logistics Division, NIST, 100 Bureau Drive, Mail Stop 3570, Gaithersburg, MD 20899–3570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have voluntarily agreed to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research or investigation activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, age, social security number (voluntary), birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 271 et seq.; 15 U.S.C. 290; 15 U.S.C. 3710a; 15 U.S.C. 7301 et seq.; 42 U.S.C. 15441–15453.

PURPOSE(S):

This information will allow NIST to retain appropriate records of participants in its research projects and investigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Information in the system may be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. In addition, information in the system may be shared with National Construction Safety Team members, Federal agencies, other outside organizations, guest researchers, contractors, and others with whom NIST has established a duty of confidentiality, when necessary to accomplish the research or investigation for which the data were obtained.

(2) A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

(3) A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

(4) A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

(5) A record from this system of records may be disclosed to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records

management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose and any other relevant directive. Such disclosure shall not be used to make determinations about individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, digital storage material and other electronic storage material, and microform.

RETRIEVABILITY:

Filed alphabetically by name, or control number, or other code identifier.

SAFEGUARDS:

Records are located in locked metal file cabinets in secured rooms with limited access or secured premises or secured computers with access limited to those whose official duties require access. Computers on which records are stored are password protected. Any records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

RETENTION AND DISPOSAL:

Retained in accord with NIST's records control schedule.

SYSTEM MANAGER(S) AND ADDRESSES:

(a) NIST Deputy Director, Office of the Director, Room A1000, Building 101, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–1000;

(b) Director, Technology Services, Room B311, 820 West Diamond Avenue, Gaithersburg, MD 20899–2000;

(c) Director for Administration and Chief Financial Officer, Room A1105, Building 101, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–3200;

(d) Director, Advanced Technology Program, Room A407, Building 101, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–4701;

(e) Director, Manufacturing Extension Partnership Program, Room C100, Building 301, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–4800;

(f) Director, Electronics and Electrical Engineering Laboratory, Room B358, Building 220, NIST 100 Bureau Drive, Gaithersburg, MD 20899–8100;

(g) Director, Manufacturing Engineering Laboratory, Room B322, Building 220, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–8200;

(h) Director, Chemical Science and Technology Laboratory, Room A311, Building 227, NIST, 100 Bureau Drive, Gaithersburg, MD 20899–8300;

(i) Director, Physics Laboratory, Room B160, Building 221, NIST 100 Bureau Drive, Gaithersburg, MD 20899–8400;

(j) Director, Materials Science and Engineering Laboratory, Room B310, Building 223, 100 Bureau Drive, Gaithersburg, MD 20899–8500;

(k) Director, Building and Fire Research Laboratory, Room B216, Building 226, 100 Bureau Drive, Gaithersburg, MD 20899–8600;

(l) Director, Information Technology Laboratory, Room B264, 820 West Diamond Avenue, Gaithersburg, MD 20899–8900.

(m) For those portions located with contractors, a complete list of contractors and addresses is available from the Chief, Acquisition and Logistics Division, NIST, 100 Bureau Drive, Mail Stop 3570, Gaithersburg, MD 29899–3570.

NOTIFICATION PROCEDURE:

Information may be obtained from: Privacy Act Officer, NIST, 100 Bureau Drive, Mail Stop 1710, Gaithersburg, MD 20899–1710. Requester should provide name, approximate date, and title of experiment, study, or survey pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR part 4.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR part 4. Use same address as stated in the notification section above.

RECORD SOURCE CATEGORIES:

Subject individuals and those authorized by the individual to furnish information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 24, 2007.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E7–10579 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 060616170–6170–01]

Privacy Act of 1974: System of Records

ACTION: Notice of Amendment of Privacy Act System of Records: COMMERCE/NIST–5, Nuclear Reactor Operator Licensees File

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (11), the Department of Commerce is issuing notice of intent to amend the system of records under COMMERCE/NIST–5, Nuclear Reactor Operator Licensees File to include the name change of the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST); update internal organizational unit names, contacts, locations; and reflect more current system descriptions.

DATES: To be considered, written comments must be submitted on or before July 2, 2007. Unless comments are received, the amendments to the system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Patrick Gallagher, NIST Center for Neutron Research, National Institute of Standards and Technology, Gaithersburg, MD 20899–3560, 301–975–6210.

SUPPLEMENTARY INFORMATION: In 1989 the name of the National Bureau of Standards (NBS) was changed to the National Institute of Standards and Technology (NIST). This system is updated to reflect that name change, along with updating internal organizational unit names; contacts; locations; and system descriptions.

DEPARTMENT OF COMMERCE/NIST–5

SYSTEM NAME:

Nuclear Reactor Operator Licensees File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

NIST Center for Neutron Research, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899–8560.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIST employees who are licensed as Nuclear Reactor Operators, those whose applications for licenses are being processed, and those whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the application for a Nuclear Reactor Operator's license, certification of competency, certification of medical history, results of medical examination and related correspondence, reactor operator examination and examination results, records of training, and license or denial letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 107, 161(i), Atomic Energy Act of 1954 as amended; 42 U.S.C. 2137, and 2021(i); 15 U.S.C. 272.

PURPOSE(S):

The information contained in the system is required because it must be available for disclosure to the Nuclear Regulatory Commission upon request for the purpose of conducting audits of the qualifications of reactor operators.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information in these records may be disclosed to the Nuclear Regulatory Commission for the purpose of conducting audits of the qualifications of reactor operators.

2. In the event that a record in this system of records indicates a violation or potential violation of law or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred as a routine use, to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, rule, regulation, or order issued pursuant thereto, or protecting the interest of the Department.

3. A record from this system of records may be disclosed to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

4. A record from this system of records may be disclosed to a federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

5. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

6. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

7. A record in this system of records may disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system or records within the meaning of 5 U.S.C. 552a(m).

8. A record in this system may be transferred to the Office of Personnel Management: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

9. A record from this system of records may be disclosed to the Administrator, General Services, or designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

10. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are maintained in a locked filing cabinet in a limited-access building.

RETENTION AND DISPOSAL:

All records relating to an individual's license and documentation for license including requalification requirements will be retained as long as is required by the Reactor License and will thereafter either be turned over to the individual concerned or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NIST Center for Neutron Research, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899–8560.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief, Management and Organization Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3220. Requester should provide name and additional factual data, as appropriate, pursuant to the inquiry provisions of the Department's rules, which appear in 15 CFR part 4.

RECORDS ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the Notification Section above.

CONTESTING RECORDS PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR part 4. Same address as stated in the Notification Section above.

RECORDS SOURCE CATEGORIES:

Subject individual, licensed physician, employees of the NIST Center for Neutron Research, and those authorized by the subject individual to supply information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 24, 2007.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E7–10580 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 060321081–6081–01]

Privacy Act of 1974: System of Records

AGENCY: Department of Commerce, National Institute of Standards and Technology.

ACTION: Notice of Amendment of Privacy Act System of Records: COMMERCE/NIST–4, Employees External Radiation Exposure Records

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C.§ 552a(e)(4) and (11), the Department of Commerce is issuing notice of intent to amend the system of records under COMMERCE/NIST–4, Employees External Radiation Exposure Records to include the name change of the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST); update internal organizational unit names, contacts, locations; and reflect more current system descriptions.

DATES: To be considered, written comments must be submitted on or before July 2, 2007. Unless comments are received, the amendments to the system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Timothy F. Mengers, Health Physics Group, Occupational Health and Safety Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3541, 301–975–5800.

SUPPLEMENTARY INFORMATION: In 1989 the name of the National Bureau of Standards (NBS) was changed to the National Institute of Standards and Technology (NIST). This system is updated to reflect that name change, along with updating internal organizational unit names; contacts; locations; and system descriptions.

COMMERCE/NIST–4

SYSTEM NAME:

Employees External Radiation Exposure Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Physics Group, Occupational Health and Safety Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3541.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals working with radioactive materials and machines who may be exposed to ionizing radiation, including employees, contractors, and visiting scientists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number (voluntary), date of birth, organizational unit number, and amount of radiation received.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201 and 10 CFR 20.2106.

PURPOSE(S):

All Nuclear Regulatory Commission (NRC) licensees are required to monitor occupational exposure to radiation and to maintain individual and collective dose records for that exposure. This information will assist NIST's compliance with NRC regulations under 10 CFR 20.2106 ''Records of Individual Monitoring Results.'' This data is used to document compliance with the dose limits specified in the regulations and is analyzed to adjust practices and policies to maintain risks as low as reasonably achievable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information contained therein may specifically be disclosed as a routine use as follows:

1. Dosimeters are sent monthly or quarterly to the U.S. Army or the U.S. Navy (depending on the type of dosimeter issued) for a determination of amount of radiation exposure. Information involving exposure levels, incidents, and amounts of overexposure is required to be submitted to the Nuclear Regulatory Commission. In the event of serious exposure, information would be disclosed to the Bethesda (Maryland) Naval Medical Center, employee's family physician, and other appropriate medical authorities.

2. Data is provided to the Nuclear Regulatory Commission for inclusion in their system of records designated as NRC–27 and in aggregate form to other Federal and State regulators having jurisdiction over ionizing radiation safety as necessary to shape policies and decisions.

3. In the event that a record in this system of records indicates a violation or potential violation of law or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, rule, regulation, or order issued pursuant thereto, or protecting the interest of the Department.

4. A record from this system of records may be disclosed to a federal, state, local or international agency in response to its request in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

5. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

6. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

7. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm, and electronic records.

RETRIEVABILITY:

The records are retrieved by name, social security number, or other personal identifier.

SAFEGUARDS:

Paper and microfilm records are stored in locked metal file cabinets.

Access to paper, microfilm and electronic records is limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health Physics Group, Occupational Health and Safety Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3541.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief, Management and Organization Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3220. Requester should provide name and additional factual data, as appropriate, pursuant to the inquiry provisions of the Department's rules, which appear in 15 CFR part 4.

RECORDS ACCESS PROCEDURES:

Requests for individuals listed in the database should be addressed to: Health Physics Group Leader, Occupational Health and Safety Division, National Institute of Standards and Technology, Gaithersburg, MD 20899–3541.

CONTESTING RECORDS PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR part 4. Use above address.

RECORDS SOURCE CATEGORIES:

Per regulatory requirements, individuals will be notified annually of their exposure reports if they receive greater than one-tenth the regulatory limit. Furthermore, a copy of their records will be provided to any organization upon written authorization and signature by the individual in question.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 24, 2007.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E7–10591 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA60

Marine Mammals; File No. 1070–1783–02

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

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Alejandro Acevedo-Gutierrez, Western Washington University, Bellingham, WA 98225, has requested an amendment to Permit No. 1070–1873–01 for research on marine mammals.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 2, 2007.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1070–1783–02.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 1070–1783–01, issued on September 5, 2006 (71 FR 53423), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 1070–1783–01 authorizes the permit holder to study temporal and spatial variation in numbers and diet composition of harbor seals to determine responses of harbor seals (*Phoca vitulina*) to changes in prey density and the impact of seal behavior on marine protected areas. The permit holder requests authorization to increase the number of seals that may be harassed during research activities. This number would not exceed the current population estimate or the affected stock per year. The locations and research activities would remain the same.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 24, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–10586 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[XRIN: 0648–XA50]

South Atlantic Fishery Management Council; Public Meetings; Addendum

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

ACTION: Addendum to Earlier Notice - South Atlantic Fishery Management Council to meet June 10–15, 2007 meeting in Key West, FL.

SUMMARY: In addition to the items noted in the earlier Notice for the June 10–15, 2007 meeting of the South Atlantic Fishery Management Council (Council), the Council's Snapper Grouper Committee and full Council will also consider the establishment of a control

date of March 8, 2007 for all for-hire permits in the South Atlantic Council's area of authority. There is concern of increased participation in the for-hire fishery, in addition to decreasing infrastructure. The Snapper Grouper Committee will provide recommendations to the Council and the Council will take action as appropriate.

DATES: The meeting will be held in June 2007. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Doubletree Grand Key Resort, 3990 S. Roosevelt Boulevard, Key West, FL, 33040; telephone: (1–800) 222–8733 or (305) 293–1818.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366 or toll free at (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The original notice published on May 23, 2007 (72 FR 28957).

Meeting Dates

Snapper Grouper Committee Meeting: June 12, 2007, 8 a.m. until 4 p.m.

Council Session: June 14, 2007, 3:30 p.m. until 6 p.m. and June 15, 2007, 8 a.m. until 12 noon.

The Council is scheduled to receive a report from the Snapper Grouper Committee June 14, 2007 from 4:45 p.m. until 5:30 p.m.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council 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.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) 2 days prior to the beginning of the meeting.

Dated: May 29, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–10599 Filed 5–31–07; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice; Meeting

The National Civilian Community Corps Advisory Board gives notice of the following meeting:

DATE AND TIME: Thursday, June 7, 2007, 9 a.m. until 1 p.m.

PLACE: Lobby Conference Room, Corporation for National and Community Service Headquarters, 1201 New York Avenue, NW., Washington, DC 20525.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Program Briefing—Current Activities.
II. NCCC Reform Plan & Timeline.
III. Proposed Fundraising Strategy.
IV. Evaluation Strategy.
V. FY '08 Budget Status.
VI. NCCC Advisory Board Governance Structure & Membership.
VII. Wrap-up.

ACCOMMODATIONS: Anyone who needs an interpreter of other accommodation should notify the Corporation's contact person by 5 p.m. Tuesday, June 5, 2007.

CONTACT PERSON FOR MORE INFORMATION: Erma Hodge, NCCC, Corporation for National and Community Service, 10th Floor, Room 10404A, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–6696. Fax (202) 606–3462. TDD: (202) 606–3472. E-mail: *ehodge@cns.gov*.

Dated: May 30, 2007.

Frank R. Trinity,

General Counsel.

[FR Doc. 07–2771 Filed 5–30–07; 3:30 pm]

BILLING CODE 6050–$$–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–HA–0056]

Proposed New Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information from participation in focus groups is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 31, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Mike O'Bar at the TRICARE Management Activity, Skyline 6, Suite 306, 5111 Leesburg Pike, Falls Church, VA 22041. Phone number: 703–681–0039.

Title; Associated Form; and OMB Number: Facilitating Provider Acceptance of TRICARE Standard.

Needs and Uses: The information collection requirement is necessary to obtain specific responses why some providers do not participate in TRICARE and then to learn what kinds of actions by the TRICARE Management

Activity, working in conjunction with the TRICARE Regional Offices and the three managed care support contractors, would be required to increase the numbers of providers in the TRICARE program.

Affected Public: Physician practice offices.

Annual Burden Hours: 72.

Number of Participants: 72.

Responses Per Participant: 1.

Average Burden Per Participant: 1 hour.

Frequency: One-time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Participants are the business or office managers who deal with the insurance companies and other payers (such as Medicaid or Medicare) for health care services in the offices of private practice physicians. The CNA Corporation, as the contractor for the TRICARE Management Activity, within the Office of the Assistant Secretary of Defense for Health Affairs, plans to hold a series of focus groups with these managers or related members of the business staff. The focus groups will form an important part of the analyses that CNA plans to conduct of the responses and concerns of providers as regards participation in the TRICARE program. The providers' staff responses will also allow CNA to formulate recommendations of how to increase provider participation in TRICARE Standard.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2706 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–OS–0055]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

Pursuant to 44 U.S.C. 3506(c)(2)(A) (the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*) the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 31, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20311–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy), ATTN: Mr. James M. Ellis), 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 602–5009).

Title, Associated Form, and OMB Control Number: Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States, DD Form 2168, OMB Control Number 0704–0100.

Needs and Uses: This information collection requirement is necessary to implement section 401 of Public Law 95–202 (codified at 38 U.S.C. 106 Note), which directs the Secretary of Defense: (1) To determine if civilian employment or contractual service rendered to the Armed Forces of the United States by certain groups shall be considered Active Duty service, and (2) to award members of approved groups an appropriate certificate where the nature and duration of service so merits. This information is collected on DD Form 2168, ''Application for Discharge of Member of Group Certified to have Performed Active Duty with the Armed Forces of the United States,'' which provides the necessary data to assist each of the Military Departments in determining if an applicant was a member of a group which has performed active military service. Those individuals who have been recognized as members of an approved group shall be eligible for benefits administered by the Veteran's Administration.

Affected Public: Individuals or households.

Annual Burden Hours: 1,350 hours.

Number of Respondents: 2,700.

Responses Per Respondent: 1.

Average Burden Per Response: .5 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Section 401 of Public Law 95–202 (codified at 38 U.S.C. 106 Note) authorized the Secretary of Defense: (1) To determine if civilian employment or contractual service rendered to the Armed Forces of the United States by certain groups shall be considered active duty service, and (2) to issue members of approved groups an appropriate certificate of service where the nature and duration of service so warrants. Such persons shall be eligible for benefits administered by the Department of Veterans Affairs. The information collected on DD Form 2168, ''Application for Discharge of Member or Survivor of Member Group Certified To Have Performed Duty with the Armed Forces of the United States,'' is necessary to assist the Secretaries of the Military Departments in: (1) Determining if an applicant was a member of an approved group that performed civilian employment or contractual service for the U.S. Armed Forces and (2) to assist in issuing an appropriate certificate of service to the applicant. Information provided by the applicant will include: The name of the group served with; dates and place of service; highest grade/rank/rating held during service; highest pay grade; military installation where ordered to report; specialty/job title(s). If the information requested on a DD Form 2168 is compatible with that of a corresponding approved group, and the applicant can provide supporting evidence, he or she will receive veteran's status in accordance with the provisions of DoD Directive 1000.20. Information from the DD Form 2168 will be extracted and used to complete the

DD Form 214, ''Certificate for Release or Discharge from Active Duty.''

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2707 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DOD–2007–HA–0002]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2007.

Title and OMB Number: TRICARE Network Provider Survey; OMB Control Number 0720–TBD.

Type of Request: New.

Number of Respondents: 9,000.

Responses Per Respondent: 1.

Annual Responses: 9,000.

Average Burden Per Response: .31.

Annual Burden Hours: 2,790.

Needs and Uses: The goals of this survey effort are to stress TRICARE Network Provider satisfaction, attitudes and perceptions regarding the services provided by civilian Health Care Support and Service Contractors (HCSS) and TRICARE.

Affected Public: Individuals or households; Federal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for the **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2708 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2006–OS–0006]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2007.

Title, Form, and OMB Number: Nuclear Test Personnel Review (NTPR) Forms; DTRA Form 150, ''Information Request and Release'' and DTRA Forms 150–A, –B, –C, ''Nuclear Test Questionnaires''; OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 370.

Responses Per Respondent: 1.

Annual Responses: 370.

Average Burden Per Response: 1.25.

Annual Burden Hours: 463.

Needs and Uses: Veterans and their representatives routinely contact DTRA (by phone and mail) to request information regarding participation in U.S. atmosphere nuclear testing. A release form is required to certify the identity of the requester and authorize the release of Privacy Act information (to the veteran or a 3rd party). DTRA is also required to collect irradiation scenario information from nuclear test participants to accurately determine their radiation dose assessment.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2711 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–DARS–0054]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2007.

Title, Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I; OMB Control Number 0704–0332.

Type Of Request: Extension.

Number Of Respondents: 229.

Responses Per Respondent: Approximately 2.

Annual Responses: 453.

Average Burden Per Response: 1 hour (reporting); 3.7 hours (recordkeeping).

Annual Burden Hours: 1,300.

Needs and Uses: DoD needs this information to evaluate whether the purposes of the DoD Pilot Mentor-Protege program have been met. These reports provide data for several reports to Congress required by Section 822 of the National Defense Authorization Act for FY1998 and Section 811 of the National Defense Authorization Act for FY2000.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: Semiannually (mentor); annually (protege).

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2712 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–DARS–0053]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2007.

Title, Form, and OMB Number: Foreign Acquisition—Defense Federal Acquisition Regulation Supplement Part 225 and Related Clauses at 252.225; DD Form 2139; OMB Control Number 0704–0229.

Type of Request: Revision.

Number of Respondents: 20,485.

Responses Per Respondent: Approximately 8.

Annual Responses: 154,924.

Average Burden Per Response: 31 hours.

Annual Burden Hours: 48,480 (48,385 reporting hours; 95 recordkeeping hours).

Needs and Uses: DoD needs this information to ensure compliance with restrictions on the acquisition of foreign products imposed by statute or policy to protect the industrial base; to ensure compliance with U.S. trade agreements and memoranda of understanding that promote reciprocal trade with U.S. allies; and to prepare reports for submission to the Department of Commerce on the Balance of Payments Program.

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2713 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Defense Representative Guam, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia and Republic of Palau; Notice of Intent To Prepare an Environmental Impact Statement/Overseas Environmental Impact Statement for the Mariana Islands Range Complex and To Announce Public Scoping Meetings

AGENCY: Department of Defense Representative Guam, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia and Republic of Palau.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions), the Department of Defense Representative Guam, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia and Republic of Palau (DoD REP) announces its intent to prepare an Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) to evaluate the potential environmental impacts associated with conducting military readiness activities in the Mariana Islands Range Complex (MIRC). The DoD REP proposes to support current and emerging training operations and research, development, testing, and evaluation (RDT&E) activities in the MIRC by: (1) Maintaining baseline

operations at current levels; (2) increasing training operations from current levels as necessary to support Military Service training requirements; (3) increasing and accommodating potential RDT&E operations; and (4) implementing new and enhanced range complex capabilities.

Dates and Addresses: Public scoping meetings will be held on Guam, Saipan, and Tinian to receive oral and/or written comments on environmental concerns that should be addressed in the EIS. The public scoping meetings will be held at the following dates, times, and locations:

1. Monday, June 18, 2007, 5 p.m.–8 p.m., Guam Hilton, 202 Hilton Road, Tumon Bay, Guam.
2. Wednesday, June 20, 2007, 5 p.m.–8 p.m., Hyatt Regency Saipan, Garapan Village (Across from American Memorial Park), Garapan, Saipan, CNMI.
3. Thursday, June 21, 2007, 5 p.m.–8 p.m., Dynasty Hotel, One Broadway, San Jose Village, Tinian, CNMI.

Details of the meetings will be announced in local newspapers. Additional information concerning the scoping meetings will be available on the EIS/OEIS Web page located at: *http://www.MarianasRangeComplexEis.com*.

FOR FURTHER INFORMATION CONTACT: LT Donnell Evans, U.S. Naval Forces Marianas Public Affairs Officer, *ATTN:* Code N00PA, PSC 455 Box 152, FPO AP 96540–1000, Building 3190, Sumay Drive, Santa Rita, Guam 96915; phone (671) 339–2115; e-mail at: *donnell.evans@guam.navy.mil*.

SUPPLEMENTARY INFORMATION: The Commander Naval Forces Marianas (COMNAVMAR) as the Department of Defense Representative Guam, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia and Republic of Palau is the Executive Agent for the Commander United States Pacific Command (USPACOM) on all matters of MIRC management and sustainment. COMNAVMAR coordinates Joint Service planning and use of MIRC ranges and training areas. COMNAVMAR's role is to provide resources, range complex management, and training support to U.S. military forces in the Western Pacific (WESTPAC) Theater.

COMNAVMAR's mission in the MIRC is to support Army, Navy, Marine Corps, Air Force, U.S. Coast Guard, Army Reserves, and Guam National Guard tactical training by maintaining and operating facilities and range infrastructure and by providing services and material. The MIRC consists of multiple ranges and training areas of land, sea space (nearshore and offshore), undersea space, and air space under different controlling authorities in the Territory of Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and surrounding waters.

The mission of USPACOM is to provide interoperable, trained, and combat-ready military forces to support the National Security Strategy of the United States in the WESTPAC Theater. United States military forces from all Services use the MIRC as a training venue to prepare for contingency warfare.

The MIRC is the westernmost military training complex in U.S. territory. The MIRC has range and training area assets in Guam and the Northern Mariana Islands archipelago. Guam is located roughly three quarters the distance from Hawaii to the Philippines, 1,600 miles east of Manila and 1,550 miles southeast of Tokyo. The southern extent of CNMI is located 40 miles north of Guam (Rota Island) and extends 330 miles to the northwest. The CNMI capital, Saipan, is 3,300 miles west of Honolulu and 1,470 miles south-southeast of Tokyo. The location of the MIRC allows for training of U.S. military forces in WESTPAC, without having to return to Hawaii or the continental United States.

The purpose of the Proposed Action is to: Achieve and maintain military readiness using the MIRC to conduct and support current, emerging, and future military training and RDT&E operations on existing DoD lands and ranges and adjacent air and ocean areas; and, upgrade and modernize range complex capabilities to enhance and sustain military training and RDT&E operations and to expand the Services warfare missions.

The Proposed Action stems from the need to: (1) Maintain current levels of military readiness by training in the MIRC; (2) accommodate future increases in operational training tempo on existing ranges and adjacent air and ocean areas in the MIRC and support the rapid deployment of military units and strike groups; (3) achieve and sustain readiness so that the Military Services can quickly surge required combat power in the event of a national crisis or contingency operation consistent with Service training requirements; (4) support the acquisition, testing, training, and fielding of advanced platforms and weapons systems into Service force structure; and, (5) maintain the long-term viability of the MIRC while protecting human health and the environment, enhancing the quality of training, communications, and safety within the range complex.

The EIS/OEIS will consider two action alternatives to accomplish these objectives, in addition to the No-Action Alternative. The No-Action Alternative is the continuation of training operations, RDT&E activities and on-going base operations. This includes all multi-Service training activities and operations on Navy and Non-Navy ranges and training areas including: Andersen Air Force Base (Main Base, Northwest Field, Andersen South, and Tarague Beach); Naval Station Guam and its off-shore areas; Farallon de Medinilla; Tinian; Saipan; and Air Traffic Control Assigned Airspace (ATCAA). Alternative 1 includes the activities described in the No-Action Alternative with the addition of increased training operations as a result of upgrades and modernization of existing ranges and training areas, and of operations on existing ranges that are required to support the relocation of military units to the DoD REP Area of Responsibility (AOR). Alternative 2 would include all the operations described in Alternative 1 with the addition of new operations on existing ranges and training areas and adjacent air and ocean areas with upgraded and modernized capabilities. In addition, Alternative 2 would incorporate the increased operations resulting from increased operational tempo and training event frequency to optimize training throughput in support of current and future contingencies.

Previously, the Navy's Joint Guam Program Office (JGPO) published a Notice of Intent to prepare an EIS/OEIS for the Relocation of U.S. Marine Corps Forces to Guam (**Federal Register**, 72 FR 10186, March 7, 2007). JGPO's proposed EIS/OEIS will examine potential impact from activities associated with the Marine Corps units' relocation from Okinawa, Japan to Guam, including operations, infrastructure changes and training. Since the proposed MIRC EIS/OEIS will cover all DoD training on existing DoD land and operating areas in and around Guam and CNMI, there will be some overlap between the two proposed EIS/OEISs. Therefore, preparation of these documents will be closely coordinated to ensure consistency.

Environmental issues that will be addressed in the EIS/OEIS include but are not limited to: Airspace; biological resources (including marine mammals and threatened and endangered species); cultural resources; health and safety; and noise. The analysis will include an evaluation of direct and indirect impacts, and will account for cumulative impacts.

The DoD REP is initiating the scoping process to identify community concerns and issues that must be addressed in the EIS/OEIS. Federal agencies, Government of Guam and CNMI agencies, the public, and other interested stakeholders are encouraged to provide oral and written comments to the Navy to identify specific issues or topics of concern for consideration in the EIS/OEIS. The DoD REP will hold three public scoping meetings. Each meeting will consist of an informal information session, staffed by Navy representatives. Members of the public can contribute oral or written comments at the scoping meetings or subsequent to the meetings by mail, fax, or e-mail. All comments, oral and written, will receive the same consideration during EIS/OEIS preparation. Written comments on the scope of the EIS/OEIS must be postmarked by July 16, 2007, and should be mailed to: MIRC TAP EIS, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, *Attention:* EV2. Comments can be faxed to 808–474–5419 or e-mailed to *marianas.tap.eis@navy.mil.*

Dated: May 24, 2007.

L.R. Almand,

Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–10629 Filed 5–31–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 253. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 253 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* June 1, 2007.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 252. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: May 24, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, DoD.

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 253 ARE UPDATES TO THE RATES FOR ALASKA, GUAM, MIDWAY ISLAND, WAKE ISLAND, NORTHERN MARIANA ISLANDS AND HAWAII.				
ALASKA				
ADAK	120	79	199	07/01/2003
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
BARROW	159	95	254	05/01/2002
BETHEL	135	82	217	06/01/2007
BETTLES	135	62	197	10/01/2004
CLEAR AB	90	82	172	10/01/2006
COLD BAY	90	73	163	05/01/2002
COLDFOOT	165	70	235	10/01/2006
COPPER CENTER				
05/01 - 09/30	129	75	204	04/01/2006
10/01 - 04/30	89	71	160	04/01/2006
CORDOVA				
05/01 - 09/30	95	78	173	06/01/2007
10/01 - 04/30	85	77	162	06/01/2007
CRAIG	140	79	219	04/01/2007
DEADHORSE	95	67	162	05/01/2002
DELTA JUNCTION	90	77	167	02/01/2007
DENALI NATIONAL PARK				
06/01 - 08/31	117	73	190	04/01/2007
09/01 - 05/31	75	69	144	04/01/2007
DILLINGHAM	114	69	183	06/01/2004
DUTCH HARBOR-UNALASKA	121	84	205	04/01/2006
EARECKSON AIR STATION	90	77	167	02/01/2007
EIELSON AFB				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
ELMENDORF AFB				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
FAIRBANKS				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
FOOTLOOSE	175	18	193	06/01/2002
FT. GREELY	90	77	167	02/01/2007
FT. RICHARDSON				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
FT. WAINWRIGHT				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
GLENNALLEN				
05/01 - 09/30	129	75	204	04/01/2006
10/01 - 04/30	89	71	160	04/01/2006
HAINES				
04/01 - 09/30	109	75	184	06/01/2007
10/01 - 03/31	89	73	162	06/01/2007
HEALY				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
06/01 - 08/31	117	73	190	04/01/2007
09/01 - 05/31	75	69	144	04/01/2007
HOMER				
05/15 - 09/15	131	84	215	06/01/2007
09/16 - 05/14	79	78	157	06/01/2007
JUNEAU				
05/01 - 09/30	129	89	218	04/01/2006
10/01 - 04/30	79	84	163	04/01/2006
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	92	221	04/01/2006
09/01 - 04/30	79	87	166	04/01/2006
KENNICOTT	249	110	359	04/01/2007
KETCHIKAN				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	140	79	219	04/01/2007
KODIAK				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
KOTZEBUE				
05/15 - 09/30	179	90	269	06/01/2007
10/01 - 05/14	139	89	228	06/01/2007
KULIS AGS				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
MCCARTHY	249	110	359	04/01/2007
MCGRATH	165	69	234	10/01/2006
MURPHY DOME				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
NOME	130	86	216	06/01/2007
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	95	69	164	06/01/2007
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/01 - 09/30	199	85	284	06/01/2007
10/01 - 04/30	69	72	141	06/01/2007
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	83	202	02/01/2007
10/01 - 04/30	99	81	180	02/01/2007
SKAGWAY				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
SLANA				
05/01 - 09/30	139	55	194	02/01/2005

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	130	86	216	06/01/2007
TOGIAK	100	39	139	07/01/2002
TOK				
05/01 - 09/30	109	69	178	02/01/2007
10/01 - 04/30	90	67	157	02/01/2007
UMIAT	350	35	385	10/01/2006
VALDEZ				
05/01 - 10/01	149	87	236	04/01/2007
10/02 - 04/30	79	80	159	04/01/2007
WASILLA				
05/01 - 09/30	144	88	232	06/01/2007
10/01 - 04/30	86	83	169	06/01/2007
WRANGELL				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
YAKUTAT	100	71	171	06/01/2007
[OTHER]	90	77	167	02/01/2007
AMERICAN SAMOA				
AMERICAN SAMOA	122	73	195	12/01/2005
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	94	229	06/01/2007
HAWAII				
CAMP H M SMITH	177	112	289	06/01/2007
EASTPAC NAVAL COMP TELE AREA	177	112	289	06/01/2007
FT. DERUSSEY	177	112	289	06/01/2007
FT. SHAFTER	177	112	289	06/01/2007
HICKAM AFB	177	112	289	06/01/2007
HONOLULU (INCL NAV & MC RES CTR)	177	112	289	06/01/2007
ISLE OF HAWAII: HILO	112	104	216	06/01/2007
ISLE OF HAWAII: OTHER	180	104	284	06/01/2007
ISLE OF KAUAI	198	109	307	06/01/2007
ISLE OF MAUI	159	101	260	06/01/2007
ISLE OF OAHU	177	112	289	06/01/2007
KEKAHA PACIFIC MISSILE RANGE FAC	198	109	307	06/01/2007
KILAUEA MILITARY CAMP	112	104	216	06/01/2007
LANAI	295	139	434	06/01/2007
LUALUALEI NAVAL MAGAZINE	177	112	289	06/01/2007
MCB HAWAII	177	112	289	06/01/2007
MOLOKAI	178	99	277	06/01/2007
NAS BARBERS POINT	177	112	289	06/01/2007
PEARL HARBOR [INCL ALL MILITARY]	177	112	289	06/01/2007
SCHOFIELD BARRACKS	177	112	289	06/01/2007
WHEELER ARMY AIRFIELD	177	112	289	06/01/2007
[OTHER]	112	93	205	12/01/2006
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	100	45	145	06/01/2006
NORTHERN MARIANA ISLANDS				
ROTA	129	91	220	05/01/2006
SAIPAN	121	98	219	06/01/2007
TINIAN	85	69	154	06/01/2007
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
AGUADILLA	87	70	157	07/01/2006
BAYAMON	195	77	272	08/01/2006
CAROLINA	195	77	272	08/01/2006
CEIBA				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FAJARDO [INCL ROOSEVELT RDS NAVS				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FT. BUCHANAN [INCL GSA SVC CTR,	195	77	272	08/01/2006
HUMACAO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
LUIS MUNOZ MARIN IAP AGS	195	77	272	08/01/2006
LUQUILLO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
MAYAGUEZ	109	73	182	07/01/2006
PONCE				
01/01 - 05/31	139	73	212	07/01/2006
06/01 - 07/31	230	82	312	07/01/2006
08/01 - 11/30	139	73	212	07/01/2006
12/01 - 12/31	230	82	312	07/01/2006
SABANA SECA [INCL ALL MILITARY]	195	77	272	08/01/2006
SAN JUAN & NAV RES STA	195	77	272	08/01/2006
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	135	92	227	05/01/2006
12/15 - 04/14	187	97	284	05/01/2006
ST. JOHN				
04/15 - 12/14	163	98	261	05/01/2006
12/15 - 04/14	220	104	324	05/01/2006
ST. THOMAS				
04/15 - 12/14	240	105	345	05/01/2006
12/15 - 04/14	299	111	410	05/01/2006
WAKE ISLAND				
WAKE ISLAND	152	15	167	06/01/2006

[FR Doc. 07–2704 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2007–0022]

Proposed Collection; Comment Request

AGENCY: Headquarters, Air Force Reserve Officer Training Corps (AFROTC), Maxwell Air Force Base, Alabama, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, Headquarters, Air Force Reserve Officer Training Corps announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 31, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call 334–953–0266.

Title; Associated Form; and OMB Number: Application for AFROTC Membership, OMB Number 0701–0105.

Needs and Uses: Air Force ROTC uses the AFROTC Form 20 to collect data from applicants to the Air Force ROTC program. This collected data is used to determine whether or not an applicant is eligible to join the Air Force ROTC program and, if accepted, the enrollment status of the applicant within the program. Upon acceptance into the program, the collected information is used to establish personal records for Air Force ROTC cadets. Eligibility for membership cannot be determined if this information is not collected.

Affected Public: Individuals or households.

Annual Burden Hours: 4,000.

Number of Respondents: 12,000.

Responses per Respondent: 1.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are college students desiring to join the Air Force ROTC program. AFROTC Form 20 provides vital information needed by detachment personnel to determine their eligibility to participate in that program.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2705 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

[No. USA–2006–0038]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 2, 2007.

Title, Form, and OMB Number: The Contractor Manpower Reporting Study; OMB Control Number 0702–0120.

Type of Request: Extension.

Number of Respondents: 4,149.

Responses per Respondent: 1.

Annual Responses: 4,149.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 344.

Needs and Uses: The Contractor Manpower Reporting System obtains information, regarding the use of contractor employees to perform functions (other than functions that are inherently governmental).

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2715 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement (DEIS) in Support of the Real Property Master Plan (RPMP) and Real Property Exchange (RPX) for Camp Parks, Dublin, CA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Chief of Staff for Installation Management (ACSIM), Army Reserve Installations Directorate (ARID) and U.S. Army Combat Support Training Center (CSTC) have prepared a DEIS in support of the RPMP and RPX on Camp Parks. The RPMP presents a plan for the redevelopment of the cantonment area of Camp Parks, with approximately 180-acres being transferred out of Federal ownership (approximately 171.5-acres is controlled by the U.S. Army and 8.5-acres controlled by the National Aeronautics and Space Administration (NASA)).

DATES: The public comment period for the DEIS will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Questions and/or written comments pertaining to this DEIS, or a request for a copy of the document may be directed to the U.S. Army Chief of Staff for Installation Management (ACSIM), Army Reserve Installations Directorate (ARID) (Mr. David Borchardt), 3848 Northwest Drive, Suite 160, Atlanta, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Mr. David Borchardt, 3848 Northwest Drive, Suite 160, Atlanta, Georgia 30337, or Amy Phillips, Public Affairs Office, US Army CTSC, Camp Parks 790 5th Street, Dublin, CA 94568–5201; via phone at (925) 875–4298; or e-mail: *amy.phillips@usar.army.mil.*

SUPPLEMENTARY INFORMATION: The DEIS evaluates three alternatives to support the redevelopment of Camp Parks: (1) The no action alternative, under which there would be no comprehensive plan or vision for overall Camp Parks development, which would occur ad hoc as funds became available and facilities would remain largely unchanged; (2) the slow growth alternative, under which Camp parks would retain all its land holdings and gradually move towards developing faculties and activities identified in the RPMP; the southern cantonment Area would remain an opportunity site for future planning; and (3) accelerated modernization in a redeveloped compacted cantonment area (the proposed action), under which the RPMP would be implemented using the value of the land exchange (180-acres of the southern Cantonment area from Federal to private ownership) in return for new installation facilities and infrastructure with NASA's inholding being sold and that value being used at their NASA-Ames Research Center, Moffet Field, California. The strategic location of Camp Parks in northern California makes it the most accessible and economical training resource for over 250 Reserve component units supporting over 20,000 Reservists. The installation supports combined training space and facilities for the Armed Forces, and other Federal and local agencies in the north central part of California. ACSIM–ARID and CSTC have prepared a RPMP that proposed a program for revitalizing the installation infrastructure and accelerating facility replacements.

The RPMP proposes approximately 1.3 million square feet of new buildings/structures and approximately 370,000 square feet of parking area. Majority of the existing structures on Camp Parks were intended to be temporary when originally constructed and are considered inadequate for today's military personnel and lifestyles. The RPMP proposes the modernization of facilities to meet the troop training requirements and amenities that are consistent tot he private sector.

The DEIS concludes the no action alternative is not reasonable based on the infrastructure and buildings at Camp Parks being antiquated and requiring excessive maintenance. The DEIS concludes the slow growth alternative, the incremental modernization utilizing existing cantonment area i not reasonable since facility/activity upgrades would be prioritized and dependent on annual funding from Military Construction Army Reserve (MCAR) allocations and project proponents. MCAR funds are appropriated on a availability basis which is not a regular and consistent occurrence.

ACSIM–ARID and U.S. Army CSTC have concluded the proposed alternative to be the preferred alternative which is the accelerated modernization in a redeveloped compacted cantonment area at Camp Parks, under which the RPMP would be implemented using the value of the land exchange (180 acres of the southern cantonment area transferring from Federal to private ownership) in return for new faculties and infrastructure. This alternative provides a quick implementation of the RPMP while providing the necessary facilities and infrastructure upgrades for adequate training for military personnel in the Bay Area.

Meeting Dates and Review Period: A public meeting will be held in the vicinity of Camp Parks to present the DEIS as well as to answer any questions and allow the Public and local governments to comment on the action. A notice of the public meeting will be published in local newspapers.

Dated: May 9, 2007.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health).

[FR Doc. 07–2722 Filed 5–31–07; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2007–0035]

Proposed Collection; Comment Request

AGENCY: Marine Corps Marathon, Marine Corps Base Quantico, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Marine Corps Marathon, Marine Corps Base Quantico announces the revision of a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 31, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Marine Corps Marathon office, Attn: Angela Huff, P.O. Box 188, Quantico, VA 22134; e-mail: *marine.marathon@usmc.mil*, or call the Marine Corps Marathon office at (703) 432–1159.

Title and OMB Number: Marine Corps Marathon Race Applications; OMB Control Number 0703–0053.

Needs and Uses: The information collection requirement is necessary to obtain and record the information of runners to conduct the races, for timing purposes and for statistical use.

Affected Public: Individuals or households.

Annual Burden Hours: 2,046.95.

Number of Respondents: 40,939.

Responses Per Respondent: 1.

Average Burden Per Response: 5 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are runners who are signing up for the Marine Corps Marathon races held by the Marine Corps Marathon office, Marine Corps Base Quantico. The three races currently defined under OMB number 0703–0053 are the Marine Corps Marathon, the Marine Corps Marathon 10k, and the Marine Corps Marathon Healthy Kids Fun Run. The following additional races are proposed to be added to the OMB approval: The Historic Half Marathon, Quantico Meet, Mud Run, The Warrior Hill Run, Concert Run, and The Turkey Trot. The Marine Corps Marathon office records all runners to conduct the races in preparation and execution of the races and to record statistical information for sponsors, media and for economic impact studies. Collecting this data of the runners is essential for putting on the races.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2709 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

The Department of the Navy

[No. USN–2007–0034]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Naval Sea Systems Command announces the following new proposal for collection of information and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collected; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 31, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Following the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request additional information or to obtain a copy of the proposal and associated collection instrument, write to Commander, Naval Sea Systems Command (SEA OOP), 1333 Isaac Hull Avenue, SE., STOP 9917, Washington Navy Yard, DC 20376–9917, or contact Madison Townley or Sherrie Miller at (202) 781–3828 or (202) 781–2441, respectively.

Title; Associated Form and OMB Number: Naval Sea Systems Command and Field Activity Visitor Access Request; NAVSEA 5530/5; OMB Control Number 0703–TBD.

Needs and Uses: This collection of information provides Naval Sea Systems Command and Naval Sea Systems Command Field Activity's contractors, military and government civilians with a requirement that provides for the collection of information to ensure that only visitors with an appropriate clearance level and need-to-know are granted access to classified information. Respondents are Navy business personnel, support contractors and individuals from other agencies visiting the Command and Field Activities to discuss Navy matters.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 1,300.

Number of Annual Responses: 5,200.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection of information provides Naval Sea Systems Command and Naval Sea Systems Command Field Activity's contractors, military and government civilians with a requirement that provides for the collection of information to ensure that only visitors with an appropriate clearance level and need-to-know are granted access to classified information. Respondents are Navy business personnel, support contractors and individuals from other agencies visiting the Command and Field Activities to discuss Navy matters.

Dated: May 21, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2710 Filed 5–31–07; 8:45 am]

BILLING CODE 5001–06–M

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 31, 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 24, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

National Institute for Literacy

Type of Review: New.

Title: The Measuring Learner Progress in Adult Education Survey: 2007.

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 500.

Burden Hours: 167.

Abstract: This survey will investigate the performance measures used by community-based adult education programs that provide adult basic education, adult secondary education, adult English as a Second Language, or family literacy services, that are affiliated with Literacy USA, ProLiteracy, or the American Library Association, and that receive less than 50% of their funds from federal sources.

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 3360. 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. E7–10571 Filed 5–31–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Tribal Colleges and Universities

AGENCY: Department of Education, President's Board of Advisors on Tribal Colleges and Universities.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the upcoming meeting of the President's Board of Advisors on Tribal Colleges and Universities. The notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

Dates and Times: Monday, June 18, 2007, 9 a.m.–4:30 p.m. and Tuesday, June 19, 2007, 8:30 a.m.–12:30 p.m.

ADDRESSES: The Board will meet at the Mt. Pleasant Comfort Inn and Suites, 2424 South Mission, Mt. Pleasant, Michigan, *phone:* 989–772–4000.

FOR FURTHER INFORMATION CONTACT: Deborah Cavett, Executive Director, White House Initiative on Tribal Colleges and Universities, 1990 K Street, NW., Room 7014, Washington, DC 20006; *telephone:* (202) 219-7040, *fax:* 202–219–7086.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Tribal Colleges and Universities is established under Executive Order 13270, dated July 2, 2002, and Executive Order 13385 dated September 25, 2005.

The Board is established (a) to report to the President annually on the results of the participation of tribal colleges and universities (TCUs) in Federal programs, including recommendations on how to increase the private sector role, including the role of private foundations, in strengthening these institutions, with particular emphasis also given to enhancing institutional planning and development, strengthening fiscal stability and financial management, and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions; (b) to advise the President and the Secretary of Education (Secretary) on the needs of TCUs in the areas of infrastructure, academic programs, and faculty and institutional development; (c) to advise the Secretary in the preparation of a Three-Year Federal plan for assistance to TCUs in increasing their capacity to participate in Federal programs; (d) to provide the President with an annual progress report on enhancing the capacity of TCUs to serve their students; and (e) to develop, in consultation with the Department of Education and other Federal agencies, a private sector strategy to assist TCUs.

The purpose of the meeting is to update and document the Board's Action Agenda through a review of collaborative efforts and to discuss relevant issues to be addressed as the Board pursues opportunities to strengthen capacity of programs at the tribal colleges and universities.

Additional Information: Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistive listening devices, or material in alternative format) should notify Tonya Ewers at (202) 219–7040, no later than Friday, June 1, 2007. We will attempt to meet requests for accommodations after this date, but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

An opportunity for public comment is available on Monday, June 18, 2007, between 4 p.m. and 4:30 p.m. Comments will be limited to five (5) minutes for those speakers who sign up to speak. Those members of the public interested in submitting written comments may do so at the address indicated above by Friday, June 1, 2007.

Records are kept of all Board proceedings and are available for public inspection at the Office of the White House Initiative on Tribal Colleges and Universities, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006, during the hours of 8 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

James Manning,

Delegated the Authority of Assistant Secretary, Office of Postsecondary Education.

[FR Doc. E7–10635 Filed 5–31–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Pell Grant, Academic Competitiveness Grant, National Science and Mathematics Access To Retain Talent Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of revision of the Federal Need Analysis Methodology for the 2008–2009 award year.

SUMMARY: The Secretary announces the annual updates to the tables that will be used in the statutory ''Federal Need Analysis Methodology'' to determine a student's expected family contribution (EFC) for award year 2008–2009 for the student financial aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs for purposes of determining financial aid eligibility. The Title IV programs include the Federal Pell Grant, Academic Competitiveness Grant, National Science and Mathematics Access to Retain Talent Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs (Title IV HEA Programs).

FOR FURTHER INFORMATION CONTACT: Ms. Marya Dennis, Management and Program Analyst, U.S. Department of Education, Union Center Plaza, 830 First Street, NE., Washington, DC 20202. Telephone: (202) 377–3385. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Part F of Title IV of the HEA specifies the criteria, data elements, calculations, and tables used in the Federal Need Analysis Methodology EFC calculations.

Section 478 of Part F of Title IV requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Farm or Business, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to adjust for general price inflation. The changes are based, in general, upon increases in the Consumer Price Index.

For award year 2008–2009 the Secretary is charged with updating the income protection allowance, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 2006 and December 2007. However, because the Secretary must publish these tables before December 2007, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for All Urban Consumers for 2006. The Secretary estimates that the increase in the Consumer Price Index for All Urban Consumers (CPI–U) for the period December 2006 through December 2007 will be 2.8 percent. Additionally, the Higher Education Reconciliation Act of 2005 (HERA, Pub. L. 109–171) modified the updating procedure for the income protection allowance for dependent students and the income protection allowance tables for both independent students with dependents other than a spouse and independent students without dependents other than a spouse. HERA established new 2007–08 award year values for these income protection allowances, which are being updated for the 2008–09 award year using the Secretary's estimated inflation rate of 2.8 percent. The updated tables are in sections 1, 2, and 4 of this notice.

The Secretary must also revise, for each award year, the education savings and asset protection allowances as provided for in section 478(d) of the HEA. The Education Savings and Asset Protection Allowance table for award year 2008–2009 has been updated in section 3 of this notice. Section 478(h) of the HEA also requires the Secretary to increase the amount specified for the Employment Expense Allowance, adjusted for inflation. This calculation is based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-worker family compared to a one-worker family for food away from home, apparel, transportation, and household furnishings and operations. The Employment Expense Allowance table for award year 2008–2009 has been updated in section 5 of this notice.

The HEA provides for the following annual updates:

1. *Income Protection Allowance.* This allowance is the amount of living expenses associated with the maintenance of an individual or family that may be offset against the family's income. It varies by family size. The income protection allowance for the dependent student is $3,080. The income protection allowances for parents of dependent students for award year 2008–2009 are:

PARENTS OF DEPENDENT STUDENTS

Family size	Number in college				
	1	2	3	4	5
2	$15,380	$12,750			
3	19,150	16,540	$13,900		
4	23,660	21,020	18,410	$15,770	
5	27,910	25,280	22,660	20,030	$17,410
6	32,650	30,010	27,400	24,770	22,150

For each additional family member add $3,680.

For each additional college student subtract $2,620.

The income protection allowances for independent students with dependents other than a spouse for award year 2008–2009 are:

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

Family size	Number in college				
	1	2	3	4	5
2	$15,750	$13,060	.....	.....	.....
3	19,610	16,930	$14,240	.....	.....
4	24,220	21,530	18,850	$16,150	.....
5	28,580	25,880	23,200	20,510	$17,830
6	33,420	30,730	28,060	25,350	22,680

For each additional family member add $3,770.

For each additional college student subtract $2,680.

The income protection allowances for single independent students and independent students without dependents other than a spouse for award year 2008–2009 are:

Marital status	Number in college	IPA
Single	1	$6,220
Married	2	6,220
Married	1	9,970

2. *Adjusted Net Worth (NW) of a Business or Farm.* A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution because—(1) The income produced from these assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0.
$1 to $110,000	$0 + 40% of NW.
$110,001 to $330,000	$44,000 + 50% of NW over $110,000.
$330,001 to $550,000	$154,000 + 60% of NW over $330,000.
$550,001 or more	$286,000 + 100% of NW over $550,000.

3. *Education Savings and Asset Protection Allowance.* This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the student is	And they are	
	Two parents	One parent
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,600	1,100
27	5,100	2,100
28	7,700	3,200
29	10,200	4,300
30	12,800	5,300
31	15,400	6,400
32	17,900	7,500
33	20,500	8,500
34	23,000	9,600
35	25,600	10,700
36	28,200	11,700
37	30,700	12,800
38	33,300	13,900
39	35,800	14,900
40	38,400	16,000
41	39,300	16,400
42	40,300	16,700
43	41,300	17,100
44	42,300	17,600
45	43,400	17,900
46	44,500	18,300
47	45,600	18,800
48	46,700	19,200
49	47,900	19,700
50	49,000	20,100
51	50,500	20,500
52	51,800	21,000
53	53,300	21,500
54	54,600	22,100
55	56,300	22,600
56	57,600	23,200
57	59,300	23,700
58	61,100	24,400
59	62,900	25,000
60	64,700	25,700
61	66,600	26,300
62	68,500	27,000
63	70,800	27,800
64	72,800	28,500
65 or older	75,200	29,300

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,600	1,100
27	5,100	2,100
28	7,700	3,200
29	10,200	4,300
30	12,800	5,300
31	15,400	6,400
32	17,900	7,500
33	20,500	8,500
34	23,000	9,600
35	25,600	10,700
36	28,200	11,700
37	30,700	12,800
38	33,300	13,900
39	35,800	14,900
40	38,400	16,000
41	39,300	16,400
42	40,300	16,700
43	41,300	17,100
44	42,300	17,600
45	43,400	17,900
46	44,500	18,300
47	45,600	18,800
48	46,700	19,200
49	47,900	19,700
50	49,000	20,100
51	50,500	20,500
52	51,800	21,000
53	53,300	21,500
54	54,600	22,100
55	56,300	22,600
56	57,600	23,200
57	59,300	23,700
58	61,100	24,400
59	62,900	25,000
60	64,700	25,700
61	66,600	26,300
62	68,500	27,000
63	70,800	27,800
64	72,800	28,500
65 or older	75,200	29,300

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And they are	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,600	1,100
27	5,100	2,100
28	7,700	3,200
29	10,200	4,300
30	12,800	5,300
31	15,400	6,400
32	17,900	7,500
33	20,500	8,500
34	23,000	9,600
35	25,600	10,700
36	28,200	11,700
37	30,700	12,800
38	33,300	13,900
39	35,800	14,900
40	38,400	16,000
41	39,300	16,400
42	40,300	16,700
43	41,300	17,100
44	42,300	17,600
45	43,400	17,900
46	44,500	18,300
47	45,600	18,800
48	46,700	19,200
49	47,900	19,700
50	49,000	20,100
51	50,500	20,500
52	51,800	21,000
53	53,300	21,500
54	54,600	22,100
55	56,300	22,600
56	57,600	23,200
57	59,300	23,700
58	61,100	24,400
59	62,900	25,000
60	64,700	25,700
61	66,600	26,300
62	68,500	27,000
63	70,800	27,800
64	72,800	28,500
65 or older	75,200	29,300

4. *Assessment Schedules and Rates.* Two schedules that are subject to updates, one for parents of dependent students and one for independent students with dependents other than a spouse, are used to determine the EFC toward educational expenses from family financial resources. For dependent students, the EFC is derived from an assessment of the parents' adjusted available income (AAI). For independent students with dependents other than a spouse, the EFC is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The parents' contribution for a dependent student is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than −$3,409	−$750.
($3,409) to $13,700	22% of AAI.
$13,701 to $17,300	$3,014 + 25% of AAI over $13,700.
$17,301 to $20,800	$3,914 + 29% of AAI over $17,300.
$20,801 to $24,300	$4,929 + 34% of AAI over $20,800.
$24,301 to $27,800	$6,119 + 40% of AAI over $24,300.

If AAI is—	Then the contribution is—
$27,801 or more	$7,519 + 47% of AAI over $27,800.

The contribution for an independent student with dependents other than a spouse is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than −$3,409	−$750.
($3,409) to $13,700	22% of AAI.
$13,701 to $17,300	$3,014 + 25% of AAI over $13,700.
$17,301 to $20,800	$3,914 + 29% of AAI over $17,300.
$20,801 to $24,300	$4,929 + 34% of AAI over $20,800.
$24,301 to $27,800	$6,119 + 40% of AAI over $24,300.
$27,801 or more	$7,519 + 47% of AAI over $27,800.

5. *Employment Expense Allowance.* This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two-worker family compared to a one-worker family for food away from home, apparel, transportation, and household furnishings and operations.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $3,300 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* The allowance for State and other taxes protects a portion of the parents' and students' income from being considered available for postsecondary educational expenses. There are four categories for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse. Section 478(g) of the HEA directs the Secretary to update the tables for State and other taxes after reviewing the Statistics of Income file data maintained by the Internal Revenue Service.

State	Parents of dependents and independents with dependents other than a spouse		Dependents and independents without dependents other than a spouse
	Under $15,000 (percent)	$15,000 & up (percent)	All (percent)
Alabama	3	2	2
Alaska	2	1	0
Arizona	4	3	3
Arkansas	4	3	3
California	7	6	5
Colorado	4	3	3
Connecticut	7	6	4
Delaware	4	3	3
District of Columbia	7	6	6
Florida	3	2	1
Georgia	6	5	3
Hawaii	4	3	4
Idaho	5	4	3
Illinois	5	4	2
Indiana	4	3	3
Iowa	5	4	3
Kansas	5	4	3
Kentucky	5	4	4
Louisiana	3	2	2
Maine	6	5	4
Maryland	7	6	5
Massachusetts	6	5	4
Michigan	5	4	3
Minnesota	6	5	4
Mississippi	4	3	2
Missouri	5	4	3
Montana	5	4	3
Nebraska	5	4	3
Nevada	3	2	1
New Hampshire	5	4	1
New Jersey	8	7	4
New Mexico	4	3	3

State	Parents of dependents and independents with dependents other than a spouse		Dependents and independents without dependents other than a spouse
	Under $15,000 (percent)	$15,000 & up (percent)	All (percent)
New York	9	8	6
North Carolina	6	5	4
North Dakota	2	1	1
Ohio	6	5	4
Oklahoma	6	5	3
Oregon	7	6	5
Pennsylvania	5	4	3
Rhode Island	7	6	4
South Carolina	5	4	3
South Dakota	2	1	1
Tennessee	2	1	1
Texas	3	2	1
Utah	5	4	4
Vermont	5	4	3
Virginia	5	4	3
Washington	4	3	2
West Virginia	3	2	2
Wisconsin	7	6	4
Wyoming	2	1	1
Other	3	2	2

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.268 William D. Ford Federal Direct Loan Program; 84.375 Academic Competitiveness Grant; 84.376 National Science and Mathematics Access to Retain Talent Grant)

Dated: May 29, 2007.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. E7–10621 Filed 5–31–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Cancellation Notice of a Sunshine Act Meeting

AGENCY: United States Election Assistance Commission (EAC).

ACTION: Notice to Cancel EAC Standards Board Virtual Public Meeting.

SUMMARY: The U.S. Election Assistance Commission has cancelled the EAC Standards Board Virtual Public Meeting scheduled for Monday, June 18, 2007, 7 a.m. EDT through Wednesday, June 20, 5 p.m. EDT. The meeting was announced in a sunshine notice that was published in the **Federal Register** on Thursday, May 31, 2007. PERSON TO CONTACT FOR INFORMATION:

Bryan Whitener, Telephone: (202) 566–3100.

Gracia M. Hillman,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. 07–2772 Filed 5–30–07; 3:31 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Notice of Availability of the Draft Environmental Impact Statement for the FutureGen Project

AGENCY: Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of the document, Draft Environmental Impact Statement for the FutureGen Project (DOE/EIS–0394D), for public comment. The draft environmental impact statement (EIS) analyzes the potential environmental consequences of DOE's proposed action to provide federal funding for the FutureGen Project. The Project would include the planning, design, construction and operation of the FutureGen facility, a prototype electric power and hydrogen gas generating plant that employs coal gasification technology integrated with combined-cycle electricity generation and the capture and geologic sequestration of the carbon dioxide (CO_2) emissions. The project would also include a research platform, which would be a principal feature of the prototype plant. The proposed action would be undertaken by a private sector, non-profit consortium of industrial participants known as the FutureGen Alliance, Inc., (the Alliance). The Alliance includes some of the largest coal producers and electricity generators in the world. Under a Cooperative Agreement between DOE and the Alliance, the Alliance would be primarily responsible for implementing the FutureGen Project, while DOE would guide the Alliance at a programmatic level to ensure the FutureGen Project's objectives are met.

The Department prepared the draft EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality

(CEQ) regulations that implement the procedural provisions of NEPA (40 CFR parts 1500–1508), and DOE procedures implementing NEPA (10 CFR part 1021).

DOE identified four reasonable alternative sites for analysis in the EIS. Based on the EIS, DOE will determine which sites, if any, are acceptable to DOE to host the FutureGen Project. The four sites currently being considered for the FutureGen Project are: Mattoon, Illinois; Tuscola, Illinois; Jewett, Texas; and Odessa, Texas. The Project would incorporate cutting-edge research, as well as help develop promising new energy-related technologies at a commercial scale. Performance and economic test results from the FutureGen Project would be shared among all participants, industry, the environmental community, and the public.

The proposed power plant would be a 275-megawatt (MW) output Integrated Gasification Combined-Cycle (IGCC) system combined with CO_2 capture and geologic storage at a rate of at least 1.1 million tons of CO_2 per year. The research facilities and power plant would be constructed at one of the four alternative sites identified above. The potential environmental impacts of locating and operating the FutureGen Project at each of the alternative sites are evaluated in the draft EIS. The draft EIS also analyzed the No-Action Alternative, under which DOE would not share in the cost for constructing and operating the FutureGen Project. Without DOE funding, neither the Alliance nor U.S. industry would likely undertake the commercial scale integration of CO_2 capture and geologic sequestration in deep saline reservoirs with a coal-fueled power plant in a comparable timeframe.

DATES: DOE invites the public to comment on the draft EIS during the public comment period, which ends July 16, 2007. DOE will consider all comments postmarked or received during the public comment period in preparing the final EIS, and will consider late comments to the extent practicable.

DOE will conduct public hearings near each of the four candidate sites to obtain comments on the draft EIS. The meeting schedule is: June 19, 2007 in Midland, Texas; June 21, 2007 in Buffalo, Texas; June 26, 2007 in Mattoon, Illinois; and June 28, 2007 in Tuscola, Illinois. Informational sessions will be held at each location from 4 p.m. to 7 p.m., preceding the formal presentations and formal comment period from 7 p.m. to 9 p.m. See the **SUPPLEMENTARY INFORMATION** section for details on the meeting process and locations.

ADDRESSES: Requests for information about this draft EIS and requests to receive a copy of the draft EIS should be directed to: Mr. Mark L. McKoy, NEPA Document Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507–0880, Attn: FutureGen Project EIS. Mr. McKoy can also be contacted by telephone at (304) 285–4262, toll free at 1–800–432–8330 (extension 4262), fax 304–285–4403, or e-mail *FutureGen.EIS@netl.doe.gov*. Additional information about the draft EIS may also be requested or messages recorded by calling the FutureGen telephone line at (304) 285–4262, or toll free at (800) 432–8330 (extension 4262). The draft EIS will be available via the Internet at *http://www.eh.doe.gov/nepa/* . Copies of the draft EIS are also available for public review at the locations listed in the **SUPPLEMENTARY INFORMATION** section of this Notice.

Written comments on the draft EIS can be mailed to Mr. Mark L. McKoy, NEPA Document Manager, at the address noted above. Written comments may also be submitted by fax to: (304) 285–4403; or submitted electronically to: *FutureGen.EIS@netl.doe.gov*. In addition to providing oral comments during the public hearings, oral comments on the draft EIS may be recorded by calling the FutureGen telephone line at (304) 285–4262, or toll free at (800) 432–8330 (extension 4262).

For Additional Information: For further information on the proposed project or the draft EIS, contact Mr. Mark L. McKoy as directed above. For general information regarding the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, Telephone: (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

President Bush proposed on February 27, 2003, that the United States undertake a $1 billion, 10-year project to build the world's first coal-fueled plant to produce electricity and hydrogen with near-zero emissions. In response to this announcement, the DOE developed plans for the FutureGen Project, which would establish the technical and economic feasibility of producing electricity and hydrogen from coal—a low-cost and abundant energy resource—while capturing and geologically storing the CO_2 generated in the process.

DOE would implement the FutureGen Project through a Cooperative Agreement that provides financial assistance to the FutureGen Alliance, Inc., a non-profit corporation that represents a global coalition of coal and energy companies. The Alliance members are: American Electric Power Company, Inc. (Columbus, OH); Anglo American, LLC (London, UK); BHP Billiton Limited (Melbourne, Australia); China Huaneng Group (Beijing, China); CONSOL Energy, Inc. (Pittsburgh, PA); E.ON U.S. LLC (Louisville, KY); Foundation Coal Holdings, Inc. (Linthicum Heights, MD); Peabody Energy Corporation (St. Louis, MO); PPL Corporation (Allentown, PA); Rio Tinto Energy America (Gillette, WY); Southern Company (Atlanta, GA); and Xstrata Coal (Sydney, Australia). Several foreign governments have entered into discussions with DOE regarding possible contributions.

Description of Alternatives

DOE analyzed four alternative sites and the No Action Alternative. Under the No Action Alternative DOE would not share in the cost for constructing and operating the FutureGen Project. Without DOE funding, neither the Alliance nor U.S. industry would likely undertake the commercial scale integration of CO_2 capture and geologic sequestration in deep saline reservoirs with a coal-fueled power plant in a comparable timeframe.

Under the proposed action, DOE would provide financial assistance to the Alliance to plan, design, construct, and operate the FutureGen Project. DOE has identified four potential sites and, based on the EIS, will determine which sites, if any, are acceptable to DOE to host the FutureGen Project. The four sites currently being considered as reasonable alternatives for the FutureGen Project are: Mattoon, Illinois; Tuscola, Illinois; Jewett, Texas; and Odessa, Texas. The FutureGen Project would include a coal-fueled electric power and hydrogen production plant. The power plant would be a 275-megawatt (MW) output Integrated Gasification Combined Cycle (IGCC) system combined with CO_2 capture and geologic storage at a rate of at least 1.1 million tons of CO_2 per year.

The draft EIS analyzes the environmental consequences that may result from the proposed action at each of the four candidate sites. Potential impacts identified during the scoping process and analyzed in the draft EIS relate to: Air quality; climate and meteorology; geology; physiography and

soils; groundwater; surface water; wetlands and floodplains; biological resources; cultural resources; land use; aesthetics; transportation and traffic noise and vibration; utility systems; materials and waste management; human health, safety, and accidents; community services; socioeconomics; and environmental justice.

Availability of the Draft EIS

Copies of the draft EIS have been distributed to members of Congress, Federal, State, and local officials, and agencies, organizations, and individuals who may be interested or affected. The draft EIS will be available on the Internet at: *http://www.eh.doe.gov/nepa/*. Additional copies can also be requested by contacting the NEPA Document Manager, as indicated above under **ADDRESSES**. Copies of the draft EIS are also available for public review at the locations listed below.

Mattoon Public Library, 1600 Charleston Avenue, Mattoon, IL 61938.

Tuscola Public Library, 112 East Sale Street, Tuscola, IL 61953.

Fairfield City Library (near Jewett), 350 W. Main Street, Fairfield, TX 75480.

University of Texas of the Permian Basin, J. Conrad Dunagan Library, Main Floor, 4901 E. University Avenue, Odessa, TX 79762–0001.

Additional information about the FutureGen Project can be found at these web sites: *http://www.doe.gov; http://fossil.energy.gov/programs/powersystems/futuregen/*; or *http://www.futuregenalliance.org*.

Public Meetings

DOE will conduct public hearings near each of the four candidate sites to obtain comments on the draft EIS. Requests to speak at the public hearings can be made by calling or writing to the NEPA Document Manager (see **ADDRESSES**). Requests to speak that have not been submitted prior to the hearing will be accepted in the order in which they are received during the hearing. Speakers are encouraged to provide a written version of their oral comments or supplementary materials for the record. Each speaker will be allowed approximately five minutes to present comments. Those speakers who want more than five minutes should indicate the length of time desired in their request. Depending on the number of speakers, DOE may need to limit all speakers to five minutes initially and provide additional opportunities as time permits. Comments will be recorded by a court reporter and will become part of the public record. Oral and written comments will be given equal consideration.

Each hearing will begin with an information session at approximately 4 p.m., followed by formal presentations and a formal comment session beginning at approximately 7 p.m. DOE will begin each meeting's formal session with an overview of the proposed FutureGen Project, followed by oral statements by the scheduled speakers. Speakers may be asked questions to help ensure that DOE fully understands the comments. A presiding officer will establish the order of speakers and provide any additional procedures necessary to conduct the meetings.

All meetings will be accessible to people with disabilities. Any individual with a disability requiring special assistance, such as a sign language interpreter, or a translator, should contact Mr. Mark McKoy, the NEPA Document Manager, (See **ADDRESSES**) at least 48 hours in advance of the meeting so that arrangements can be made.

Meeting Schedule

Texas—Odessa Site.

Date: June 19, 2007.

Place: Center for Energy and Economic Diversification (CEED) Building, 1400 North FM 1788, Midland, TX 79707.

Texas—Jewett Site.

Date: June 21, 2007.

Place: Buffalo Civic Center, 941 North Hill Street, Buffalo, TX 75831 (Located near the intersection of US–79 and I–45).

Illinois—Mattoon Site.

Date: June 26, 2007.

Place: Riddle Elementary School, 4201 Western Avenue, Mattoon, IL 61938 (Located at the corner of Western Avenue and 43rd Street [CR 300E]).

Illinois—Tuscola Site.

Date: June 28, 2007.

Place: Tuscola Community Building, 122 W. Central Avenue, Tuscola, IL 61953. (From I–57, take exit 212 to U.S. Hwy 36 and continue to the intersection of North Central Ave. and South Main Street).

Issued in Washington, DC, on May 25, 2007.

Mark J. Matarrese,

Director, Office of Environment, Security, Safety and Health, Office of Fossil Energy.

[FR Doc. E7–10563 Filed 5–31–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC07–542–000; FERC–542]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

May 25, 2007.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due August 3, 2007.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC07–542–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov*, choose the Documents & Filings tab, click on eFiling, then follow the instructions given. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERConlinesupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at

(202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–542 ''Gas Pipeline Rates: Rate Tracking'' (OMB No. 1902–0070) is used by the Commission to implement the statutory provisions of Title IV of the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301–3432, and Sections 4, 5 and 16 of the Natural Gas Act (NGA) (Pub. L.) 75–688) (15 U.S.C. 717–717w). These statutes empower the Commission to collect natural gas transmission cost information from interstate natural gas transporters for the purpose of verifying that these costs, which are passed on to pipeline customers, are just and reasonable.

Interstate natural gas pipeline companies are required by the Commission to track their transportation associated costs to allow for the Commission's review and where appropriate, approval of the pass-through of these costs to pipeline customers. Most of these FERC–542 tracking filings are monthly accountings of the cost of fuel or electric power necessary to operate compressor stations. Others track the costs of (1) Gas Research Institutes fees; (2) annual charges of various types, and (3) other types of rate adjustments.

Tracking filings may be submitted at any time or on a regularly scheduled basis in accordance with the pipeline company's tariff. Filings may be either: (1) Accepted; (2) suspended and set for hearing; (3) suspended, but not set for hearing; or (4) suspended for further review, such as technical conference or some other type of Commission action. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 154, §§ 154.4, 154.7, 154.101, 154.307, 154.201, 154.207–154.209 and 154.401–154.403.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
95	3.5	40	13,300

Estimated cost burden to respondents is $780,972. (13,300 hours/2080 hours per year times $122,137 per year average per employee = $780,972). The cost per respondent is $8,221. There is a significant increase in the number of respondents and number of filings per respondent since the last renewal request because in the last two years each pipeline has had to file for a change in annual charges whereas previously they did not. However, the annual charge filings are shorter than most other tracking filings which has resulted in a reduction in the burden hours per response.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will 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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10543 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–459–000]

Algonquin Gas Transmission, LLC; Notice of Proprosed Changes in FERC Gas Tariff

May 25, 2007.

Take notice that on May 22, 2007, Algonquin Gas Transmission, LLC (Algonquin) tendered for filing as a part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective on June 22, 2007:

Second Revised Sheet No. 529
First Revised Sheet No. 563
First Revised Sheet No. 568

Algonquin states that copies of its filing have been served upon all affected customers of Algonquin and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR

154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10536 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–173]

Union Electric Company dba AmerenUE; Notice Rejecting Filing

May 25, 2007.

On April 20, 2007, the Commission issued an order granting an application filed by AmerenUE, licensee for the Osage Hydroelectric Project No. 459, for non-project use of project lands.[1] On May 21, 2007, Duncan's Point Lot Owners Association, Inc.; Duncan's Point Homeowners Association, Inc.; and Nancy A. Brunson and Pearl Hankins, individually (Duncan's Point Owners) requested rehearing of the Commission's decision.

The two page request for rehearing states without explanation that the Commission's order has not met the most minimal requirements of procedural due process.[2]

Section 313(a) of the Federal Power Act, 16 U.S.C. 825l (2000), requires an aggrieved party[3] to file its request for rehearing within 30 days after the issuance of the Commission order and to set forth specifically the ground or grounds upon which such request is based. Duncan's Point Owners' rehearing request raises no specific allegations of error with respect to the Commission's order. Therefore, it must be rejected.[4]

This notice constitutes final agency action. Request for rehearing of this rejection notice must be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713 (2006).

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10534 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–422–001]

Cameron LNG, LLC; Notice of Filing

May 25, 2007.

Take notice that on February 15, 2007, Cameron LNG, LLC (Cameron LNG) tendered for filing a supplemental request for a modification of the Commission's January 18, 2007 Order granting authorization under section 3 of the Natural Gas Act (NGA) for Cameron LNG to construct its Terminal Expansion Project. Cameron LNG requests authority to increase the send-out rate of its LNG terminal prior to the construction of any Terminal Expansion Project facilities, rather than during the construction of those facilities as authorized by the January 18, 2007 Order.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests 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 on June 8, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10544 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–174]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate Filing

May 25, 2007.

Take notice that on May 23, 2007, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing and approval a negotiated rate agreement between CEGT and Petrohawk Energy Corporation.

CEGT states that it has entered into an agreement to provide firm transportation service to this shipper under Rate Schedule FT and requests the Commission accept and approve the transaction under which transportation service will commence upon the ''in-

[1] 119 FERC ¶ 61,073 (2007).

[2] Duncan's Point Owners request a 30-day extension to address the issues. Because the 30-day rehearing deadline is statutorily-based, we cannot grant the requested extension.

[3] Juanita Brackens and Helen Davis were also listed in the caption of the request for rehearing. Because they did not file motions to intervene, they are not parties to the proceeding. Therefore, to the extent the request for rehearing was filed on behalf of Ms. Brackens and Ms. Davis, it must be rejected due to a lack of party status.

[4] In addition, the pleading as filed is deficient because it failed to include a Statement of Issues, as required by Revision of Rules of Practice and Procedure Regarding Issue Identification, Order No. 663, 70 FR 55,723 (September 23, 2005), FERC Statutes and Regulations ¶ 31,193 (2005) as amended by Order 663–A, effective March 23, 2006, to limit its applicability to rehearing requests. Revision of Rules of Practice and Procedure Regarding Issue Identification, Order No. 663–A, 71 FR 14,640 (March 23, 2006), FERC Statutes and Regulations ¶ 31,211 (2006) (codified at 18 CFR 385.203(a)(7) and 385.713(c)(2) (2006)).

service'' date following completion of certain Line CP 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 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. E7–10541 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–355–003]

Gulf South Pipeline Company, LP; Notice of Compliance Filing

May 25, 2007.

Take notice that on April 30, 2007, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, with an effective date of June 9, 2006:

Sec. Sub. First Revised Sheet No. 3701
Original Sheet No. 3701A

Gulf South states that the filing is being made in compliance with the Commission's order issued April 10, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10535 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–540–003]

High Island Offshore System, L.L.C.; Notice of Motion To Place Settlement Rates Into Effect on an Interim Basis

May 25, 2007.

Take notice that on May 23, 2007, High Island Offshore System, L.L.C. (HIOS) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Sixth Revised Sheet No. 10, to be effective June 1, 2007, subject to certain conditions.

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 June 1, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10542 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–938–000]

ISO New England, Inc.; Notice of Filing

May 25, 2007.

Take notice that on May 25, 2007, ISO New England Inc. (the ISO) filed a limited change to the Forward Capacity Market Rule (FCA) conditionally accepted by the Federal Energy Regulatory Commission on April 16, 2007. ISO New England, Inc., 119 FERC ¶ 61,045 (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, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 1, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10550 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–437–001]

Kern River Gas Transmission Company; Notice of Withdrawal of Tariff Sheets

May 25, 2007.

Take notice that on May 22, 2007, Kern River Gas Transmission Company (Kern River) proposed to withdraw the following tariff sheets filed on May 1, 2007, in this docket number.

Third Revised Sheet No. 301.
Second Revised Sheet No. 327.

Kern River states that it has served a copy of this filing upon each person designated on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 29, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10540 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–463–000]

Liberty Gas Storage, LLC; Notice of Filing

May 25, 2007.

Take notice that on April 26, 2007, Liberty Gas Storage LLC (Liberty), filed in the above referenced docket a request for an extension of time to implement requests for electronic data interchange. Liberty requests an extension of time until 90 days following its receipt of such a request.

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 30, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10545 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–461–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 25, 2007.

Take notice that on May 22, 2007, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective on June 22, 2007:

First Revised Sheet No. 226
Third Revised Sheet No. 227B
Fourth Revised Sheet No. 236
Second Revised Sheet No. 238
Fourth Revised Sheet No. 254

Maritimes states that copies of this filing were mailed to all affected customers of Maritimes and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10538 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–381–000]

Ozark Gas Transmission, L.L.C.; Notice of Application

May 25, 2007.

Take notice that on May 14, 2007 Ozark Gas Transmission, L.L.C. (Ozark), 1437 S. Boulder, Suite 1500, Tulsa, Oklahoma, 74119, filed in Docket No. CP07–381–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA), to amend the certificate granted to Ozark by the Commission in Docket Nos. CP98–265–000, CP98–266–000, CP98–267–000, CP98–268–000, and CP98–269–000. Specifically, Ozark seeks to increase the maximum certificated capacity of its pipeline system from 330,000 Mcf/d to 420,000 Mcf/d, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to David A. Harrell, Director, Regulatory Affairs, Ozark Gas Transmission, L.L.C., 1437 S. Boulder, Suite 1500, Tulsa, Oklahoma, 74119, telephone (918) 398–2123, fax (918) 398–2165, e-mail *dharrell@ozarkgastransmission.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission.

Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions 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 on June 15, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10546 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–462–000]

Puget Sound Energy, Inc.; Notice of Tariff Filing

May 25, 2007.

Take notice that on May 22, 2007, Puget Sound Energy, Inc. (Puget) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sixth Revised Sheet No. 1 and Original Sheet Nos. 127 through 133, to be effective June 22, 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. E7–10539 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–911–000]

RPL Holding, Inc.; Notice of Filing

May 24, 2007.

Take notice that on May 18, 2007, RPL Holdings, Inc. filed an application for authorization to make market-based wholesale sales of energy, capacity, and ancillary services and submitted FERC Electric Tariff No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 4, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10548 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–460–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

May 25, 2007.

Take notice that on May 22, 2007, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as a part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised

tariff sheets proposed to be effective on June 22, 2007:

Second Revised Sheet No. 519
Fourth Revised Sheet No. 528
Fourth Revised Sheet No. 554
Third Revised Sheet No. 556

Texas Eastern states that copies of its filing have been served upon all affected customers of Texas Eastern and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10537 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC07–127–000]

UGI Utilities, Inc.; Notice of Filing

May 25, 2007.

Take notice that on May 18, 2007, UGI Utilities, Inc. (''UGI''), submitted a request for a one-time change of its requirement to report in the format prescribed by the Regulations. UGI Utilities requests that it be allowed to submit its FERC financial statements and accompanying CPA Certification with respect to its 2006–07 fiscal year, rather than submit a CPA Certification with respect to its 2006 calendar-year financial statements included with the company's 2006 annual report FERC Form 1–F. In the event the Commission denies the above request, UGI Utilities asks that it be granted an extension of time to file a CPA certification with respect to its 2006 calendar year financial statements. Each utility is required to close its books at the end of each calendar year under the General Instructions in Section 101 of the Commission's regulations.

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 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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: June 14, 2007.

Kimberly Bose,

Secretary.

[FR Doc. E7–10547 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–503–000]

Wisconsin Electric Power Company; Notice of Filing

May 25, 2007.

Take notice that on May 17, 2007, Wisconsin Electric Power Company filed an explanation of settlement in support of its concurrently filed settlement agreement, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 U.S.C. 385.602.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 4, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10533 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

May 22, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–45–000.

Applicants: Morgan Stanley.

Description: Morgan Stanley's response to the Commission's letter issued on 2/26/07.

Filed Date: 5/15/2007.

Accession Number: 20070522–0213.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: EC07–91–000.

Applicants: General Electric Capital Corporation; LS Power Partners, LP; LS Power Partners II, L.P.; LS Power Equity Partners, LP; LS Power Equity Partners II, L.P.; LS Power Equity Partners Pie I, LP; LS Power Equity Partners II PIE, L.P.; Shady Hills Power Company, L.L.C.

Description: Joint application under section 203 of the FPA for authorization for indirect transfer of control of a public utility and for expedited consideration of General Electric Capital Corporation et al.

Filed Date: 5/11/2007.

Accession Number: 20070516–0187.

Comment Date: 5 p.m. Eastern Time on Friday, June 1, 2007.

Docket Numbers: EC07–92–000.

Applicants: DTE Energy Services, Inc.; DTE Georgetown Holdings, Inc.; DTE Georgetown, LP; Indianapolis Power & Light Company.

Description: DTE Energy Services, Inc, DTE Georgetown Holdings, Inc, DTE Georgetown, LP and Indianapolis Power & Light Co submit their application requesting authorization for the indirect disposition of an 80 MW gas turbine.

Filed Date: 5/18/2007.

Accession Number: 20070522–0319.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: EC07–93–000.

Applicants: NRG Energy, Inc.

Description: Application of NRG Energy Inc and its public utility subsidaries for Commission Approval in connection with a corporate restructuring etc.

Filed Date: 5/17/2007.

Accession Number: 20070522–0318.

Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–54–000.

Applicants: Stanton Wind Energy LLC.

Description: Stanton Wind Energy LLC submits its Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/17/2007.

Accession Number: 20070522–0118.

Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: EG07–55–000.

Applicants: Scurry County Wind II LLC.

Description: Scurry County Wind II LLC submits its Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/17/2007.

Accession Number: 20070522–0117.

Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–3121–011; ER03–478–016; ER06–200–009; ER07–254–001; ER03–1326–009; ER05–534–010; ER05–365–010; ER05–1262–007; ER06–1093–003; ER03–296–003; ER02–418–010; ER03–416–013; ER05–332–010; ER07–287–003; ER07–242–003; ER03–951–012; ER04–94–010; ER02–417–010; ER05–1146–010; ER05–481–010; ER07–240–004; ER07–195–001; ER02–2085–004.

Applicants: PPM Energy Inc.; Flying Cloud Power Partners, LLC; Flat Rock Windpower LLC; Flat Rock Windpower II LLC; Elk River Wind LLC; Eastern Desert Power LLC; Colorado Green Holdings LLC; Casselman Windpower, LLC; Big Horn Wind Project LLC; Klamath Energy LLC; Klamath Generation LLC; Klondike Wind Power LLC; Klondike Wind Power II; Klondike Wind Power III LLC; MinnDakota Wind LLC; Moraine Wind LLC; Mountain View Power Partners III; Phoenix Wind Power LLC; Shiloh I wind Project, LLC; Trimont Wind I LLC; Twin Buttes Wind LLC; Locust Ridge Wind Farm, LLC; Northern Iowa Windpower II, LLC.

Description: The Iberdrola Companies submit a notice of a change in status resulting from the sale of Scottish Power plc..

Filed Date: 5/14/2007.

Accession Number: 20070516–0177.

Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER02–2397–006; ER06–643–002; ER06–784–002; ER05–454–004; ER06–805–001; ER07–528–001; ER06–642–003; ER05–118–005; ER05–131–004; ER06–1446–002; ER03–796–006; ER07–527–001.

Applicants: Great Lakes Hydro America LLC; Bear Swamp Power Company LLC; Brookfield Energy Marketing Inc.; Brookfield Energy Marketing US LLC; Brookfield Power Piney & Deep Creek LLC; Carr Street Generating Station, L.P.; Erie Boulevard Hydropower, L.P.; Hawks Nest Hydro LLC; Katahdin Paper Company LLC; Longview Fibre Paper and Packaging, Inc.; Rumford Falls Hydro LLC.

Description: Notice of Change in Status of Bear Swamp Power Company LLC, et al.

Filed Date: 5/21/2007.

Accession Number: 20070521–5067.

Comment Date: 5 p.m. Eastern Time on Monday, June 11, 2007.

Docket Numbers: ER03–114–003; ER04–183–002.

Applicants: Great Bay Power Marketing, Inc.; Great Bay Hydro Corporation.

Description: Great Bay Power Marketing, Inc and Great Bay Hydro Corp submits an amendment to its 2/12/07 triennial market power analysis.

Filed Date: 5/11/2007.

Accession Number: 20070516–0018.

Comment Date: 5 p.m. Eastern Time on Friday, June 1, 2007.

Docket Numbers: ER05–1065–008.

Applicants: Entergy Services, Inc.

Description: Entergy Operating Companies submits revisions to the Available Flowgate Capability Process Manual, FERC Electric Tariff, Rate Schedule 1 etc in compliance with FERC's 4/24/06 Order et al.

Filed Date: 5/18/2007.

Accession Number: 20070522–0231.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER05–1178–010; ER05–1191–010.

Applicants: Gila River Power, L.P.; Union Power Partner, L.P.

Description: Gila River Power, LP et al submits this notice of non-material change in status relating to their upstream ownership structure pursuant to Section 35.27(c) of FERC's Regulations and Order 652.

Filed Date: 5/15/2007.

Accession Number: 20070517–0075.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER05–522–004; ER06–1382–004.

Applicants: Bluegrass Generation Company, L.L.C.
Description: Electric Refund Report (Compliance Only) of Bluegrass Generation Company, L.L.C.
Filed Date: 5/15/2007.
Accession Number: 20070515–5051.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER06–554–003.
Applicants: Virginia Electric and Power Company.
Description: PJM submit an Electric Refund Report detailing refunds from a Reactive Power settlement between Virginia Electric and Power Company, Old Dominion Electric Cooperative, and North Carolina Electric Membership Corporation.
Filed Date: 5/18/2007.
Accession Number: 20070518–5072.
Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–445–001.
Applicants: Duke Energy Indiana, Inc.
Description: Duke Energy Corp reports that on 4/26/07 Duke Energy Indiana, Inc and Indiana Municipal Power Agency executed a new power agreement to replace the Power Coordination Agreement, effective 6/1/07 under ER07–445.
Filed Date: 5/14/2007.
Accession Number: 20070516–0184.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER07–575–002.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Company submits Substitute Original Sheet 15 to FERC Electric Tariff, Second Revised Volume 8.
Filed Date: 5/15/2007.
Accession Number: 20070517–0068.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–577–001.
Applicants: Midwest Independent Transmission System.
Description: Xcel Energy Services, Inc on behalf of Northern States Power Company submits its response to FERC's 4/20/07 deficiency letter.
Filed Date: 5/18/2007.
Accession Number: 20070522–0226.
Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–585–002.
Applicants: WPS Niagara Generation, LLC.
Description: Integrys Energy Group submits a requests to withdraw Niagara Generation from the 4/20/07 Notice of Change in Status for Market-Based Rate Authority.
Filed Date: 5/15/2007.
Accession Number: 20070521–0580.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–626–001.
Applicants: American Electric Power Service Corp.
Description: American Electric Power Service Corp submits a revised tariff sheet to the Open Access Transmission Tariff, FERC Electric Tariff, Third Revised Volume 6 in compliance with FERC's 4/13/07 Order.
Filed Date: 5/14/2007.
Accession Number: 20070516–0179.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER07–671–001.
Applicants: Trigen-St. Louis Energy Corporation.
Description: Trigen-St Louis Energy Corp submits its revised FERC Electric Tariff, Original Volume 1.
Filed Date: 5/14/2007.
Accession Number: 20070516–0183.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER07–761–001.
Applicants: Fulcrum Energy Limited.
Description: Fulcrum Energy Limited submits an Amendment to Original Sheet 1 to FERC Electric Tariff, Original Volume 1.
Filed Date: 5/14/2007.
Accession Number: 20070517–0073.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER07–799–001; EL07–61–000.
Applicants: Norwalk Power, LLC.
Description: Norwalk Power, LLC's supplemental information and corrects computational errors contained in certain exhibits filed in conjunction with the 4/26/07, unexecuted cost-of-service agreement with NRG Power Marketing, Inc. et al.
Filed Date: 5/17/2007.
Accession Number: 20070522–0217.
Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: ER07–876–000.
Applicants: Chevron Coalinga Energy Company.
Description: Chevron Coalinga Energy Co. submits notice of succession and tariff amendments to adopt and amend the market-based rate tariff of Texaco Natural Gas, Inc.
Filed Date: 5/9/2007.
Accession Number: 20070514–0122.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 30, 2007.

Docket Numbers: ER07–890–000.
Applicants: Waterbury Generation, LLC.
Description: Waterbury Generation, LLC request for Expedited Consideration and Temporary Waiver of Qualification Process Reimbursement Deposit Due Date under Market Rule 1.
Filed Date: 5/14/2007.
Accession Number: 20070515–0334.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER07–891–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits revisions to the chart in Schedule 2 to adjust downward the zonal revenue requirements of Reliant Energy Electric Solutions, LLC.
Filed Date: 5/14/2007.
Accession Number: 20070515–0333.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER07–898–000.
Applicants: Baltimore Gas and Electric Company.
Description: Baltimore Gas and Electric Company submits certain revised tariff sheets (in Appendix A) to FERC Open Access Transmission Tariff pursuant to Order 668 etc.
Filed Date: 5/15/2007.
Accession Number: 20070517–0074.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–899–000.
Applicants: Aquila, Inc.
Description: Aquila, Inc. submits Amendatory Agreement 4 to the Multiple Interconnection & Transmission Contract w/Missouri Public Service and Kansas City Power & Light Company etc.
Filed Date: 5/15/2007.
Accession Number: 20070517–0072.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–900–000.
Applicants: Aquila, Inc.
Description: Aquila, Inc. submits Amendatory Agreement 6 to the Agreement for Interchange of Power & Interconnected Operation w/Missouri Public Service and Associated Electric Cooperative, Inc. etc.
Filed Date: 5/15/2007.
Accession Number: 20070517–0071.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–901–000.
Applicants: Duquesne Light Company.
Description: Duquesne Light Company submits First Revised Sheet 314H.01 et al. to FERC Electric Tariff, Sixth Revised Volume 1, to become effective 6/1/07.
Filed Date: 5/15/2007.
Accession Number: 20070517–0070.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–902–000.

Applicants: Tenaska Alabama Partners, L.P.

Description: Tenaska Alabama Partners, LP submits Rate Schedule FERC 2, under which specifies its revenue requirement for Reactive Supply and Voltage Control from Generation Sources Service etc.

Filed Date: 5/16/2007.

Accession Number: 20070517–0069.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–905–000.

Applicants: Sierra Pacific Resources Operating Company.

Description: Nevada Power Company & Sierra Pacific Power Co. submits proposed revisions to the Sierra Pacific Resources Operating Companies' Open Access Transmission Tariff.

Filed Date: 5/16/2007.

Accession Number: 20070521–0158.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–906–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits its Capital Projects Report and schedule of the unamortized costs of its funded capital expenditures for the quarter ending 3/31/07.

Filed Date: 5/15/2007.

Accession Number: 20070521–0151.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–912–000.

Applicants: Potomac Electric Power Company.

Description: Potomac Electric Power Co submits First Revised Sheet 310A et al. to FERC Electric Tariff, Sixth Revised Volume 1, effective 6/1/07.

Filed Date: 5/15/2007.

Accession Number: 20070521–0630.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–913–000.

Applicants: Atlantic City Electric Company.

Accession Number: 20070521–0630.

Description: Atlantic City Electric Co submits First Revised Sheet 298A et al. to FERC Electric Tariff, Sixth Revised Volume 1, effective 6/1/07.

Filed Date: 5/15/2007.

Accession Number: 20070521–0631.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–914–000.

Applicants: Delmarva Power & Light Company.

Description: Delmarva Power & Light Company submits First Revised Sheet 300E et al. to FERC Electric Tariff, Sixth Revised Volume 1, pursuant to FERC's 12/30/05 issued Order 668, effective 6/1/07.

Filed Date: 5/15/2007.

Accession Number: 20070521–0632.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–915–000; EL06–109.

Applicants: Duquesne Light Company.

Description: Duquesne Light Company submits an informational filing of 2007 Formula Rate Update pursuant to the Commission's 2/6/07 Order.

Filed Date: 5/15/2007.

Accession Number: 20070521–0621.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2007.

Docket Numbers: ER07–916–000; ER07–917–000.

Applicants: KGEN Southaven LLC; KGEN New Albany LLC

Description: KGen Southaven, LLC and KGEN New Albany, LLC submits Notices of Cancellation of First Revised Sheet 1 to FERC Electric Tariff, Original Volume 1.

Filed Date: 5/18/2007.

Accession Number: 20070522–0228.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–918–000.

Applicants: AP Holdings Southaven, LLC.

Description: AP Holdings Southaven, LLC notifies the Commission that, as a result of a name change they have succeeded BTEC Southaven, LLC.

Filed Date: 5/18/2007.

Accession Number: 20070522–0230.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–921–000.

Applicants: ISO New England, Inc.

Description: ISO New England, Inc. submits its Settlement Agreement and Explanatory Statement in Support of the Settlement Agreement and Market Rule 1 Revisions etc.

Filed Date: 5/18/2007.

Accession Number: 20070523–0023.

Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–37–000.

Applicants: Rockland Electric Company.

Description: Application under Section 204 of Rockland Electric Co for authorization to issue and sell short-term debt not in excess of $30 million at any one time outstanding.

Filed Date: 5/14/2007.

Accession Number: 20070514–5019.

Comment Date: 5 p.m. Eastern Time on Friday, May 25, 2007.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH07–3–001.

Applicants: Enbridge Inc.

Description: FERC Form 65 B—Waiver Notification and Notice of Material Change in Facts of Enbridge Inc.

Filed Date: 5/14/2007.

Accession Number: 20070514–5164.

Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10551 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

May 25, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–53–000.
Applicants: Bethlehem Renewable Energy, LLC.
Description: Bethlehem Renewable Energy LLC submits its Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 5/16/2007.
Accession Number: 20070521–0148.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER98–2782–012; ER01–1275–008; ER06–146–003
Applicants: Alliance Energy Marketing, LLC; AER NY-Gen, LLC; AG Energy, L.P.; Seneca Power Partners, L.P.; Sterling Power Partners, L.P.
Description: Notice of Change in Status of Alliance Energy Marketing, LLC, *et al.*
Filed Date: 5/23/2007.
Accession Number: 20070523–5022.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 13, 2007.

Docket Numbers: ER01–989–004.
Applicants: Green Mountain Power Corporation.
Description: Non-Material Change-in-Status Report of Green Mountain Power Corporation.
Filed Date: 5/16/2007.
Accession Number: 20070516–5019.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER01–1699–008.
Applicants: Pilot Power Group, Inc.
Description: Pilot Power Group, Inc submits First Revised Sheet 1 to Rate Schedule FERC 1, effective 3/21/05 in compliance with Order 652.
Filed Date: 5/17/2007.
Accession Number: 20070521–0625.
Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: ER01–3103–014.
Applicants: Astoria Energy LLC.
Description: Astoria Energy LLC submits the proposed Code of Conduct as a result of an indirect affiliate with Green Mountain Power Corporation.
Filed Date: 5/21/2007.
Accession Number: 20070524–0044.
Comment Date: 5 p.m. Eastern Time on Monday, June 11, 2007.

Docket Numbers: ER02–579–005; ER02–580–006.
Applicants: Capitol District Energy Center Cogeneration; Pawtucket Power Associates Limited Partnership
Description: Pawtucket Power Associates LP, et al reports a change in status pursuant to Order 652 etc.
Filed Date: 5/17/2007.
Accession Number: 20070521–0620.
Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: ER03–1085–004.
Applicants: Covanta Union, Inc.
Description: Covanta Union, Inc submits its triennial market power update demonstrating that it continues to lack market power in generation and transmission and cannot erect barriers to entry.
Filed Date: 5/14/2007.
Accession Number: 20070516–0185.
Comment Date: 5 p.m. Eastern Time on Monday, June 4, 2007.

Docket Numbers: ER04–805–006.
Applicants: Wabash Valley Power Association, Inc.
Description: Wabash Valley Power Association, Inc submits an updated market power analysis pursuant to FERC's letter order issued on 7/1/04.
Filed Date: 5/16/2007.
Accession Number: 20070521–0150.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER05–1065–008.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits revisions to the Available Flowgate Capability Process Manual, FERC Electric Tariff, Rate Schedule 1 etc in compliance with FERC's 4/24/06 Order *et al.*
Filed Date: 5/18/2007.
Accession Number: 20070522–0231.
Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–232–003.
Applicants: Aragonne Wind LLC.
Description: Aragonne Wind LLC notifies that the sales of test energy from the Facility commenced on 12/18/06 and submits Substitute Sheets 1 and 2 to FERC Electric Tariff, Original Volume 1 pursuant to FERC's 12/7/06 Order.
Filed Date: 5/16/2007.
Accession Number: 20070521–0149.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–539–001; ER07–540–001.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corporation dba National Grid submits information in response to FERC's 3/30/07 deficiency letter and on May 22, 2007 submit a correction to this filing.
Filed Date: 5/16/2007; 5/22/07.
Accession Number: 20070521–0155.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–558–001.
Applicants: PacifiCorp.
Description: PacifiCorp submits a compliance filing pursuant to the Commission's 4/17/07 letter order.
Filed Date: 5/16/2007.
Accession Number: 20070516–5008.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–570–002.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc submits revisions to its Market Administration and Control Area Services Tariff etc to comply with FERC's 4/17/07 Order.
Filed Date: 5/17/2007.
Accession Number: 20070521–0627.
Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: ER07–643–001.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool Inc submits Exhibit I a table of listing of its agreements in reference to its 3/21/07 filing.
Filed Date: 5/16/2007.
Accession Number: 20070521–0156.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–868–001.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC supplements their 5/4/07 filing by submitting revisions to certain other provisions that parallel the Operating Agreement in the PJM Open-Access Transmission Tariff, FERC Electric Tariff, Sixth Revised Volume 1.
Filed Date: 5/18/2007.
Accession Number: 20070522–0229.
Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–881–001.
Applicants: Alliant Energy Corporate Services, Inc.
Description: Alliant Energy Corporate Services, Inc submits an amendment to its 5/10/07 filing.
Filed Date: 5/21/2007.
Accession Number: 20070524–0050.
Comment Date: 5 p.m. Eastern Time on Monday, June 11, 2007.

Docket Numbers: ER07–898–001.

Applicants: Baltimore Gas and Electric Company.

Description: Baltimore Gas and Electric Co resubmits its Second Revised Sheet 299A et al to FERC Electric Tariff, Sixth Revised Volume 1, effective 6/1/07.

Filed Date: 5/18/2007.

Accession Number: 20070521–0628.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–903–000.

Applicants: Bethlehem Renewable Energy, LLC.

Description: Bethlehem Renewable Energy LLC submits an application for ordering accepting market-base rate tariff, waiving certain requirements and granting authorizations and blanket authority.

Filed Date: 5/16/2007.

Accession Number: 20070521–0153.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–904–000.

Applicants: FPL Energy Point Beach, LLC.

Description: FPL Energy Point Beach, LLC submits a request for authorization to sell energy and capacity at market-based rates.

Filed Date: 5/16/2007.

Accession Number: 20070521–0152.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2007.

Docket Numbers: ER07–907–000.

Applicants: Bruce Power Inc.

Description: Petition of Bruce Power Inc for order accepting Market-Based Rate Schedule for filing and granting waivers and blanket approvals.

Filed Date: 5/17/2007.

Accession Number: 20070521–0624.

Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: ER07–908–000.

Applicants: New York State Electric & Gas Corporation.

Description: New York State Electric & Gas Corp submits a Notice of Termination and a Notice of Filing requesting that FERC terminate its Rate Schedule 229 with New York Power Authority, effective 8/31/07.

Filed Date: 5/17/2007.

Accession Number: 20070521–0623.

Comment Date: 5 p.m. Eastern Time on Thursday, June 7, 2007.

Docket Numbers: ER07–909–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revisions to FERC Electric Tariff, Third Revised Rate Schedule 24.

Filed Date: 5/18/2007.

Accession Number: 20070521–0622.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–910–000.

Applicants: Baltimore Gas and Electric Company.

Description: Baltimore Gas and Electric Co resubmits Second Revised Sheet 299A et al to FERC Electric Tariff, Sixth Revised Volume 1, effective 6/1/07.

Filed Date: 5/18/2007.

Accession Number: 20070521–0628.

Comment Date: 5 p.m. Eastern Time on Friday, June 8, 2007.

Docket Numbers: ER07–922–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc requests waiver of the May 15, 2007 Posting Date set forth in Section I.3 of Attachment H–2 of the Open Access Transmission Tariff.

Filed Date: 5/22/2007.

Accession Number: 20070524–0039.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 12, 2007.

Docket Numbers: ER07–924–000.

Applicants: Kansas City Power & Light Company.

Description: Kansas City Power & Light Co submits the initial rate schedules for Electric Interconnection and Delivery Service.

Filed Date: 5/22/2007.

Accession Number: 20070524–0040.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 12, 2007.

Docket Numbers: ER07–925–000.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co submits Second Revised Sheet 11 et al to FERC Electric Tariff, Second Revised Volume 8, to be effective 3/1/07.

Filed Date: 5/22/2007.

Accession Number: 20070524–0041.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 12, 2007.

Docket Numbers: ER07–926–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection LLC submits an amendment to Schedule 2 to reflect corporate name of LSP-Kendall Energy, LLC to Dynegy Kendall Energy LLC, effective April 2, 2007.

Filed Date: 5/23/2007.

Accession Number: 20070523–5017.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 13, 2007.

Docket Numbers: ER07–927–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc agent for Entergy Arkansas, Inc et al submits the annual informational filing containing the 2007 rate redetermination in accordance with the annual rate redetermination provisions of Appendix 1 etc.

Filed Date: 5/22/2007.

Accession Number: 20070524–0051.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 12, 2007.

Docket Numbers: ER07–928–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits Fourth Revised Sheet 41 et al to the Amended and Restated Huntington Beach Generating Station Radial Lines Agreement with AES Huntington Beach, LLC, effective 7/23/07.

Filed Date: 5/23/2007.

Accession Number: 20070524–0042.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 13, 2007.

Docket Numbers: ER07–929–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison submits First Revised Sheet 3 et al to FERC Electric Tariff, Second Revised Volume 6, effective 7/23/07.

Filed Date: 5/23/2007.

Accession Number: 20070524–0037.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 13, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10552 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–446–000, et al.]

Gulf South Pipeline Company, LP; Notice of Availability of the Final Environmental Impact Statement for the Proposed East Texas to Mississippi Expansion Project

May 25, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Final Environmental Impact Statement (EIS) for the natural gas pipeline facilities proposed by Gulf South Pipeline Company, LP (Gulf South) under the above-referenced docket. Gulf South's East Texas to Mississippi Expansion Project (Project) would be located in various counties and parishes in eastern Texas, northern Louisiana, and western Mississippi.

The Final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that the proposed Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), U.S. Environmental Protection Agency (EPA), and the U.S. Army Corps of Engineers (COE) are federal cooperating agencies for the development of this EIS. A federal cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The general purpose of the proposed Project is to transport up to 1.7 billion cubic feet per day of natural gas from production fields in eastern Texas to markets in the Gulf Coast, Midwestern, Northeastern, and Southeastern regions of the United States.

The Final EIS addresses the potential environmental impacts resulting from the construction and operation of the following facilities:

- Approximately 240.3 miles of 42-inch-diameter natural gas pipeline extending easterly from DeSoto Parish, Louisiana to Simpson County, Mississippi;
- approximately 3.3 miles of 36-inch-diameter natural gas pipeline extending northward from Gulf South's existing Carthage Junction Compressor Station in Panola County, Texas to interconnects with existing natural gas facilities within Panola County;
- two new compressor stations, the Vixen and the Tallulah Compressor Stations, located in Ouachita and Madison Parishes, Louisiana, respectively;
- modifications to three existing compressor stations, the Carthage Junction, Hall Summit, and McComb Compressor Stations in Panola, County, Texas, Bienville Parish, Louisiana and Walthall County, Mississippi, respectively; and
- other ancillary facilities, including six meter and regulator (M/R) facilities, eleven mainline valves, nine side valves, and five pig launcher and/or receiver facilities.

Dependent upon Commission approval, Gulf South proposes to complete construction and begin operating the proposed Project in September 2007.

The Final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the Final EIS are available from the Public Reference Room identified above. In addition, CD copies of the Final EIS have been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project. Hard-copies of the Final EIS have also been mailed to those who requested that format during the scoping and comment periods for the proposed Project.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency (EPA) publishes a notice of availability of a Final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal process that allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the Final EIS is published, allowing both periods to run concurrently. Should the FERC issue Gulf South authorizations for the proposed Project, it would be subject to a 30-day rehearing period. Therefore, the Commission could issue its decision concurrently with the EPA's notice of availability.

Additional information about the proposed Project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov*). To access information via the FERC Web site click on the ''eLibrary'' link then click on ''General Search'' and enter the docket number (CP06–446) excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. The ''eLibrary'' link provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. For assistance with ''eLibrary'', please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to these documents. To learn more about eSubscription and to sign-up for this service please go to *http://www.ferc.gov/esubscribenow.htm.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10532 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Southwest Power Pool Board of Directors/Members Committee Meetings and Southwest Power Pool Regional State Committee Meeting

May 24, 2007.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool (SPP) Board of Directors, SPP Members Committee and SPP Regional State Committee noted below. Their attendance is part of the Commission's ongoing outreach efforts.

Board of Directors

June 11, 2007–11 a.m.–5 p.m. (CST), June 12, 2007–8:30 a.m.–5 p.m. (CST), The Peabody Little Rock, 3 Statehouse Plaza, Little Rock, AR 72201, 501–375–5000.

Board of Directors/Members Committee

July 24, 2007–8 a.m.–3 p.m. (CST), Marriott Country Club Plaza, 4445 Main Street, Kansas City, MS 64111, 816–531–3000.

SPP Regional State Committee

July 23, 2007 (Time TBD), Marriott Country Club Plaza, 4445 Main Street, Kansas City, MS 64111, 816–531–3000.

The discussions may address matters at issue in the following proceedings:

Docket No. ER04–1232, Southwest Power Pool, Inc.
Docket No. ER05–799, Southwest Power Pool, Inc.
Docket No. ER05–526, Southwest Power Pool, Inc.
Docket No. ER05–1416, Southwest Power Pool, Inc.
Docket No. EL06–83, Southwest Power Pool, Inc.
Docket No. ER06–432, Southwest Power Pool, Inc.
Docket No. ER06–448, Southwest Power Pool, Inc.
Docket No. ER06–451, Southwest Power Pool, Inc.
Docket No. ER06–1047, Southwest Power Pool, Inc.
Docket No. ER06–767, Southwest Power Pool, Inc.
Docket Nos. ER06–1485 and ER07–266, Xcel Energy Services, Inc.
Docket No. ER06–1488, Oklahoma Gas & Electric Company
Docket No. ER06–1463, Empire District Electric Company
Docket No. ER07–385, American Electric Power Service Corporation
Docket No. ER06–1471, Westar Energy, Inc.
Docket No. ER06–1467, Southwest Power Pool, Inc.
Docket No. EL06–71, Associated Electric Cooperative, Inc. v Southwest Power Pool
Docket No. ER07–14, Southwest Power Pool, Inc.
Docket Nos. ER07–211 and ER07–709, Southwest Power Pool, Inc.
Docket No. ER07–314, Southwest Power Pool, Inc.
Docket No. ER07–319, Southwest Power Pool, Inc.
Docket No. ER07–603, Southwest Power Pool, Inc.
Docket No. ER07–734, Southwest Power Pool, Inc.
Docket No. ER07–736, Southwest Power Pool, Inc.
Docket No. ER07–828, Southwest Power Pool, Inc.
Docket No. ER07–886, Southwest Power Pool, Inc.
Docket No. EL07–27, East Texas Electric Cooperative, Inc., *et al.* and
Docket No. ER07–396, Southwest Power Pool, Inc.

These meetings are open to the public.

For more information, contact John Rogers, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission at (202) 502–8564 or *john.rogers@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10549 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM05–17–000; RM05–25–000]

Preventing Undue Discrimination and Preference in Transmission Service; Supplemental Notice of Technical Conferences

May 25, 2007.

On April 6, 2007, as supplemented on May 4, 2007, the Commission issued notices scheduling staff technical conferences in the above-captioned proceeding. As stated in the April 6 notice, these technical conferences will review and discuss the ''strawman'' proposals regarding processes for transmission planning required by the Final Rule issued in this proceeding on February 16, 2007.[1] The Commission hereby provides the following additional information and instruction regarding these conferences.

The attached agenda details the dates and times of the technical conferences and identifies the companies presenting their strawman proposals, and the customer and industry groups to be represented in the stakeholder panels. To the extent a transmission provider is not listed or otherwise represented by a planning group as detailed on the attached agendas, it should contact the staff members listed below as soon as possible. In addition, each transmission provider should e-mail Commission staff with an electronic link to its strawman proposal at *890Planning.Strawman@ferc.gov* as soon as such proposal is posted on the transmission provider's Web site. The Commission will provide access to links to all strawman proposals in the OATT Reform section of the Commission's Web site at *http://www.ferc.gov/industries/electric/indus-act/oatt-reform/strawman-info.asp*.

Representatives of the customer groups identified on the attached agenda and other interested persons should please contact the staff identified below if interested in participating as a panelist.[2] In the event a transmission provider or interested party is uncertain as to which technical conference is relevant, such persons should contact staff in advance to discuss the matter.

For further information about these conferences, please contact:

W. Mason Emnett, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6540, *Mason.Emnett@ferc.gov*.

Daniel Hedberg, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6243, *Daniel.Hedberg@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–10531 Filed 5–31–07; 8:45 am]

BILLING CODE 6717–01–P

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[1] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶31,241 at P 443 (2007), *reh'g pending*.

[2] A/V equipment will be available for panelists wishing to use PowerPoint or similar presentations.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6687–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2007 (72 FR 17156).

Draft EISs

EIS No. 20070116, ERP No. D–AFS–J65478–00, Norwood Project, Proposes to Implement Multiple Resource Management Actions, Black Hills National Forest, Hell Canyon Ranger District, Pennington County, SD and Weston and Crook Counties, WY.

Summary: EPA expressed environmental concerns about impacts to water quality, impacts to wetlands, impacts from noxious and invasive weeds, and impacts to wildlife habitat. Also, the final EIS should include information about future interactions with the soon to be completed cellulosic ethanol plant.

Rating EC2.

EIS No. 20070119, ERP No. D–NOA–L02034–AK, PROGRAMMATIC—Outer Continental Shelf Seismic Surveys in the Beaufort and Chukchi Seas, Proposed Offshore Oil and Gas Seismic Survey, AK.

Summary: EPA expressed environmental concerns about the uncertainties presented in the document that do not provide support for many of the documents alternatives and conclusions. EPA also requested that the cumulative effects analysis be expanded.

Rating EC2.

EIS No. 20070122, ERP No. D–BLM–J03020–00, Overland Pass Natural Gas Liquids Pipeline Project (OPP), Construction and Operation of 760 Mile Natural Gas Liquids Pipeline, Right-of-Way Grant, KS, WY and CO.

Summary: EPA expressed environmental concerns about potential impacts to river and stream water quality. EPA requested additional analysis of water quality impacts and mitigation measures.

Rating EC2.

EIS No. 20070154, ERP No. D–NOA–E91018–00, Amendment 27 to the Reef Fish Fishery Management Plan and Amendment 14 to the Shrimp Fishery Management Plan, To Address Stock Rebuilding and Overfishing of Red Snapper, Gulf of Mexico.

Summary: EPA does not object to the proposed actions.

Rating LO.

EIS No. 20070140, ERP No. DR–NOA–A91073–00, PROGRAMMATIC—Toward an Ecosystem Approach for the Western Pacific Region: From Species-Based Fishery Management Plans to Place-Based Fishery Ecosystem Plans, Bottomfish and Seamount Groundfish, Coral Reef Ecosystems, Crustaceans, Precious Corals, Pelagics, Implementation, American Samoa, Commonwealth of the Northern Mariana Islands, Hawaii, U.S. Pacific Remote Island Area.

Summary: EPA expressed a lack of objections to the proposed action.

Rating LO.

Final EISs

EIS No. 20070164, ERP No. F–AFS–J65440–MT, Northeast Yaak Project, Additional Documentation of Cumulative Effects Analysis, Proposed Harvest to Reduce Fuels in Old Growth, Implementation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT.

Summary: EPA continues to express concern about impacts to wildlife habitat.

Dated: May 29, 2007.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E7–10600 Filed 5–31–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6687–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements

Filed 05/21/2007 Through 05/25/2007

Pursuant to 40 CFR 1506.9.

EIS No. 20070205, Draft EIS, AFS, WA, Tripod Fire Salvage Project, Proposal to Salvage Harvest Dead Trees and Fire-Injured Trees Expected to Die Within One Year, Methow Valley and Tonasket Ranger Districts, Okanogan and Wenatchee National Forests, Okanogan County, WA, *Comment Period Ends:* 07/16/2007, *Contact:* John Newcom 509–996–4003.

EIS No. 20070206, Final EIS, FHW, NY, NY Route 347 Safety and Mobility Improvement Project, from Northern State Parkway to NY Route 25A, Funding, Towns of Smithtown, Islip and Brookhaven, Suffolk County, NY, *Wait Period Ends:* 07/02/2007, *Contact:* Robert Arnold 518–431–4167.

EIS No. 20070207, Draft EIS, AFS, SD, Citadel Project Area, Proposes to Implement Multiple Resource Management Actions, Northern Hills Ranger District, Black Hills National Forest, Lawrence County, SD, *Comment Period Ends:* 07/16/2007, *Contact:* Chris Stores 605–642–4622.

EIS No. 20070208, Draft EIS, HUD, CA, Vista Village Workforce Housing Project, To Provide Professional Managed Affordable Housing, Tahoe Vista, Placer County, CA, *Comment Period Ends:* 07/16/2007, *Contact:* Joanne Auerboch 530–745–3150.

EIS No. 20070209, Draft EIS, FHW, NY, Long Island Truck-Rail Intermodel (LITRIM) Facility, Construction and Operation, Right-of-Way Acquisition, Town of Islip, Suffolk County, NY, *Comment Period Ends:* 07/25/2007, *Contact:* Robert Arnold 518–431–4127.

EIS No. 20070210, Draft EIS, USA, CA, Carmp Parks Real Property Master Plan and Real Property Exchange, Provide Exceptional Training and Modern Facilities for Soldiers, Master Planned Development, Alameda and Contra Costa Counties, CA, *Comment Period Ends:* 07/16/2007, *Contact:* Amy Phillip 925–875–4298.

EIS No. 20070211, Draft EIS, AFS, OR, Thorn Fire Salvage Recovery Project, Salvaging Dead and Dying Timber, Shake Table Fire Complex, Malheur National Forest, Grant County, OR, *Comment Period Ends:* 07/16/2007, *Contact:* Jerry Hensley 541–575–3000.

EIS No. 20070212, Draft EIS, TVA, AL, Bear Creek Dam Leakage Resolution Project, To Modify Dam and Maintain Summer Pool Level of 576 Feet, Bear Creek Dam, Franklin County, AL, *Comment Period Ends:* 07/16/2007, *Contact:* James F. Williamson 865–632–6418.

EIS No. 20070213, Draft EIS, DOE, 00, FutureGen Project, Planning, Design, Construction and Operation a Coal Fueled Electric Power and Hydrogen Gas Production Plant, Four Alternative Sites: Mattoon, IL, Tuscola, IL, Jewett, TX and Odessa, TX, *Comment Period Ends:* 07/16/

2007, *Contact:* Mark McKoy 304–285–4426.

EIS No. 20070214, Final EIS, FRC, 00, East Texas to Mississippi Expansion Project, Construction and Operation of 243.3 miles Natural Gas Pipeline to Transport Natural Gas from Production Fields in eastern Texas to Markets in the Gulf Coast, Midwestern, Northeastern and Southeastern United States, *Wait Period Ends:* 07/02/2007, *Contact:* Andy Black 1–866–208–3372.

EIS No. 20070216, Draft Supplement, AFS, 00, Southwest Idaho Ecogroup Land and Resource Management Plan, Additional Information Concerning Terrestrial Management Indicator Species (MIS), Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Several Counties, ID; Malhaur County, OR and Box Elder County, UT, *Comment Period Ends:* 08/30/2007, *Contact:* Sharon LaBrecque 208–737–3200.

EIS No. 20070217, Final EIS, CDB, NY, East River Waterfront Esplanade and Piers Project, Revitalization, Connecting Whitehall Ferry Terminal and Peter Minuit Plaza to East River Park, Funding New York, NY, *Wait Period Ends:* 07/02/2007, *Contact:* Irene Chang 212–962–2300.

EIS No. 20070218, Draft EIS, FHW, CA, Interstate 405 (San Diego Freeway) Sepulveda Pass Widening Project, From Interstate 10 to US–101 in the City of Los Angeles, Los Angeles County, CA, *Comment Period Ends:* 07/16/2007, *Contact:* Steve Healow 916–498–5849.

EIS No. 20070219, Final EIS, AFS, 00, Norwood Project, Proposes to Implement Multiple Resource Management Actions, Black Hills National Forest, Hell Canyon Ranger District, Pennington County, SD and Weston and Crook Counties, WY, *Wait Period Ends:* 07/02/2007, *Contact:* Kelly Honors 605–673–4853.

Amended Notices

EIS No. 20070069, Second Final Supplement, FHW, WV, Appalachian Corridor H Project, Construction of a 9-mile Long Segment between the Termini of Parsons and Davis, Updated Information the Parsons-to-Davis Project, Funding and U.S. Army COE Section 404 Permit Issuance, Tucker County, WV, *Wait Period Ends:* 08/01/2007, *Contact:* Thomas J. Smith 304–347–5928. Revision to FR Notice Published 03/02/2007: Reopen and Extending Comment Period from 4/27/2007 to August 1, 2007.

Dated: May 29, 2007.

Ken Mittelholtz,

Environmental Protection Specialist, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–10593 Filed 5–31–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0072; FRL–8131–1]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any currently registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before July 31, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0072, 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.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0072. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal 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 telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Eugene Wilson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6103; e-mail address: *wilson.eugene@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 264–ILO. *Applicant*: Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. *Product name*: AE 0172747 Technical. *Product type:* Herbicide. *Active ingredient*: 2-[2-chloro-4-(methylsulfonyl)-3-[2,2,2-trifluoroethoxy)methyl]benzoyl]-1,3 cyclohexanedione) at 96.2%. *Proposal classification/Use*: Field and silage corn, seed corn, sweet corn and popcorn.

2. *File Symbol*: 264–IAN. *Applicant*: Bayer CropScience. *Product name*: Laudis Herbicide. *Product type:* Herbicide. *Active ingredient*: 2-[2-chloro-4-(methylsulfonyl)-3-[2,2,2-trifluoroethoxy)methyl]benzoyl]-1,3 cyclohexanedione) at 34.5%. *Proposal classification/Use*: Field and silage corn, seed corn, sweet corn and popcorn.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: May 17, 2007.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–10519 Filed 5–31–07; 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 25, 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 July 31, 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 Paperwork Reduction Act (PRA) comments by e-mail or U.S. post mail. To submit you 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, Office of Management and Budget (OMB) Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax (202) 395–5167.

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:* 3060–0874.

Title: 475–B and 2000 Consumer Complaint Forms.

Form No.: FCC Forms 475–B; 2000–A, 2000–B, 2000–C, 2000–D, 2000–E, and 2000–F.

Type of Review: Revision of currently approved collection.

Respondents: Individuals or households; Business and other for-profit entities; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 1,330,108 (FCC Forms 475–B: 1,271,332; 2000A through 2000F: 58,776).

Estimated Time per response: 15 minutes per form for the Form 475–B; 30 minutes per form for the Form 2000.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary.

Total Annual Burden: 347,221 (FCC Forms 475–B: 317,833 hours; 2000A through 2000F: 29,388 hours).

Total Annual Costs: $0.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CIB–1, ''Informal Complaints and Inquiries.''

Privacy Act Impact Assessment: Under development.

Needs and Uses: Section 208(a) of the Communications Act of 1934, as amended, authorizes complaints by any ''person complaining of anything done or omitted to be done by any common carrier'' subject to the provisions of the Act. Section 208(a) further states that, if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Although the Act does not discuss how the Commission should treat complaints against non-common carriers for violations of the Act or Commission rules, the Commission investigates such complaints in a manner similar to how it treats those against common carriers.

Currently, the Commission has specific complaint forms for the unauthorized conversion of a person's telephone service (''slamming'') (FCC Form 501), the broadcast of indecent, obscene, or profane material (FCC Form 475B), and the unlawful telemarketing, ''junk faxing,'' or e-mail messaging to a wireless device (FCC Form 1088). The current FCC Form 475 is used for all other types of complaints, although, as currently drafted, it is predominately oriented toward common carrier complaints.

The proposed FCC Form 2000 replaces current FCC Form 475, providing greater clarity and ease of use by separating the various complaint subject areas into separate subparts tailored to each subject. The Internet-based version of FCC Form 2000 first asks for the complainant's contact information, including name, address, telephone number, and e-mail address; then presents a ''gateway'' question to determine the general topic of the complaint: (1) Deceptive or unlawful advertising or marketing; (2) billing, privacy, or service quality; (3) disability access; (4) emergency or public safety; (5) general media issues; or (6) other complaints. As described below, the form provides examples of the types of issues covered by each topic. After the complainant answers this question, the form asks additional questions geared to the specific type of violation reported. The form poses certain mandatory threshold questions that must be answered for the Commission to determine whether a violation has occurred. It also provides space for complainants to provide additional information and details that may be necessary or helpful to the Commission in investigating the complaint.

In printed format, FCC Form 2000 will have six subparts, one for each area described above. Each subpart of the printable version of FCC Form 2000 consolidates the complainant's personal information with detailed questions about the specific violations alleged by the complainant. The following descriptions of FCC Form 2000A, 2000B, 2000C, 2000D, 2000E and 2000F, therefore, refer to the printable subparts of FCC Form 2000.

FCC Form 2000A, Deceptive or Unlawful Advertising or Marketing Complaint. This form would be used if the complainant alleges deceptive or otherwise unlawful advertising or marketing by communications companies, including common carriers, broadcasters, and cable and satellite service providers. The consumer protection issues covered by this form include deceptive advertising by telephone companies, wireless service providers, or Internet access service providers, as well as subliminal advertising on radio or television, illegal advertisements on non-commercial educational television or radio stations, and excessive or otherwise unlawful commercials during children's television programming.

FCC Form 2000B, Billing, Privacy, or Service Quality Complaint. This form would be used if the complainant alleges billing, privacy, or service quality issues with a telephone company or wireless provider. The consumer protection issues covered by this form include complaints about the quality or availability of service by a telephone company, wireless provider, or Internet access service provider, including complaints that a telephone company or wireless provider is not allowing the complainant to keep his or her telephone number after changing service providers. Complainants also would use this form for complaints about the unauthorized disclosure of calling records by telephone companies or wireless providers.

FCC Form 2000C, Disability Access Complaint. This form would be used for complaints about disability access, *e.g.*, issues with Telecommunications Relay Service (TRS), closed captioning, or the accessibility of emergency information. This form would also be used for complaints about the accessibility of telecommunications equipment and services such as the compatibility of hearing aids with both wireless and wireline telephone equipment.

FCC Form 2000D, Emergency or Public Safety Complaint. This form would be used for complaints regarding problems with communications companies about emergency or public safety issues. This form would be used for complaints about the quality or availability of Enhanced 911 service, interference with emergency/public safety communications or devices, radio tower problems (lighting, fencing, painting), Emergency Alert System (EAS) problems, and cable signal leakage.

FCC Form 2000E, Media (General) Complaint. This form would be used for complaints alleging misconduct by radio or television stations, cable systems, or satellite operators. This form would cover a broad spectrum of complaints, including those alleging unfair contests, hoaxes, payola or sponsorship identification problems, news distortion, unauthorized or pirate broadcasters, and the broadcast of telephone conversations without prior notice.

FCC Form 2000F, Other Communications Complaint Not Covered by Form 2000A through Form 2000E. This form would be used for complaints that do not come within the scope of any of the other subparts of FCC Form 2000. Some of the areas covered by this form would be

interference to non-emergency services or communications, such as garage door openers or home appliances, as well as amateur or Citizens Band (CB) radio issues.

FCC Form 2000 will allow the Commission to collect detailed information from complainants concerning possible violations of the Act and the Commission's rules, which will enable the Commission to investigate such allegations more efficiently and to initiate enforcement actions against violators as appropriate. By collecting complaint information in a single, comprehensive template, the form will provide a standardized way for complainants to provide their information, thus reducing the need for further documentation or questions from FCC investigators to determine whether violations have occurred. This approach will ensure that complainants present their information in a way that maximizes the FCC's ability to take enforcement action against violators and protects complainants from violations that are unjust, unreasonable, and potentially hazardous to life and property. Additionally, FCC Form 2000's format reduces the need for complainants to compose narratives with all the information necessary for the Commission to begin an investigation, principally by including fields for and examples of the information most commonly needed for investigations of the most common types of violations. The form will allow the Commission to gather and review this information more efficiently. The information collected by FCC Form 2000 may ultimately become the foundation for enforcement actions and/or rulemaking proceedings, as appropriate.

FCC Form 475–B, Obscene, Profane, and Indecent Complaint Form. This form is used by consumers to lay out precisely their complaint(s) and issue(s) concerning the practices of the communications entities, which consumers believe may have aired obscene, profane, and/or indecent programming. FCC Form 475–B will remain unchanged.

Note: In this document, the Commission corrects inaccuracies published in 71 FR 53686, September 12, 2006, regarding OMB Control No. 3060–0874.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E7–10575 Filed 5–31–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of First Meeting of the Physical Activity Guidelines Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice of meeting.

Authority: 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended. The Committee is governed by the provision of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

SUMMARY: The U.S. Department of Health and Human Services (HHS) announces the first in a series of three federal advisory committee meetings on the Physical Activity Guidelines for Americans, to be held in Washington, DC. These meeting will be open to the public. The Physical Activity Guidelines Advisory Committee will review existing scientific literature to identify where there is sufficient evidence to develop a comprehensive set of specific physical activity recommendations. The Committee will prepare a report to the Secretary of HHS that documents the scientific background and rationale for the issuance of Physical Activity Guidelines for Americans. The report will also identify areas where further scientific research is needed. HHS will use the Final Report of the Committee to develop Physical Activity Guidelines. The intent is to issue physical activity recommendations for all Americans that will be tailored as necessary for specific subgroups of the population.

DATES: The Committee will meet on June 28–29, 2007 for a day and a half meeting.

ADDRESSES: The meeting will be held at the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, located at 200 Independence Avenue, SW., Room 800, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: CAPT Richard Troiano, Ph.D., Executive Secretary, Physical Activity Guidelines Advisory Committee, Department of Health and Human Services, Office of Public Health and Science, Office of Disease Prevention and Health Promotion, Room LL–100, 1101 Wootton Parkway, Rockville, MD 20852, 240/453–8280 (telephone), 240/453–8281 (fax). Additional information is available on the Internet at *http://www.health.gov/PAguidelines.*

SUPPLEMENTARY INFORMATION: The Physical Activity Guidelines Advisory Committee: The thirteen-member Committee is chaired by William Haskell, Ph.D., Professor of Medicine, Stanford University School of Medicine. The Vice-Chair is Miriam Nelson, Ph.D., Director, John Hancock Center for Physical Activity and Nutrition, Friedman School of Nutrition Science and Policy, Tufts University. Other members of the Committee include Rod K. Dishman, Ph.D., Professor of Exercise Science and Director, Exercise Psychology Laboratory, Department of Kinesiology, University of Georgia; Edward Howley, Ph.D., Professor Emeritus, Department of Exercise, Sport, and Leisure Studies, University of Tennessee; Wendy Kohrt, Ph.D., Professor of Medicine, Division of Geriatric Medicine, University of Colorado at Denver and Health Sciences Center; William Kraus, M.D., Professor, Division of Cardiovascular Medicine, Duke University School of Medicine; I-Min Lee, M.D., Sc.D., Associate Professor of Medicine, Harvard Medical School and Associate Professor of Epidemiology, Harvard School of Public Health; Anne McTiernan, M.D., Ph.D., Director, Prevention Center, Fred Hutchinson Cancer Research Center; Russell Pate, Ph.D., Associate Vice President for Health Sciences, Office of Research and Health Sciences and Professor, Department of Exercise Science, University of South Carolina; Kenneth Powell, M.D., M.P.H., Public Health and Epidemiologic Consultant; Judith Regensteiner, Ph.D., Professor Department of Medicine and Director, Center for Women's Health Research, University of Colorado at Denver and Health Sciences Center: James Rimmer, Ph.D., Professor and Director, National Center on Physical Activity and Disability, Department of Disability and Human Development, University of Illinois at Chicago; and Antronette Yancey, M.D., M.P.H., Professor, Department of Health Services, University of California at Los Angeles School of Public Health.

Purpose of Meeting: Over the past 40 years, many organizations, including the Federal Government, have issued physical activity recommendations. While the various recommendations illustrate scientific consensus on the health benefits of physical activity, they differ from each other in the particular recommendations and highlighted benefits. The Physical Activity Guidelines Advisory Committee will review existing scientific literature to identify where there is sufficient evidence to develop a comprehensive

set of specific physical activity recommendations. The Committee will prepare a report to the Secretary of HHS that documents the scientific background and rationale for the issuance of Physical Activity Guidelines for Americans. The report will also identify areas where further scientific research is needed. HHS will use the Final Report of the Committee to develop Physical Activity Guidelines. The intent is to develop physical activity recommendations for all Americans that will be tailored as necessary for specific subgroups of the population.

Public Participation at Meeting: Members of the public are invited to observe the Advisory Committee meeting. Please note it is anticipated that there will be no oral public comments during the initial Physical Activity Guidelines Advisory Committee meeting, however, written comments are welcome throughout the Guidelines development process and may be e-mailed to *PA.guidelines@hhs.gov.* A summary of the Advisory Committee meetings will be made available shortly after each meeting.

To observe the Committee meeting, individuals must pre-register at the Physical Activity Guidelines Web site at *http://www.health.gov/PAguidelines.* Registrations must be completed by June 22, 2007. Space for the meeting is limited. Registrations will be accepted until maximum room capacity is reached. A waiting list will be maintained should registrations exceed room capacity. Individuals on the waiting list will be contacted as additional space for the meeting becomes available.

Registrants for the Physical Activity Advisory Committee meeting must present valid government-issued photo identification (i.e., driver's license) and should arrive 45 minutes prior to the start of the meeting to pass through security.

Registration questions may be directed to Experient at *PAguidelines@experient-inc.com* (e-mail), (703) 525–8333 x3349 (phone) or (703) 525–8557 (fax).

Dated: May 22, 2007.

Penelope Slade Royall,

RADM, USPHS, Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

[FR Doc. E7–10440 Filed 5–31–07; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0197]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that a collection of information entitled ''Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 15, 2006 (71 FR 75555), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned

OMB control number 0910–0502. The approval expires on May 31, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: May 29, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–10617 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007E–0046]

Determination of Regulatory Review Period for Purposes of Patent Extension; ZILMAX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ZILMAX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Submit written comments and petitions 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.*

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(j)) became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and

continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product ZILMAX (zilpaterol hydrochloride). ZILMAX is indicated for increased rate of weight gain, improved feed efficiency, and increased carcass leanness in cattle fed in confinement for slaughter during the last 20 to 40 days on feed. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ZILMAX (U.S. Patent No. 4,900,735) from Intervet International B.V., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 5, 2007, FDA advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of ZILMAX represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ZILMAX is 4,720 days. Of this time, 4,674 days occurred during the testing phase of the regulatory review period, while 46 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the act involving this animal drug product became effective*: September 9, 1993. FDA has verified the applicant's claim that the date the investigational new animal drug application (INAD) became effective was on September 9, 1993.

2. *The date the application was initially submitted with respect to the animal drug product under section 512(b) of the act*: June 26, 2006. FDA has verified the applicant's claim that the new animal drug application (NADA) for ZILMAX (NADA 141–258) was initially submitted on June 26, 2006.

3. *The date the application was approved*: August 10, 2006. FDA has verified the applicant's claim that NADA 141–258 was approved on August 10, 2006.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 31, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 28, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–10602 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007E–0011]

Determination of Regulatory Review Period for Purposes of Patent Extension; LANTUS

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for LANTUS and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions 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*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA approved for marketing the human drug product LANTUS (insulin glargine [rDNA origin]). LANTUS is indicated for once-daily subcutaneous administration for the treatment of adult and pediatric patients with type 1 diabetes mellitus or adult patients with type 2 diabetes mellitus who require basal (long-acting) insulin for the

control of hyperglycemia. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for LANTUS (U.S. Patent No. 5,101,013) from Hoechst Aktiengesellschaft, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 26, 2007, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of LANTUS represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for LANTUS is 1,591 days. Of this time, 1,227 days occurred during the testing phase of the regulatory review period, while 364 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: December 14, 1995. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on December 14, 1995.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: April 23, 1999. FDA has verified the applicant's claim that the new drug application (NDA) for LANTUS (NDA 21–081) was initially submitted on April 23, 1999.

3. *The date the application was approved*: April 20, 2000. FDA has verified the applicant's claim that NDA 21–081 was approved on April 20, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 976 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 31, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 28, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–10632 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E–0259]

Determination of Regulatory Review Period for Purposes of Patent Extension; X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions 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*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM. X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM is indicated for treatment of patients aged 50 or older suffering from neurogenic intermittent claudication secondary to a confirmed diagnosis of lumbar spinal stenosis (with x-ray, magnetic resonance imaging (MRI), and/or computerized tomography (CT) evidence of thickened ligamentum flavum, narrowed lateral recess and/or central canal narrowing). The X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM is indicated for those patients with moderately impaired physical function who experience relief in flexion from their symptoms of leg/buttock/groin pain, with or without back pain, and have undergone a regimen of at least 6 months of nonoperative treatment. The X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM may be implanted at one or two lumbar levels in patients in whom operative treatment is indicated at no more than two levels. Subsequent to this approval, the Patent and Trademark Office received a patent

term restoration application for X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM (U.S. Patent No. 6,235,030) from St. Francis Medical Technologies, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 12, 2006, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM is 2,224 days. Of this time, 1,538 days occurred during the testing phase of the regulatory review period, while 686 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective*: October 22, 1999. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective on February 11, 2000. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on October 22, 1999, which represents the IDE effective date.

2. *The date an application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: January 6, 2004. FDA has verified the applicant's claim that the premarket approval application (PMA) for X-STOP INTERSPINOUS PROCESS DECOMPRESSION SYSTEM (PMA P040001) was initially submitted January 6, 2004.

3. *The date the application was approved*: November 21, 2005. FDA has verified the applicant's claim that PMA P040001 was approved on November 21, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,053 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 31, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 28, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–10618 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E–0282]

Determination of Regulatory Review Period for Purposes of Patent Extension; PHAKIC INTRAOCULAR LENSES

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PHAKIC INTRAOCULAR LENSES and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions 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*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA approved for marketing the medical device, PHAKIC INTRAOCULAR LENSES. PHAKIC INTRAOCULAR LENSES is indicated for: (1) The reduction or elimination of myopia in adults with myopia ranging from -5 to -20 diopters with less than or equal to 2.5 diopters of astigmatism at the spectacle plane and whose eyes have an anterior chamber depth greater than or equal to 3.2 millimeters; and (2) patients with documented stability of refraction for the prior 6 months, as demonstrated by spherical equivalent change of less than or equal to 0.50 diopters. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration

application for PHAKIC INTRAOCULAR LENSES (U.S. Patent No. 5,192,319) from Ophtec USA, Inc., subsidiary of Ophtec B.V., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 5, 2006, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of PHAKIC INTRAOCULAR LENSES represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for PHAKIC INTRAOCULAR LENSES is 2,545 days. Of this time, 2,107 days occurred during the testing phase of the regulatory review period, while 438 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective*: September 24, 1997. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective September 24, 1997.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: July 1, 2003. FDA has verified the applicant's claim that the premarket approval application (PMA) for PHAKIC INTRAOCULAR LENSES (PMA P030028) was initially submitted July 1, 2003.

3. *The date the application was approved*: September 10, 2004. FDA has verified the applicant's claim that PMA P030028 was approved on September 10, 2004.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,484 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 31, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 28, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–10631 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E–0234]

Determination of Regulatory Review Period for Purposes of Patent Extension; GEM 21S GROWTH–FACTOR ENHANCED MATRIX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for GEM 21S GROWTH–FACTOR ENHANCED MATRIX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions 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*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA approved for marketing the medical device, GEM 21S GROWTH–FACTOR ENHANCED MATRIX. GEM 21S GROWTH–FACTOR ENHANCED MATRIX is indicated to treat the following periodontally related defects: (1) Intrabony periodontal defects, (2) furcation periodontal defects, and (3) gingival recession associated with periodontal defects. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for GEM 21S GROWTH–FACTOR ENHANCED MATRIX (U.S. Patent No. 5,124,316) from Biomimetic Therapeutics, Inc. (previously Biomimetic Pharmaceuticals, Inc.), and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 8, 2007, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of GEM 21S GROWTH–FACTOR

ENHANCED MATRIX represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for GEM 21S GROWTH–FACTOR ENHANCED MATRIX is 1,361 days. Of this time, 744 days occurred during the testing phase of the regulatory review period, while 617 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective*: February 28, 2002. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective February 28, 2002.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: March 12, 2004. FDA has verified the applicant's claim that the premarket approval application (PMA) for GEM 21S GROWTH–FACTOR ENHANCED MATRIX (PMA P040013) was initially submitted March 12, 2004.

3. *The date the application was approved*: November 18, 2005. FDA has verified the applicant's claim that PMA P040013 was approved on November 18, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 987 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 31, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 28, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–10633 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0088]

Guidance for Industry: Clinical Data Needed to Support the Licensure of Pandemic Influenza Vaccines; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Clinical Data Needed to Support the Licensure of Pandemic Influenza Vaccines,'' dated May 2007. The guidance document provides to sponsors of pandemic influenza vaccines guidance on clinical development approaches to facilitate and expedite the licensure of influenza vaccines for the prevention of disease caused by pandemic influenza viruses. The guidance provides recommendations concerning clinical data to support traditional license approval of a biologics license application (BLA), or a BLA using the accelerated approval pathway. The guidance announced in this notice finalizes the draft guidance of the same title dated March 2006.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Swisher, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Clinical Data Needed to Support the Licensure of Pandemic Influenza Vaccines,'' dated May 2007. This document is intended to provide sponsors of pandemic influenza vaccines guidance on clinical development approaches to facilitate and expedite the licensure of influenza vaccines where the intended indication is for active immunization in persons at high risk of exposure to, or during a pandemic caused by, pandemic influenza viruses. The approaches in this guidance apply to both nonadjuvanted and adjuvanted hemagglutinin-based pandemic vaccines, including ''split virus,'' subunit, and whole virus inactivated vaccines propagated in embryonated chicken eggs or cell-culture, and to recombinant hemagglutinin-based protein vaccines, and DNA vaccines that express hemagglutinin. Also addressed are live attenuated influenza vaccines.

In the **Federal Register** of March 10, 2006 (71 FR 12366), FDA announced the availability of the draft guidance of the same title dated March 2006. FDA received several comments on the draft guidance. FDA considered those comments when finalizing the guidance. The guidance announced in this notice finalizes the draft guidance dated March 2006.

In the March 2006 draft guidance, FDA stated that clinical trial data could be submitted as a clinical efficacy supplement to an original BLA when the manufacturer has a U.S.-licensed trivalent inactivated or live attenuated influenza vaccine. After reviewing comments on the draft guidance and considering the matter further, we

revised our recommendations in the final guidance. All submissions for the initial licensure of a pandemic influenza vaccine should be submitted as BLAs, which will provide for a trade name and labeling specific to the pandemic vaccine. For sponsors with existing licensed seasonal inactivated or live attenuated influenza vaccines who intend to file a BLA for a pandemic influenza vaccine that utilizes the same manufacturing process, we would expect that the BLA would reference the original BLA, including the nonclinical and chemistry, manufacturing, and controls data in their original BLA. Manufacturers that do not have existing licensed influenza vaccines, or that do, but are seeking to license a pandemic influenza vaccine utilizing a different manufacturing process, may seek accelerated approval according to the provisions of 21 CFR 601.41.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents FDA's current thinking on this 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 alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. 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 601 have been approved under OMB control number 0910–0338 and in 21 CFR part 312 have been approved under OMB control number 0910–0014.

III. Comments

Interested persons may, at any time, submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the guidance. 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. 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.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: May 17, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–10499 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0083]

Guidance for Industry: Clinical Data Needed to Support the Licensure of Seasonal Inactivated Influenza Vaccines; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Clinical Data Needed to Support the Licensure of Seasonal Inactivated Influenza Vaccines,'' dated May 2007. The guidance document is intended to provide to sponsors of seasonal inactivated influenza vaccines guidance on clinical development approaches to support a biologics license application (BLA). The guidance provides recommendations concerning clinical data to support traditional and accelerated license approvals for new seasonal inactivated influenza vaccines. The guidance announced in this notice finalizes the draft ''Guidance for Industry: Clinical Data Needed to Support the Licensure of Trivalent Inactivated Influenza Vaccine'' dated March 2006.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Swisher, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Clinical Data Needed to Support the Licensure of Seasonal Inactivated Influenza Vaccines,'' dated May 2007. The guidance is intended to provide to sponsors of seasonal inactivated influenza vaccines guidance on the clinical data needed to support a BLA. The approaches in the guidance apply to both nonadjuvanted and adjuvanted hemagglutinin-based seasonal vaccines, including ''split virus,'' subunit, and whole virus inactivated vaccines propagated in embryonated chicken eggs or cell-culture, and to recombinant hemagglutinin-based protein vaccines, and DNA vaccines that express hemagglutinin.

Licensure of seasonal inactivated influenza vaccines may be sought through either traditional or accelerated pathways. The guidance provides recommendations for clinical data to support traditional and accelerated license approvals for new seasonal inactivated influenza vaccines.

In the **Federal Register** of March 10, 2006 (71 FR 12367), FDA announced the availability of the draft guidance entitled ''Clinical Data Needed to Support the Licensure of Trivalent Inactivated Influenza Vaccines'' dated March 2006. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. The changes in the final guidance include a change from the term ''trivalent'' inactivated influenza vaccines to ''seasonal'' inactivated influenza vaccines. This change was made to provide flexibility for evolving public health needs, including the development of vaccines with either more than three or less than three antigens. In addition, editorial changes were made to improve clarity.

The guidance announced in this notice finalizes the draft guidance dated March 2006.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents FDA's current thinking on this 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 alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. 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 601 have been approved under OMB control number 0910–0338; those in 21 CFR part 600 have been approved under OMB control number 0910–0308; and those in 21 CFR part 312 have been approved under OMB control number 0910–0014.

III. Comments

Interested persons may, at any time, submit to the Division of Dockets Management (See **ADDRESSES**) written or electronic comments regarding the guidance. 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 the 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.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: May 17, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–10497 Filed 5–31–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5125–N–22]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Veronica Rines, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–ZS, Rm 8536, 2511 Jefferson Davis Hwy., Arlington, VA 22202; (703)

601–2545; *Air Force:* Ms. Kathryn M. Halvorson, Director, Air Force Real Property Agency, 1700 North Moore St., Suite 2300, Arlington, VA 22209–2802; (703) 696–5502; *COE:* Ms. Tracy Beck, Army Corps of Engineers, Office of Counsel, CECC–R, 441 G Street, NW., Washington, DC 20314; (202) 761–0019; (These are not toll-free numbers).

Dated: May 24, 2007.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report for 06/01/2007 05/24/2007

Unsuitable Properties

Building

Florida

Bldgs. 05531, 70666
Cape Canaveral
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18200720001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Floodway

Hawaii

Bldgs. 102, 103, 104, 105
Hickam Petro Products Storage Annex
Wheeler HI
Landholding Agency: Air Force
Property Number: 18200720002
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 106, 107, 108, 109
Hickam Petro Products Storage Annex
Wheeler HI
Landholding Agency: Air Force
Property Number: 18200720003
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Hawaii

Bldg. 83111
Hickam Petro Products Storage Annex
Wheeler HI
Landholding Agency: Air Force
Property Number: 18200720004
Status: Unutilized
Reasons: Extensive deterioration

Kansas

2 Bldgs.
School Creek Boat Ramp
Junction City KS
Landholding Agency: COE
Property Number: 31200720001
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
School Creek A Loop
Junction City KS 66441
Landholding Agency: COE
Property Number: 31200720002
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Massachusetts

Lee House
Knightville Dam Project
Huntington MA
Landholding Agency: COE
Property Number: 31200720003
Status: Unutilized
Reasons: Extensive deterioration

Former Environmental Lab
200 Coldbrook Road
Barre MA
Landholding Agency: COE
Property Number: 31200720004
Status: Unutilized
Reasons: Extensive deterioration

Missouri

Bldg. #55001
Cooper Creek
Warsaw MO 65355
Landholding Agency: COE
Property Number: 31200720005
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

New Jersey

Bldgs. 00350, 00352, 00354
Picatinny Arsenal
Morris NJ 07806
Landholding Agency: Army
Property Number: 21200720102
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 937, 1071D
Picatinny Arsenal
Morris NJ 07806
Landholding Agency: Army
Property Number: 21200720103
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material , Secured Area

Bldgs. 1361, 1372
Picatinny Arsenal
Morris NJ 07806
Landholding Agency: Army
Property Number: 21200720104
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 8339, 9014
Fort Dix
Ft. Dix NJ 08640
Landholding Agency: Army
Property Number: 21200720105
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

New Mexico

Bldg. 57009
Kirtland AFB
Bernalillo NM 87117
Landholding Agency: Air Force
Property Number: 18200720005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

New York

Bldgs. 21609, 22789
Fort Drum
Jefferson NY
Landholding Agency: Army
Property Number: 21200720106
Status: Unutilized
Reasons: Extensive deterioration

North Carolina

60 Vault Toilets
W. Kerr Scott Project
Wilkesboro NC 28697
Landholding Agency: COE
Property Number: 31200720006
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

North Dakota

Bldgs. 212, 218, 934
Grand Forks
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720006
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

67 Duplexes, 3BR
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720007
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

8 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720008
Status: Unutilized
Directions: 1156, 1160, 1301, 1307, 1802, 1806, 1825, 1829
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

North Dakota

Bldgs. 1158, 1159
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720009
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

10 Duplexes, 4BR
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720010
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

41 Duplexes, 3BR
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720011
Status: Unutilized

Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 1188
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720012
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

North Dakota

6 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720013
Status: Unutilized
Directions: 1190, 1300, 1800, 1801, 1807, 1841
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

13—6 Vehicle Garages
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1202, 1212, 1216
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720015
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

North Dakota

7 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720016
Status: Unutilized
Directions: 1204, 1206, 1210, 1213, 1214, 1215, 1217
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1211, 1218
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720017
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

7 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720018
Status: Unutilized
Directions: 1302, 1304, 1308, 1331, 1333, 1335, 1337
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

North Dakota

Bldgs. 1303, 1306
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

6 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720020
Status: Unutilized
Directions: 1364, 1808, 1817, 1818, 1821, 1822
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

14—4 Plexes, 3BR
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Unsuitable Properties

Building

North Dakota

Bldgs. 1360, 1368, 1399
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1612, 1741
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720024
Status: Unutilized
Directions: 1747, 1787, 1788, 1920
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

North Dakota

Bldgs. 1804, 1827
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720025
Status: Unutilized
Reasons: Secured Area Within 2000 ft. of flammable or explosive material

Bldgs. 1812, 1814
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720026
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 1836, 1838, 1840
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Unsuitable Properties

Building

North Dakota

7 Bldgs.
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720028
Status: Unutilized
Directions: 1883, 1889, 1895, 1897, 1901, 1907, 1913
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

8 Duplexes, 2BR
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Oklahoma

Bldg.
Sizemore Landing
Gore OK 74435
Landholding Agency: COE
Property Number: 31200720007
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Oklahoma

Bldg.
Taylor Ferry
Fort Gibson OK 74434
Landholding Agency: COE
Property Number: 31200720008
Status: Unutilized
Reasons: Extensive deterioration

Pennsylvania

Bldgs. 00302, 00630, 00846
Carlisle Barracks
Cumberland PA 17013
Landholding Agency: Army
Property Number: 21200720107
Status: Unutilized
Reasons: Extensive deterioration

Texas

Bldg. 13051
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720108
Status: Excess
Reasons: Extensive deterioration

Bldgs. 56226, 56228

Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720109
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Texas

Bldgs. 56520, 56521
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720110
Status: Excess
Reasons: Extensive deterioration

Bldg. 4483
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720111
Status: Excess
Reasons: Extensive deterioration

31 Bldgs.
Texoma Lake
Denison TX
Landholding Agency: COE
Property Number: 31200720009
Status: Unutilized
Reasons: Extensive deterioration

9 Bldgs.
Texoma Lake
Denison TX
Landholding Agency: COE
Property Number: 31200720010
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Texas

Summary for UNSUITABLE PROPERTIES
Total number of Properties 304

[FR Doc. E7–10368 Filed 5–31–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Regional Habitat Conservation Plan, Williamson County, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS); announcement of public scoping meeting; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), advise the public that we intend to prepare an EIS to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit under the Endangered Species Act to Williamson County, Texas, and/or the Williamson County Conservation Foundation (Applicant). We also announce a public scoping meeting and public comment period.

DATES: We must receive written comments on alternatives and issues to be addressed in the EIS by July 14, 2007. We will hold a public scoping meeting on June 14, 2007, from 5:30 p.m. to 7:30 p.m. at the Williamson County Central Maintenance Facility, 3151 S.E. Inner Loop, Georgetown, Texas 78626. The primary purpose of this meeting and public comment period is to receive suggestions and information on the scope of issues and alternatives to consider when drafting the EIS. We will accept oral and written comments at this meeting. You may also submit your comments to the address listed below. Once the draft EIS and Williamson County Regional Habitat Conservation Plan (RHCP) are completed, additional opportunity for public comment on the content of these documents and an additional public meeting will be provided.

ADDRESSES: Send written comments by mail to the Field Supervisor, at U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758, or by fax at 512/490–0974.

FOR FURTHER INFORMATION CONTACT: *EIS Information:* Mr. Scott Rowin, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; 512/490–0057 (phone); 512/490–0974 (fax); or *Scott_Rowin@fws.gov* (e-mail).

Williamson County RHCP Information: Ms. Connie Watson, Public Information Officer, Williamson County Courthouse, 710 Main Street, Georgetown, TX 78626; 512/943–1663 (phone).

Other Information: You may obtain information on the purpose, membership, meeting schedules, and documents associated with the Williamson County RHCP on the Internet at *http://www.wilco.org/wccf.*

SUPPLEMENTARY INFORMATION: We intend to prepare an EIS to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), to the Applicant. We also announce a public scoping meeting and public comment period. The Applicant proposes to apply for an incidental take permit through development and implementation of the Williamson County RHCP, as required by the Act. The Williamson County RHCP will include measures necessary to minimize and mitigate the impacts of the proposed taking of federally-listed and candidate species, and the habitats upon which they depend. We furnish this notice in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR 1500–1508) in order to: (1) Advise other Federal and State agencies, affected tribes, and the public of our intent to prepare an EIS; (2) announce the initiation of a public scoping period; and (3) obtain suggestions and information on the scope of issues and alternatives we will consider in our EIS. We intend to gather the information necessary to determine impacts and alternatives for an EIS regarding our potential issuance of an incidental take permit to the Applicant, and the implementation of the Williamson County RHCP. The Applicant will, to the maximum extent practicable, undertake to minimize and mitigate the impacts of such incidental take of federally protected species.

Purpose and Need for Action

Section 9 of the Act prohibits ''taking'' of fish and wildlife species listed as endangered or threatened under Section 4, such as the Bone Cave harvestman (*Texella reyesi*), Coffin Cave mold beetle (*Batrisodes texanus*), golden-cheeked warbler (*Dendroica chrysoparia*), and black-capped vireo (*Vireo atricapilla*). The term ''take'' under the Act means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Regulations define ''harm'' as significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). We may however under specified circumstances issue permits that allow the take of federally listed species incidental to, and not the purpose of, the carrying out of otherwise lawful activities. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively.

Section 10(a)(1)(B) of the Act contains provisions for issuing incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) The applicant will develop a habitat conservation plan and ensure that adequate funding for the plan will be provided; (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(5) The applicant will carry out any other measures that we may require as being necessary or appropriate for the purposes of the habitat conservation plan.

We anticipate that the applicant will request permit coverage for a period of 30 years. Among other actions, implementation of the Williamson County RHCP will result in the establishment of a conservation lands system that the Applicant believes will provide for the conservation of the covered species and their habitats in perpetuity. Research and monitoring described in the Williamson County RHCP, in combination with adaptive management, will be used to facilitate accomplishment of these goals.

Proposed Action

Our proposed action is the issuance of an incidental take permit for the covered species in Williamson County. The Applicant would develop and implement the Williamson County RHCP, which must meet the requirements in section 10(a)(2)(A) of the Act by providing measures to minimize and mitigate the impacts of the actions on the proposed taking of covered species and the habitats upon which they depend.

Activities we propose for coverage under the incidental take permit include lawful activities that would occur consistent with the Williamson County RHCP conservation guidelines and include, but are not limited to, construction and maintenance of county operations and other public capital improvement projects, as well as residential, commercial, and/or industrial development.

We expect the applicant to apply for an incidental take permit for four species listed as endangered or threatened within the county. These species include the following federally-listed species: Bone Cave harvestman, Coffin Cave mold beetle, golden-cheeked warbler, and black-capped vireo.

The Williamson County RHCP will also address 24 additional species that will not be covered by the proposed incidental take permit nor would be covered if the species should be listed as endangered or threatened in the future. The purpose of addressing the additional species in the RHCP is to encourage efforts to minimize and mitigate impacts of permitted actions on these species, primarily to reduce the likelihood that any of them will need to be listed in the future. One currently listed species, the Tooth Cave ground beetle (*Rhadine persephone*), is included as an additional species because it may benefit from the conservation measures proposed in the RHCP. The additional species also include the following 19 non-listed karst invertebrate species: *Aphrastochthonius* sps, *Arrhopalites texensis*, *Batrisodes cryptotexanus*, *Batrisodes reyesi*, *Cicurina browni*, *Cicurina buwata*, *Cicurina* n.sp., *Cicurina travisae*, *Cicurina vibora*, *Neoleptoneta anopica*, *Oncopodura fenestra*, *Rhadine* n.sp., *Rhadine noctivaga*, *Rhadine russelli*, *Rhadine subterranea mitchellii*, *Rhadine subterranea subterranea*, *Speodesmus bicornourus*, and *Tartarocreagris infernalis*. Four salamander species are included as well: the Georgetown salamander (*Eurycea naufragia*) and Salado Springs salamander (*Eurycea chisholmensis*), both candidate species; the Jollyville Plateau salamander (*Eurycea tonkawae*), a species recently petitioned to be listed; and the Buttercup Creek salamander (*Eurycea* n.sp.), a salamander restricted to the Buttercup Creek drainage in Williamson County that has yet to be given a scientific name. The Applicant expects that numerous other non-listed species, for which the Applicant is not seeking permit coverage, may also benefit from the conservation measures provided in the Williamson County RHCP.

Alternatives

The proposed action and alternatives that will be developed in the EIS will be assessed against the No Action/No Project alternative, which assumes that some or all of the current and future projects proposed in Williamson County would be implemented individually, one at a time, and be in compliance with the Act. The No Action/No Project alternative implies that the impacts from these potential projects on the permitted species and their habitats would be evaluated and mitigated on a project-by-project basis, as is currently the case. For any activities involving take of listed species due to non-Federal projects/actions, individual Section 10(a)(1)(B) permits would be required. Without a coordinated, comprehensive ecosystem-based conservation approach for the region, listed species may not be adequately addressed by individual project-specific mitigation requirements, unlisted candidate and other rare species would not receive proactive action intended to preclude the need to list them in the future, and project-specific mitigation would be piecemeal and less cost effective in helping Federal and non-Federal agencies work toward recovery of listed species. Current independent conservation actions would continue, although some of these are not yet funded. A reasonable range of alternatives will also be considered, along with the associated impacts of the various alternatives.

Scoping Meeting

The purpose of the scoping meeting is to brief the public on the background of the Williamson County RHCP, alternative proposals under consideration for the draft EIS, and the Service's role and steps to be taken to develop the draft EIS for this regional habitat conservation planning effort. At the scoping meeting, there will be an opportunity for the public to ask questions, provide oral comments, and also provide written comments. The public may also send written comments to us by mail (see **ADDRESSES** above).

A primary purpose of the scoping process is to identify, rather than debate, significant issues related to the proposed action. In order to ensure that we identify a range of issues and alternatives related to the proposed action, we invite comments and suggestions from all interested parties. We will conduct a review of this project according to the requirements of NEPA, NEPA regulations, other appropriate Federal laws, regulations, policies, and guidance, and Service procedures for compliance with those regulations.

Public 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.

Environmental Review

We will conduct an environmental review that analyzes the proposed action, as well as a range of reasonable alternatives and the associated impacts of each. The EIS will be the basis for our evaluation of impacts to the covered species and the range of alternatives to be addressed. We expect the EIS to provide biological descriptions of the affected species and habitats, as well as the effects of the proposed action on resources such as: vegetation, wetlands, wildlife, threatened or endangered species and rare species, geology and soils, air quality, water resources, flood control, water quality, cultural resources (prehistoric, historic, and traditional cultural properties), land use,

recreation, water use, local economy, and environmental justice.

After the environmental review is complete, we will publish a notice of availability and a request for comment on the draft EIS and the applicant's permit application, which will include the Williamson County RHCP.

The draft EIS and RHCP are expected to be completed and available to the public by October 2007.

Christopher T. Jones,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. E7–10576 Filed 5–31–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Fourteenth Regular Meeting; Tentative U.S. Negotiating Positions for Agenda Items and Species Proposals Submitted by Foreign Governments and the CITES Secretariat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), will attend the fourteenth regular meeting of the Conference of the Parties to CITES (CoP14) in The Hague, The Netherlands, June 3–15, 2007. This notice announces the tentative U.S. negotiating positions on amendments to the CITES Appendices (species proposals), draft resolutions and decisions, and agenda items submitted by other countries and the CITES Secretariat for consideration at CoP14. With this notice we also announce that we will publish a notice after the conclusion of CoP14 to invite public input on whether the United States should take a reservation on any of the amendments to the CITES Appendices that are adopted.

DATES: In further developing U.S. negotiating positions on these issues, we will continue to consider information and comments submitted in response to our notice of February 21, 2007 (72 FR 7904). We will also continue to consider information received at the public meeting announced in that notice, which was held on April 9, 2007. We will publish a notice after June 15, 2007, to invite public input on whether the United States should take a reservation on any of the amendments to the CITES Appendices that are adopted.

ADDRESSES: Comments pertaining to draft resolutions and decisions, and agenda items should be sent to the Division of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 700; Arlington, VA 22203; or via e-mail at: *cop14@fws.gov*; or via fax at: 703–358–2298. Comments pertaining to species proposals should be sent to the Division of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 750; Arlington, VA 22203; or via e-mail at: *scientificauthority@fws.gov*; or via fax at: 703–358–2276. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at either the Division of Management Authority or the Division of Scientific Authority.

Reservations

With this notice, we announce that we will publish a notice after the conclusion of CoP14 to invite public input on whether the United States should take a reservation on any of the amendments to the CITES Appendices that are adopted.

Available Information

Information concerning the results of CoP14 will be available after the close of the meeting on the Secretariat's Web site at *http://www.cites.org*; or upon request from the Division of Management Authority; or on our CITES Web site (*http://international.fws.gov/cites/cites.html*).

FOR FURTHER INFORMATION CONTACT: For information pertaining to resolutions and agenda items contact: Chief, Branch of CITES Operations, Division of Management Authority; telephone, 703–358–2095; fax, 703–358–2298; e-mail, *cop14@fws.gov*. For information pertaining to species proposals contact: Chief, Division of Scientific Authority; telephone, 703–358–1708; fax, 703–358–2276; e-mail, *scientificauthority@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or the Convention) is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may become threatened with extinction due to trade. These species are listed in the Appendices to CITES, which are available on the CITES Secretariat's Web site at *http://www.cites.org/eng/app/index.shtml*. Currently, 171 countries, including the United States, are Parties to CITES. The Convention calls for regular meetings of the Conference of the Parties (CoP) to review issues pertaining to implementation, makes provisions enabling the CITES Secretariat to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations to improve the effectiveness of CITES. Any country that is a Party to CITES may propose and vote on amendments to Appendices I and II (species proposals), draft resolutions and decisions, and agenda items submitted for consideration by the Conference of Parties. Accredited nongovernmental organizations (NGOs) may participate in the meeting as approved observers and may speak during sessions when recognized by the meeting Chairman, but they may not vote or submit proposals.

This is our fourth in a series of **Federal Register** notices that, together with announced public meetings, provide you with an opportunity to participate in the development of U.S. tentative negotiating positions for CoP14. In this notice we announce the tentative U.S. negotiating positions on species proposals, draft resolutions and decisions, and agenda items submitted by other Parties and the Secretariat for consideration at CoP14. We published our first CoP14-related **Federal Register** notice on January 20, 2006 (71 FR 3319), and with it we requested information and recommendations on species proposals, draft resolutions and decisions, and agenda items for the United States to consider submitting for consideration at CoP14. We published our second such **Federal Register** notice on November 7, 2006 (71 FR 65126), and with it we requested public comments and information on species proposals, draft resolutions and decisions, and agenda items that the United States was considering submitting for consideration at CoP14. On December 11, 2006, we held the public meeting announced in our second **Federal Register** notice; at that meeting, we discussed the issues contained in our November 7 **Federal Register** notice and in our Web site posting on the same topic. In our third **Federal Register** notice, published on February 21, 2007 (72 FR 7904), we announced the provisional agenda for CoP14, solicited public comments on items on the provisional agenda, and announced a public meeting to discuss

the agenda items. That public meeting was held on April 9, 2007.

You may obtain information on the above **Federal Register** notices from the following sources. For information on draft resolutions and decisions, and agenda items, contact the Division of Management Authority (see **ADDRESSES**, above); and for information on species proposals, contact the Division of Scientific Authority (see **ADDRESSES**, above). Our regulations governing this public process are found in 50 CFR 23.31–23.39. Pursuant to 50 CFR 23.38(a), the Director has decided to suspend the procedure for publishing a notice of final negotiating positions in the **Federal Register** because time and resources needed to prepare a **Federal Register** notice would detract from essential preparation for CoP14.

Tentative Negotiating Positions

In this notice we summarize the tentative U.S. negotiating positions on proposals to amend the Appendices (species proposals), draft resolutions and decisions, and agenda items that have been submitted by other countries and the CITES Secretariat. Documents submitted by the United States for consideration of the Parties at CoP14 can be found on the Secretariat's Web site at: *http://www.cites.org/eng/cop/index.shtml*. Those documents are: CoP14 Doc. 18.2, CoP14 Doc. 39, and CoP14 Doc. 43. The United States also submitted Document CoP14 Doc. 67 at the request of the Animals and Plants Committees. The United States, either alone or as a co-proponent, submitted the following proposals to amend Appendices I and II: CoP14 Prop. 2, CoP14 Prop. 17, CoP14 Prop. 19, CoP14 Prop. 21, CoP14 Prop. 22, CoP14 Prop. 23, CoP14 Prop. 28, and CoP14 Prop. 36. In this notice, we will not provide any additional explanation of the U.S. negotiating position for documents that the United States submitted. The introduction in the text of each of the documents the United States submitted contains a discussion of the background of the issue and the rationale for submitting the document.

In this notice, numerals next to each agenda item or resolution correspond to the numbers used in the agenda for CoP14 and posted on the Secretariat's Web site. When we completed the notice, the Secretariat had not yet made available documents for a number of the agenda items on the CoP14 agenda. For several other documents, we are still working with other agencies in the United States and other CITES Parties to develop the U.S. negotiating position. The documents for which we do not currently have tentative U.S. negotiating positions are: CoP14 Doc. 10 and CoP14 Doc. 30.

In the discussion that follows, we have included a brief description of each species proposal, draft resolution, draft decision, and agenda item submitted by other Parties or the Secretariat, followed by a brief explanation of the tentative U.S. negotiating position for that item. New information that may become available prior to or at CoP14 could lead to modifications of these positions. The U.S. delegation will fully disclose changes in our negotiating positions and the explanations for those changes during public briefings at CoP14. The United States is concerned about the budgetary implications and workload burden that will be placed upon the Parties, the committees, and the Secretariat, and intends to evaluate all documents for CoP14 in view of these concerns.

Agenda (Provisional)

Opening Ceremony and Welcoming Addresses

The Secretariat will not prepare a document on these agenda items. According to tradition, as the host country for CoP14, The Netherlands will conduct an opening ceremony and make welcoming remarks.

Administrative Matters

1. Rules of Procedure (Doc. 1). *Tentative U.S. negotiating position:* Support. The CITES Secretariat prepared Document CoP14 Doc. 1, the draft Rules of Procedure for CoP14. The draft Rules are identical to those adopted for CoP13, except for several amendments proposed to Rules 14 and 15, regarding the creation of the position of an Alternate Chairman of the Conference, and Rule 28, regarding submission of informative documents for the CoP. The United States tentatively supports the draft Rules of Procedure and the amendments proposed to Rules 14, 15, and 28, but plans to propose several additional amendments to the text of these three Rules to clarify several points.

2. Election of Chairman and Vice-Chairmen of the meeting and of Chairmen of Committees I and II (No document). *Tentative U.S. negotiating position:* Undecided. According to tradition, the host country—in this case, The Netherlands—will provide the Conference Chairman. The United States will support the election of committee Chairmen and a Vice-Chairman of the Conference who have the required technical knowledge and skills and also reflect the geographic and cultural diversity of the CITES Parties.

3. Adoption of the agenda (Doc. 3). *Tentative U.S. negotiating position:* Support.

4. Adoption of the working programme (Doc. 4). *Tentative U.S. negotiating position:* Support. Prior to a CoP, the working programme is provisional and changes may be made to it prior to the start of CoP14 or at the beginning of the CoP. The United States supports the provisional working programme posted at the time this notice was prepared.

5. Credentials Committee

5.1 Establishment of the Credentials Committee (No document). *Tentative U.S. negotiating position:* Undecided.

5.2 Report of the Credentials Committee (No document). *Tentative U.S. negotiating position:* Undecided. The United States will follow the work of the Credentials Committee and intervene as appropriate.

6. Admission of observers (Doc. 6). *Tentative U.S. negotiating position:* Undecided. A document for this agenda item is not normally distributed prior to the start of a CoP. National NGOs are admitted as observers if their headquarters are located in a CITES Party country and if the national government of that Party approves their attendance at the CoP. International NGOs are admitted by approval of the CITES Secretariat. After being approved as an observer, an NGO is admitted to the CoP unless one-third of the Parties object. The United States supports admission to the meeting of all technically qualified NGOs, and opposes unreasonable limitations on their full participation as observers at CoP14. In addition, the United States supports flexibility and openness in the process for disseminating documents produced by NGOs to Party delegates, which are vital to decision-making and scientific and technical understanding.

7. Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties. *Tentative U.S. negotiating position on Agenda Items 7.1, 7.2, and 7.3:* Undecided. These are comprehensive documents that require extensive review, internal discussion, and analysis of the financial implications for Parties and the impact on the work of the Secretariat and the committees. The United States will review the documents carefully, bearing in mind the need to balance tasks with available resources. The United States advocates fiscal responsibility and accountability on the part of the Secretariat and the Conference of the Parties and plans to be an active participant in the budget discussions at

CoP14. The voluntary annual contribution of the United States to CITES is determined through our domestic budgeting process. The United States believes it is necessary that the CITES Secretariat provide additional information on budgetary and financial matters in relation to the costed programme of work proposed in Document CoP14 Doc. 7.3. Until such information is provided and analyzed, and discussed with the Parties and the Secretariat, we will not be able to consider supporting any increase in the budget of the Convention.

8. Committee Reports

8.1 Report of the Chairman of the Standing Committee (Doc. 8.1). *Tentative U.S. negotiating position:* At the time this notice was prepared, this document had not been posted on the Secretariat's website. This report is largely a summary of activities conducted by the Standing Committee, or particularly the Chairman, since CoP13. Many of these activities are covered by other CoP14 agenda items.

8.2 Report of the Chairman of the Animals Committee (Doc. 8.2). *Tentative U.S. negotiating position:* Most of this document is a report by the Chairman of his activities or a recounting of the proceedings of meetings of the Animals Committee, and therefore not requiring a position. The outcomes of some of the Animals Committee deliberations are reflected in other agenda items for CoP14, where they are elaborated more substantially. However, there are some specific recommendations contained in the report requiring a position. These (and the tentative U.S. position) include:

- Draft decisions for *Psittacus erithacus*, derived from the Review of Significant Trade in this species, calling for the development of management plans by range countries, with assistance from the Secretariat, subject to external funding (Support);
- A draft decision for the Secretariat to convene, subject to external funding, a workshop to initiate regional cooperation on fisheries management for Tridacnidae (Support);
- Extending Decision 13.93 to continue the review of the Felidae, particularly the review of *Lynx* spp. and look-alike issues, until CoP15 (Support);
- Consider that the Parties, Animals Committee, and Secretariat have complied with Decisions 13.95–13.97 related to fossil corals (Support); and
- Consideration of providing supplemental funding (US$30,000 annually) to the Chairman of the Animals Committee, especially if from a developing country and where governmental or institutional support is insufficient to fulfill the duties of the position (Unable to support given the current budgetary situation for the Convention).

8.3 Report of the Chairman of the Plants Committee (Doc. 8.3). *Tentative U.S. negotiating position:* Most of this document is a report by the Chairman of her activities or a recounting of the proceedings of meetings of the Plants Committee, and therefore not requiring a position. The outcomes of some of the Plants Committee deliberations are reflected in other agenda items for CoP14, where they are elaborated more substantially. However, there are some specific recommendations contained in the report requiring a position. These (and the tentative U.S. position) include:

- A draft decision directed to range countries, regional Plants Committee representatives, and the Secretariat to address the management and enforcement needs of seven species of medicinal plants from Asia, and to report on progress to the Plants Committee at its 17th and 18th meetings (Support);
- Consideration by the Parties of ways to obtain identification materials for plants listed in the Appendices given that there is no longer a specific budget line for this activity (Support);
- A draft decision directed to the Plants Committee and the Secretariat to continue cooperation with the Convention on Biological Diversity on the Global Strategy for Plant Conservation (Support, as amended by the Secretariat);
- A draft decision directed to the Plants Committee to develop principles, criteria, and indicators for making non-detriment findings for timber and medicinal plant species (Support);
- Renewal of Decision 13.54, which directs the Plants Committee to continue to consider proposals to include additional timber species in the Appendices, based on the outcomes of regional workshops and other information (Support);
- Consideration that the Plants Committee's work under Decisions 13.51 and 13.52 regarding annotations of medicinal plants, Decision 13.60 related to *Harpagophytum*, and Decision 13.72 regarding monitoring effects of the revision of the definition of ''artificially propagated'' have been completed (Support);
- Draft decisions directed to the Parties and the Plants Committee to monitor the effects of exempting the artificially propagated hybrids of various orchid genera from CITES controls, and consideration of whether the exemption of hybrids of additional genera is advisable (Support); and
- Draft decisions directed to the Parties, Plants Committee, Secretariat, and inter-governmental and non-governmental organizations (IGOs and NGOs) to address various issues related to trade in agarwood, including capacity building, the making of non-detriment findings, information sharing, definition of terms relating to agarwood, development of identification and training materials, and recommendations on appropriate units of measure for agarwood, as well as consideration of potential annotations to exempt certain agarwood specimens from CITES controls (Support, but with reservations regarding the ability of the CoP to direct work to IGOs and NGOs, and also regarding the scope of work and potential budget implications).

8.4 Joint report of the Chairmen of the Animals and Plants Committees (Doc. 8.4). *Tentative U.S. negotiating position:* U.S. position: Much of this document is a report by the Chairmen of the Animals and Plants Committees recounting the proceedings of joint meetings of the two committees, and therefore not requiring a position. The outcomes of some of the deliberations of the two committees meeting in joint session are reflected in other agenda items for CoP14, where they are elaborated more substantially. However, there are some specific recommendations contained in the report requiring a position. These (and the tentative U.S. position) include:

- Recommended Rules of Procedure for the two committees, which follow longstanding practices and represent the committees' views with regard to a practicable adaptation of the Rules of Procedure for the Standing Committee (Support, with some amendments proposed by the Secretariat);
- A draft decision directed to the Secretariat to publish and distribute, subject to available funding, manuals for regional representatives to the committees in the three languages of the Convention (Support, as amended by the Secretariat);
- A recommendation to eliminate Resolution Conf. 13.10 on ''Trade in invasive alien species'' and incorporate elements of it into Resolution Conf. 10.4 on ''Cooperation and synergy with the Convention on Biological Diversity,'' to reflect the limited role CITES can play in addressing the problem of invasive species (Support); and
- Draft decisions directed to the Parties, Standing Committee, and Secretariat to provide support to the University of Córdoba and the International University of Andalusia

(Spain) to support the continuation of the Master's course on ''Management, Access and Conservation of Species in Trade'' (Support).

8.5 Report of the Nomenclature Committee (Doc. 8.5). *Tentative U.S. negotiating position:* Undecided. The report contains numerous recommendations regarding the adoption of standard nomenclatural and taxonomic references for CITES-listed fauna and flora, and a program of work and proposed budget for the next intersessional period. We are still evaluating the references, and the proposed work and budget implications.

9. Committee Elections and Appointments

9.1 Standing Committee (No document). *Tentative U.S. negotiating position:* Support. Since the close of CoP13, the North American region has been represented on the Standing Committee by Canada, serving as the North American regional representative, and Mexico, serving as the alternate representative. Canada and Mexico will continue to serve in their current capacities until the end of CoP15.

9.2 Animals Committee (No document). *Tentative U.S. negotiating position:* Support. Since the close of CoP14, the North American region has been represented on the Animals Committee by Mr. Rodrigo A. Medellín of Mexico, serving as the North American regional representative, and up until May 2007, Mr. Robert R. Gabel of the United States, serving as the alternate representative. Mr. Gabel has now moved on to other duties as the Chief of the U.S. Management Authority, and as such, the United States will provide a new alternate representative who has yet to be determined.

9.3 Plants Committee (No document). *Tentative U.S. negotiating position:* Support. Since the close of CoP14, the North American region has been represented on the Plants Committee by Mr. Robert R. Gabel of the United States, serving as the North American regional representative, and Dr. Adrianne Sinclair, of Canada, serving as the alternate representative.

9.4 Nomenclature Committee (No document). *Tentative U.S. negotiating position:* Support. In its report to the CoP, the Nomenclature Committee recommends, as also recommended in CoP14 Doc. 12 (on review of the scientific committees), submitted by the Standing Committee, that the Nomenclature Committee be re-characterized as a working group of the Animals and Plants Committees. However, we anticipate that this will have little effect on the operation of the Nomenclature Committee, and we expect the current Chairmen of this committee, Dr. Ute Grimm of Germany (co-Chairman for Fauna) and Dr. Noel McGuff of the United Kingdom (co-Chairman for Flora), to continue in their positions, regardless of how this body is characterized.

Strategic Matters

11. CITES Strategic Vision: 2008–2013 (Doc. 11). *Tentative U.S. negotiating position:* While the United States supports the revision and updating of both CITES' Strategic Plan and the accompanying Action Plan, we have significant concerns related to the revisions proposed in Document CoP14 Doc. 11, which we communicated in comments to the Strategic Plan Working Group (SPWG) following the 54th meeting of the CITES Standing Committee (SC54). CITES developed its current (and first) ''Strategic Vision Through 2005'' when the United States chaired the Standing Committee. This earlier document was adopted at CoP11 and was closely linked to an Action Plan, with practical and measurable steps for the Parties, Secretariat, and other entities. The Action Plan was developed in concert with the Strategic Vision to provide evidence that the goals of the latter were being met. At CoP13 the Parties adopted Decision 13.1, which extended the Strategic Vision through CoP14, but also set in motion the process to revise and update both the Strategic Vision and the Action Plan. Document CoP14 Doc. 11 represents the output of the SPWG, taking into account the comments received from Parties and NGOs on the draft Strategic Plan after SC54. The SPWG has also prepared a draft resolution for consideration by the Parties at CoP14 (Document Doc. 11 Annex, p. 4), and the ''CITES Strategic Vision: 2008–2013'' is included as a sub-annex to that document (pp. 5–12). While the SPWG accepted some of the comments of the United States in preparing this document, we remain concerned that the document would direct CITES away from its core mission of monitoring and controlling international trade in wildlife and plants. Although the ''CITES Strategic Vision: 2008–2013'' does not prescribe or proscribe specific actions by the Parties, if adopted, it is intended to provide guidance for the evolution of CITES through 2013.

12. Review of the scientific committees (Doc. 12). *Tentative U.S. negotiating position:* Support. This document is submitted by the Standing Committee. At SC54 in October 2006, the Committee adopted the recommendations of an External Evaluation Working Group's review of the CITES scientific committees (Animals, Plants, and Nomenclature), and agreed to propose to CoP14 pertinent modifications to Resolution Conf. 11.1 (Rev. CoP13) and 12.11 (Rev. CoP13). The United States supports adoption of the Standing Committee's recommendations that will enhance the work and efficiency of the scientific committees. However, the United States disagrees with the Secretariat's suggestion to merge the scientific committees.

13. Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity (Doc. 13). *Tentative U.S. negotiating position:* Support. Document CoP14 Doc. 13 was prepared by the Plants and Animals Committees, and is based on the outcome of discussions at the 22nd meeting of the Animals Committee and 16th meeting of the Plants Committee (PC16—Lima, Peru; July 2006). The committees focused on the applicability of the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity (Addis Ababa Principles) to the making of non-detriment findings, and concluded that not all of the principles and guidelines are directly relevant. The committees proposed that Resolution Conf. 10.4 be amended to acknowledge the use of the Addis Ababa Principles as a voluntary additional tool that can be used in making non-detriment findings. The United States agrees with the committees' conclusion that the Addis Ababa Principles are not always applicable to the decision making process under CITES, and supports the proposal to consider them as a voluntary additional tool that can be used in making non-detriment findings.

14. CITES and livelihoods (Doc. 14; Argentina, China, Germany on behalf of the European Community Member States, and Nicaragua). *Tentative U.S. negotiating position:* Support. In Document CoP14 Doc. 14, the proponents summarize the outcomes and recommendations from the CITES and Livelihoods Workshop (Cape Town, South Africa; September 2006), and propose two draft decisions that build on those recommendations. The first draft decision directs the Standing Committee to assist in the development of tools and guidelines for the Parties to use in examining the impacts of CITES regulation on human well-being and the livelihoods of the poor. The second draft decision directs the Secretariat to provide an assessment of the ways in which the implementation of CITES has taken, or could take, into account these impacts on the livelihoods of the poor.

Although we are supportive of considering human well-being and livelihoods in the implementation of CITES, these considerations should be separate from the objective scientific assessments required for listings and making non-detriment findings. We are also concerned about the budget implications of the proposed Decisions in this document.

15. National wildlife trade policy reviews (Doc. 15). *Tentative U.S. negotiating position:* Support. In Document CoP14 Doc. 15, the CITES Secretariat reported on progress made in implementing Decisions 13.74 and 13.75 and that the four pilot countries interested in undertaking wildlife trade policy reviews, will be provided an opportunity to share compiled and synthesized information on the initial results from their wildlife trade policy reviews at a CoP14 side event. The Secretariat further recommends that interested importing countries carry out national wildlife policy reviews in order to provide a balanced view to exporting countries and facilitate a better understanding of wildlife trade policy at both ends of the international wildlife trade (supply and demand), and invites donors to provide financial support to countries interested in preparing these reviews. The Secretariat recommends renewing the deadlines in Resolution Conf. 13.74 for reporting to the Standing Committee and Conference of the Parties to SC57 and CoP15, and deleting a recommendation calling for submission of project proposals in order to seek financial support for preparation of trade policy reviews in interested countries.

The United States looks forward to reviewing the results achieved with the four pilot countries. However, given the overall lackluster response of the Parties (7 out of 171 Parties expressed interest), this is not high priority work of the CITES Secretariat. Implementation of the Secretariat's recommendations would have budgetary implications that must be weighed against priorities that are more urgent.

16. Capacity building (Doc. 16). *Tentative U.S. negotiating position:* Oppose. This document from the CITES Secretariat proposes the creation of an interactive CITES Virtual College for basic and more advanced training in the Convention over the Internet. The Secretariat proposes that this program could be linked to academic institutions. In Document CoP14 Doc. 7.3 Annex 1, the CITES Secretariat estimates that it would cost close to $1.6 million to run this program from 2009 through 2011. While the United States has always, and continues to be, a strong supporter and proponent of training in the implementation and enforcement of CITES, we do not support such an initiative with such significant budget implications. There are already similar educational and capacity-building programs and mechanisms that would be duplicated by the development of such a program at the Secretariat (e.g., the Masters and Doctoral courses conducted by the International University of Andalucia, and current U.S. training offered in connection to Regional Free Trade Agreements).

17. Cooperation between Parties and promotion of multilateral measures (Doc. 17). *Tentative U.S. negotiating position:* Undecided. At the time this notice was prepared, this document had not been posted on the Secretariat's Web site.

18. Cooperation With Other Organizations

18.1 Cooperation with the Food and Agriculture Organization of the United Nations (Doc. 18.1). *Tentative U.S. negotiating position:* Undecided on establishment of a Fishery Working Group within CITES; support strengthening cooperation between CITES and United Nations Food and Agriculture Organization (FAO) with regard to forestry and non-timber forest products, but opposed to formalization of the relationship through a Memorandum of Understanding (MoU). This document was submitted by the CITES Secretariat. It provides a history of the collaboration between CITES and FAO regarding marine listing and implementation issues, and summarizes cooperative activities in recent years related to queen conch, sturgeons, sharks, sea cucumbers, and other species. Pointing to the success of collaborative efforts between CITES and FAO on marine issues, the Secretariat recommends strengthening cooperation with FAO on issues related to forestry and non-timber forest products. The document includes draft decisions for consideration by the Parties at CoP14. One of these decisions directs the Secretariat to initiate discussions with FAO on strengthening and formalizing cooperation between CITES and FAO with regard to forestry and non-timber forest products. Another, directed to the Standing Committee, would establish a Fishery Working Group to address practical issues related to the implementation of the Treaty for fish and marine invertebrates.

The United States endorsed the establishment of the MoU with FAO on marine issues that was finalized at SC54, and we fully support ongoing cooperation between CITES and FAO regarding marine issues. FAO has provided valuable advice and assistance to CITES on a number of marine issues, including the development of listing criteria for marine species and the formation of *ad hoc* expert advisory panels to evaluate marine listing proposals prior to a CoP. We have endorsed the idea of a marine working group in the past; in fact, at CoP10, the United States submitted a document calling for the Standing Committee to establish a temporary working group for marine fish species. However, given the formalized cooperative arrangement with FAO, ongoing work in the Animals Committee, and the desire to avoid duplication of effort, we are uncertain of the need for establishing a Fishery Working Group within CITES at this time. No information has been provided regarding the proposed composition or the mandate of such a group. We will develop a position as more information becomes available.

The International Tropical Timber Organization (ITTO) promotes the conservation and sustainable management of and trade in tropical forest resources. We submitted a document for consideration at CoP14 (Doc. 18.2) that recognizes the importance of close cooperation between CITES and ITTO in the consideration and implementation of CITES listings of tropical timber species and recommends strengthening the cooperation between the CITES and ITTO Secretariats. While we would also support increased cooperation between CITES and ITTO regarding forestry and non-timber forest products, we do not believe that it is necessary to formalize the relationship through a MoU.

18.3 Statements from representatives of other conventions and agreements (No document). *Tentative U.S. negotiating position:* Not applicable.

19. Dialogue Meetings

19.1 Terms of reference for CITES dialogue meetings (Doc. 19.1). *Tentative U.S. negotiating position:* Support. Range country dialogue meetings have occurred for the African elephant since 1996 and hawksbill sea turtles since 2001. The Standing Committee instructed the Secretariat to draft terms of reference for the organization and conduct of dialogue meetings for any taxon. The Secretariat's draft was reviewed at SC50 and approved with amendments at SC53 (July 2005). The Standing Committee agreed with the Secretariat that the revised document should be the basis for a draft resolution at CoP14. This document incorporates the suggestions from the Standing Committee and describes what a dialogue meeting is, who may call a

dialogue meeting, the organization of the meeting, how decisions are made and communicated, and how the rules of procedure may be amended. The United States participated in the SC53 discussions and generally supports the document.

19.2 Results of the dialogue meeting on the African elephant (Doc. 19.2). *Tentative U.S. negotiating position:* Not applicable. The African elephant dialogue meeting is scheduled to be held in The Hague, The Netherlands, immediately prior to the start of CoP14. When the document is available, we will review it closely and develop our position. We support the range States dialogue process for debating multinational species issues, and the United States provided funding for this meeting through a grant under the African Elephant Conservation Act.

Interpretation and Implementation of the Convention

Review of Resolutions and Decisions

20. Review of Resolutions

20.1 Resolutions relating to Appendix-I species (Doc. 20.1). *Tentative U.S. negotiating position:* Support. In Document CoP14 Doc. 20.1, the Secretariat puts forward two draft consolidated resolutions relating to Appendix-I species. The first draft resolution is a consolidation of the resolutions related to hunting trophies for Appendix-I species, and the second draft resolution consolidates the resolutions related to the conservation of and trade in specimens of specific Appendix-I species. The United States has long supported the efforts to consolidate resolutions related to Appendix-I species, as long as such an approach continues to allow for the elaboration of specific measures that may be needed for individual species and does not result in a generic approach to the conservation of these rare and endangered species.

20.2 General review (Doc. 20.2). *Tentative U.S. negotiating position:* Undecided. At the time this notice was prepared, Document CoP14 Doc. 20.2 was not available for review on the Secretariat's Web site. Prior to CoP12, the Secretariat began a review of the existing CITES resolutions to identify those that were difficult to implement, redundant with other resolutions, or with outdated text. At CoP12 and again at CoP13, the Secretariat proposed changes to and consolidations of sections of several resolutions, which the Parties considered, and some of which the Parties adopted. With Document CoP14 Doc. 20.2, the Secretariat is continuing this review process by identifying a number of resolutions for which it has proposed changes, consolidations, or transfers of text to other resolutions.

21. Revision of Resolution Conf. 11.16 on ranching and trade in ranched specimens of species transferred from Appendix I to Appendix II (Doc. 21). *Tentative U.S. negotiating position:* Oppose, but agree with some aspects. While the United States agrees that reporting requirements should request only appropriate information that is used to monitor ranching operations and to determine that such operations continue to meet the requirements agreed by the Parties in Resolution Conf. 11.16, we do not agree with eliminating the collection of needed information based on Parties' inability or unwillingness to submit a complete report. Annual reporting must include sufficient information to determine if ranching operations are having an adverse effect on wild populations and that population trends are stable or increasing.

Regarding the revision to the definition of ''ranching,'' the United States agrees that the definition should be amended, but does not accept the proposed definition. The Parties should postpone a revision of the definition of ''ranching'' in Resolution Conf. 11.16 until consideration of Document CoP14 Doc. 38, and if agreed, the review proposed in that document has been completed.

22. Review of Decisions (Doc. 22). *Tentative U.S. negotiating position:* Undecided. At the time this notice was prepared, Document CoP14 Doc. 22 was not available for review on the Secretariat's Web site. At CoP13, the Parties reviewed the current CITES decisions to identify those that were long term in nature. For these long-term decisions, the Parties adopted the transfer of their text into new or existing resolutions. With Document CoP14 Doc. 22, the Secretariat is continuing this process by identifying existing decisions that are intended to be valid for a long term and making proposals for the transfer of the relevant texts of these decisions into new or existing resolutions.

Compliance and Enforcement Issues

23. Guidelines for compliance with the Convention (Doc. 23). *Tentative U.S. negotiating position:* Support. At CoP12, the Parties directed the Standing Committee to develop guidelines for compliance with the Convention and a working group was established at SC50 to accomplish the task. The United States has been an active member of the Working Group on Compliance and supports completion of the draft guidelines at CoP14. The existing compliance mechanisms in the Treaty and resolutions are effective and appropriate. We have worked to ensure that the guidelines for compliance accurately describe those mechanisms and do not go beyond what already exists by introducing new mechanisms or procedures. Although significant progress was made and agreement was reached on most of the text, some areas of disagreement remained after SC54. Document CoP14 Doc. 23 was prepared by the Chairman of the Working Group on Compliance and includes the draft guidelines and the Chairman's recommendations for resolving remaining areas of disagreement. The United States supports his recommendations because they focus the guidelines on describing existing practice instead of creating new compliance procedures.

24. National laws for implementation of the Convention (Doc. 24). *Tentative U.S. negotiating position:* Undecided. At the time this notice was prepared, this document had not been posted on the Secretariat's Web site. The United States strongly believes that the Convention's effectiveness is undermined when Party States do not have adequate national laws in place for implementing CITES, and we have previously supported action by the Conference of the Parties to compel Parties to adopt effective CITES implementing legislation.

25. Enforcement matters (Doc. 25). *Tentative U.S. negotiating position:* Support. The United States supports the proposed decisions relating to a meeting of the CITES Enforcement Experts Group and the suggestion that Resolution Conf. 11.3 be revised. The United States agrees that existing efforts to capture illegal trade information have largely been unsuccessful and welcomes an opportunity to discuss the issue so that illegal trade activities are better understood and enforcement efforts to combat them are made more effective. The United States also concurs with the Secretariat's assessment that, despite remarkable efforts by dedicated wildlife enforcement officers around the world, governments need to raise the profile of wildlife enforcement and ensure that sufficient resources are devoted to interdiction of illegal trade and prosecution of wildlife criminals.

26. Compliance and enforcement (Doc. 26; Germany, on behalf of the European Community Member States). *Tentative U.S. negotiating position:* Partial support. The United States agrees with many of the Secretariat's concerns. The United States does not believe it is necessary, at this point, to

establish a permanent Enforcement Experts Group. However, a second meeting of this group is warranted to follow up on previous recommendations and take up some of the issues identified in this document as well as enforcement-related documents, such as Document CoP14 Doc. 25 and Document CoP14 Doc. 28.

27. Disposal of illegally traded and confiscated specimens of Appendix-II and -III species (Doc. 27; Indonesia). *Tentative U.S. negotiating position:* Oppose. The United States does not support the proposed decision directed to the Standing Committee regarding amendments to Resolution Conf. 9.10 (Rev. CoP13). Some of the issues raised in Document CoP14 Doc. 27 and the proposed decision are clearly addressed in existing resolutions. In addition, several of the issues identified as possible amendments would raise enormous logistical, financial, and workload challenges that would substantially outweigh any possible conservation benefit for Parties that regularly confiscate large volumes of wildlife. The proposed amendments to Resolution Conf. 9.10 (Rev. CoP13) included in this document, if adopted, could have a negative conservation impact by discouraging Parties from confiscating illegally traded wildlife if they were required to take on the substantial logistical, financial, and workload burdens that would accompany these requirements.

28. Internet trade in specimens of CITES-listed species (Doc. 27; Germany, on behalf of the European Community Member States). *Tentative U.S. negotiating position:* Support. The United States is concerned about the role of the Internet in illegal wildlife trade and has already devoted enforcement resources to this issue. The United States supports the Secretariat's alternative draft decisions, which would be a more efficient and cost-effective approach to the workshop.

29. National reports (Doc. 29). *Tentative U.S. negotiating position:* Support with minor changes. With Document CoP14 Doc. 29, the Secretariat reports on progress it and the Parties have made since CoP13 in implementing Resolution Conf. 11.17 (Rev. CoP13) on national reports, and on progress it has made in implementing Decisions 13.90–13.92 on reporting requirements. The Secretariat recommends that the Parties consider adopting two draft decisions included in Annex 2 of Document CoP14 Doc. 29. The first draft decision, which the United States supports, would direct the Standing Committee to undertake a review of the CITES recommendations to Parties to provide special reports, assess whether they might be effectively incorporated into the annual and biennial reports, and report to CoP15 on its conclusions and recommendations. The second draft decision would direct the Secretariat to continue work directed under Decision 13.92 to facilitate the harmonization of knowledge management and reporting with other biodiversity-related conventions. This draft decision would continue work directed under Decision 13.90 to identify ways to reduce reporting burdens on Parties. The United States supports both of these aspects of the draft decision. However, the second point of the draft decision also directs the Secretariat to support the Standing Committee on electronic permitting. The United States recognizes the potential benefits electronic permitting could provide in relation to national reports, but we are concerned about the potential financial impact on some Parties and the limited capacity of many Parties to completely implement electronic permitting (see the U.S. position on Document CoP14 Doc. 40.1 and Document CoP14 Doc. 40.2). Therefore, the United States, while supportive of most of the text of the second draft decision, does not support inclusion of the phrase ''* * * its support of the Standing Committee on electronic permitting* * *''

31. Monitoring of the implementation of the annotations to *Euphorbia* spp. and Orchidaceae spp. included in Appendix II (Doc. 31; Switzerland). *Tentative U.S. negotiating position:* Support. Switzerland has submitted a proposal for CoP14 to amend the annotation to Orchidaceae (Prop. 34), and another proposal to amend the annotation to *Euphorbia* spp. (Prop. 29). In Document CoP14 Doc. 31, Switzerland explains that, if these two proposals are adopted, then it would be appropriate to renew Decisions 13.98 and 13.99 to monitor the implementation of the amended orchid annotation, and also adopt similar decisions to monitor the implementation of the amended *Euphorbia* annotation. In the Annex to Document CoP14 Doc. 31, Switzerland provides the draft renewals of Decisions 13.98 and 13.99, plus two new similar draft decisions on the *Euphorbia* annotation. The United States agrees that, if the species proposals amending the *Euphorbia* annotation and the orchid annotation are adopted at CoP14, then the Parties should also adopt decisions to monitor the implementation of these amended annotations, in order to determine how effective they are and whether they are causing any significant enforcement difficulties. It is also the U.S. position that, if these two proposals are not adopted, Decisions 13.98 and 13.99 should still be continued.

32. Incentives for implementation of the Convention (Doc. 32). *Tentative U.S. negotiating position:* Oppose. Document CoP14 Doc. 32 reviews Decisions 13.76 and 13.77, and summarizes the issues involved in incentives for implementation of the convention. The Secretariat's lists numerous recommendations, including the creation of a working group to identify options for CITES Authorities in designing and using specific incentive measures.

While the United States does not have any fundamental objections to the use of economic incentives to further wildlife conservation in the context of CITES, the text of the Convention is silent on this matter. Although careful and detailed consideration must be given by the Parties prior to incorporating these concepts and specific recommendations into the body of CITES soft law, we note that the Secretariat's report indicates that there was no response from Parties to the Notification calling for submissions on economic incentives (2005/022). We, therefore, have questions about the value of this work to the CITES Parties. The report presents interesting information to the Parties, but given the lack of interest, this work can be successfully brought to a close and this agenda topic retired. Specific work, such as the survey of fee structures is valuable in its own right as an implementation item, but other proposed decision elements directed to the Standing Committee, the Parties, and the Secretariat are not a priority and should not be supported.

Trade Control and Marking Issues

33. Introduction from the sea (Doc. 33). *Tentative U.S. negotiating position:* Support. This document was prepared by the CITES Secretariat on behalf of the Standing Committee and reports on progress made since CoP13 on issues related to introduction from the sea. In 2005, a workshop on introduction from the sea was convened in accordance with Decision 13.18. The report of the workshop, the comments received on the report, and a draft resolution and draft decision prepared by the Secretariat were considered at SC54. It was agreed that a working group would work electronically to refine the definition of the ''marine environment not under the jurisdiction of any State'' based on issues raised at SC54 and comments on the workshop report.

Document CoP14 Doc. 33 includes a draft resolution that contains both the definition agreed by the workshop and an alternative definition put forward by the working group. The Standing Committee recommends that the CoP reach agreement on the bracketed text and adopt the resolution to provide a definition of the ''marine environment not under the jurisdiction of any State.'' The United States has been actively involved in discussions related to introduction from the sea since the drafting of the Treaty, and we strongly support continuing efforts to achieve common understanding of the practical application of the introduction from the sea provision under CITES. We participated in the 2005 workshop and the electronic working group following SC54. We strongly support adoption of the draft resolution with the alternative definition put forward by the working group in place of the definition agreed at the 2005 workshop.

Document CoP14 Doc. 33 also includes a draft decision directed to the Standing Committee. The decision calls for the establishment of a working group on introduction from the sea, to work primarily through electronic means, to consider further clarification of terms and other issues identified in the 2005 workshop report. The working group would be asked to report its findings to CoP15. The United States believes that, given the increasing number of listing proposals for marine species at recent CoPs, continued work on the practical implementation of the introduction from the sea provision is important, and we therefore support the formation of such a working group.

34. Trade in Appendix-I species (Doc. 34). *Tentative U.S. negotiating position:* Based on the results of the United Nations Environment Programme World Conservation Monitoring Centre (UNEP–WCMC) analysis reported at SC54, most trade in Appendix-I species reported by the Parties is conducted appropriately. However, UNEP–WCMC noted that further clarification of the purpose of transaction codes would be useful, and that countries also need to show greater care in applying source codes. The United States supports the need to clarify further the use of certain purpose of transaction and source codes so that there is more uniformity in how codes are used. As identified in Document CoP14 Doc. 38, the Animals Committee and Plants Committee were unable to make significant progress on production systems and source codes and have proposed a more narrow scope of work to develop a definition of ranching for application to CITES for CoP15. The United States submitted a document (CoP14 Doc. 39) proposing refinements to the purpose of transaction codes, to eliminate duplicities and ensure better usage by the Parties.

35. International expert workshop on non-detriment findings (Doc. 35; Mexico). *Tentative U.S. negotiating position:* Support. The Scientific Authority of each Party is required to make non-detriment findings for species listed in Appendix I and Appendix II. However, many countries lack financial and technical resources and expertise to fully meet this obligation. The proposed workshop on making CITES non-detriment findings will improve Parties abilities to make scientifically sound findings, build regional capacity, and foster greater cooperation among Parties to effectively implement the Convention.

The proposed workshop is an initiative that grew out of discussions among the three Parties in the North American Region of CITES—Canada, Mexico, and the United States. The United States is fully supportive of this workshop. We believe that strengthening the capacities of CITES Scientific Authorities will help to ensure that trade in CITES-listed species does not occur at levels that threaten their survival.

36. Management of annual export quotas (Doc. 36). *Tentative U.S. negotiating position:* Support, provided negotiated changes to the text of the draft resolution will advance and support the establishment, implementation, and monitoring of nationally established export quotas for Appendix-II species. The United States initiated discussion of this issue at CoP12 and has been an active participant in the Standing Committee's Export Quota Working Group (EQWG). This document accurately reflects the discussions of the EQWG since CoP13, which has made significant progress in developing a draft resolution and amendments to existing resolutions that would cover this issue. Although substantive issues remain unresolved, as reflected in Document CoP14 Doc. 36, the United States hopes that, with further discussion at CoP14, a final draft resolution can be agreed and adopted. The United States has participated in these deliberations with a goal of ensuring that export quotas for CITES-listed species provide a meaningful tool for monitoring and controlling trade by providing a feedback mechanism for importing countries to communicate irregularities and potential illegal trade to exporting countries.

37. Appendix-I Species Subject to Export Quotas

37.1 Leopard export quotas for Mozambique (Doc. 37.1; Mozambique). *Tentative U.S. negotiating position:* Oppose. In this document, Mozambique proposes to increase its export quota for leopard hunting trophies and skins for personal use from 60 to 120. The United States, as reflected in the document we submitted for CoP12 on establishing scientifically based quotas, and in accordance with Resolution Conf. 9.21 (Rev. CoP13), which calls for establishment of a scientific basis for proposed quotas, is very interested in ensuring that annual export quotas are established on strong biological data. Mozambique's request does not provide enough biological information about the population of leopards or their prey in Mozambique to determine whether the population can be sustained under the proposed quota figure.

37.2 Black rhinoceros export quotas for Namibia and South Africa (Doc. 37.2; Kenya). *Tentative U.S. negotiating position:* Undecided. Kenya is proposing to rescind Resolution Conf. 13.5, which allows Namibia and South Africa to export five black rhino sport-hunted trophies annually. Kenya has provided information about management problems in Namibia and increased levels of rhino poaching in South Africa since the exports were approved at CoP13 in 2004. However, this information is contradicted by a report on the status and trade of rhinos produced by the IUCN–SSC's African Rhino Specialist Group (CoP14 Doc. 54), which reports an increase in the black rhino population in both countries and very limited rhino poaching in Namibia or South Africa. Although Kenya fails to provide information to show that the existing quota is biologically unsustainable or that range-wide poaching of black rhinos has increased as a result of the export of sport-hunted trophies, their document does raise questions that should be addressed by Namibia and South Africa prior to the United States finalizing its position on this document. It should be noted that this species is listed as endangered under the Endangered Species Act and that the import of a black rhinoceros sport-hunted trophy into the United States must meet additional regulatory requirements.

38. Production systems for specimens of CITES-listed species (Doc. 38). *Tentative U.S. negotiating position:* Support. The United States has been an active participant in the discussion of production systems and source codes, by chairing an intersessional joint working group of the Animals and Plants Committees on the subject. We agree that additional discussions with a

narrower focus on ranching are warranted, as described in the document.

40. Electronic Permitting

40.1 Report of the Secretariat (Doc. 40.1). *Tentative U.S. negotiating position:* Oppose. The United States believes that the majority of Parties do not and will not have the technological or financial support to fully implement an electronic permitting system, now or in the near future. Given the complexity of this effort and the current state of technology, the United States believes that this does not represent a high-priority activity at this time, particularly given the current budget atmosphere.

40.2 Report of the Standing Committee's Working Group (Doc. 40.2). *Tentative U.S. negotiating position:* Oppose. See discussion on Document CoP14 Doc. 40.1 above.

41. Transport of live specimens (Doc. 41). *Tentative U.S. negotiating position:* Support. In Document CoP14 Doc. 41 (Rev. 1), the Secretariat summarizes work done by the Transport Working Group and presents a revision of Resolution Conf. 10.21 on ''Transport of live animals'' to ''Transport of live specimens'' by including the transport of plants. Other changes would limit review of shipment mortality to only those shipments with high mortality.

The United States is generally in favor of the revisions to Resolution Conf. 10.21, in particular the inclusion of plants, which will result in a more comprehensive resolution. While the United States continues to be interested in all mortality during shipment, we realize that this presents a burden on already-taxed inspectors and customs officials, and agree with the new language in the revision that calls for the Animals and Plants Committees to examine high-mortality shipments of live specimens.

The United States is in favor of efforts to provide comprehensive information on the best methods for live animal and plant transport. The requirements in the International Air Transport Association (IATA) Live Animals Regulations (LAR), while used specifically for air transport, are in most cases appropriate for non-air transport (road, rail, and sea). The World Organisation for Animal Health (OIE)'s proposed Web site for non-air animal and plant transport methods would be useful as a supplement for alternative transport methods to those described in the IATA–LAR, provided it addresses the challenges presented with the transport of live captive and wild CITES-listed taxa that require special attention for non-air transport methods (e.g., duration of transit time, environmental conditions, and conveyance vehicles).

42. Physical inspection of timber shipments (Doc. 42; Germany, on behalf of the European Community Member States). *Tentative U.S. negotiating position:* Support. Document CoP14 Doc. 42 details a number of problems faced by CITES inspection officials at ports of import and export in inspecting, identifying, and measuring the volume of CITES timber shipments. Document CoP14 Doc. 42 recommends that CITES take action to provide guidance to the Parties on enforcement of timber listings and focuses on identification and the development of a methodology for the physical inspection of timber shipments. The document contains two draft decisions in the Annex. The first draft decision would direct the Secretariat, in consultation with the Plants Committee, CITES Parties, and relevant organizations, to identify existing timber identification tools for CITES-listed species and identify ways that these tools can be accessed by CITES inspection authorities. This decision would further direct the Secretariat to identify gaps for which additional work is needed to develop timber identification tools; the Secretariat is then to report its findings to the Standing Committee. The second draft decision would direct the Standing Committee, in consultation with the Secretariat, range countries, and other Parties and relevant organizations, to develop guidelines for the enforcement of timber listings and to focus on the development of a methodology to carry out physical inspections of timber shipments.

44. Identification Manual (Doc. 44). *Tentative U.S. negotiating position:* Support. This document is a report from the Secretariat on progress in the development of identification materials for listed species. We are nearing completion of an identification sheet for paddlefish (*Polyodon spathula*) and plan to submit the sheet to the CITES Secretariat later this year. On December 16, 2005, we listed the alligator snapping turtle (*Macroclemys temminckii*) and all species of map turtles (*Graptemys* spp.) in Appendix III of CITES. We are currently working with the University of Kansas to draft identification sheets for those species. We will continue to address the remaining CITES-listed species for which the United States is responsible for providing identification materials.

Exemptions and Special Trade Provisions

45. Personal and household effects (Doc. 45). *Tentative U.S. negotiating position:* Support. This document contains a proposal from the Standing Committee's Personal and Household Effects Working Group to amend Resolution Conf. 13.7 (on control of trade in personal and household effects) to facilitate trade in personally owned specimens of certain CITES-listed species. The United States has been an active participant in this working group since it was established in 2006. The United States believes that the list of exempted items is a useful tool in implementing the Convention. We also believe that, although additions to the list may be appropriate in certain limited circumstances, any substantial increase in the number of items included in the list is likely to create confusion and enforcement problems. The United States supports development of a careful and deliberative process to amend the list.

46. Trade in some crocodilian specimens (Doc. 46; Germany, on behalf of the European Community Member States). *Tentative U.S. negotiating position:* Oppose. The basic contention of the document is that the implementation of Resolution Conf. 11.12 is working so well that the issuance of re-export documents for finished crocodilian leather products is an expensive, unnecessary redundancy. This proposal is inconsistent with CITES Article I(b)(ii), which requires that readily recognizable parts and derivatives of animal species listed in Appendices I and II are considered specimens that are subject to the provisions of the Convention. The proponents have not argued or presented information to suggest that these specimens are not readily recognizable. We are unconvinced that the issuance of re-export documents for finished crocodilian leather products is unnecessarily redundant. Furthermore, we believe that adoption of such a proposal would establish a dangerous precedent that some Parties may wish to apply to the finished products of other CITES-listed species.

47. Applications to register operations that breed Appendix-I animal species in captivity for commercial purposes (Doc. 47). *Tentative U.S. negotiating position:* Oppose. This document refers to Notification to the Parties Nos. 2004/054 and 2005/48, requests by the Management Authority of the Philippines to register a captive-breeding operation for the following birds: *Amazona ochrocephala auropalliata, Amazona ochrocephala oratrix, Amazona viridigenalis, Anodorhynchus hyacinthinus, Ara militaris, Ara rubrogenys, Cacatua goffini, and Propyrrhura maracana.* We

are unable to support the approval of this operation for these eight species because the applications did not provide sufficient documentation on legal acquisition of the parental stock. Although documentation was provided, it is not specific to the species involved and refers only generically to parrots. Further, no documentation is provided to show that the parental stock was legally exported from range countries. Therefore, the captive-breeding operation does not meet the bred-in-captivity criteria of Resolution Conf. 10.16 (Rev.), specifically paragraph (b)(ii)A, which requires that the breeding stock must have been established ''in accordance with CITES and relevant national laws.'' Approval of this operation in the absence of documentation of legal origin of its stock could potentially set a precedent for approving other captive-breeding operations that similarly lack such documentation.

48. Relationship between *ex situ* production and *in situ* conservation: report of the Standing Committee (Doc. 48). *Tentative U.S. negotiating position:* Document CoP14 Doc. 48 contains recommendations of the Standing Committee's Clearing House. As a member of the Clearing House, the United States provided technical comments on the version of this document presented to the Standing Committee for SC54. The United States agrees with the CITES Secretariat that the issues raised by the relationship between *ex situ* production methods and *in situ* conservation efforts (for CITES-listed species) are interesting. However, we believe that the Parties must carefully consider, in light of current budgetary constraints, whether the recommended study represents a high-priority activity and will support the core purposes and functions of CITES.

49. Reservations regarding species transferred from one Appendix to another (Doc. 49). *Tentative U.S. negotiating position:* Support. The Convention provides three provisions under which a Party may take a reservation: (1) Article XXIII provides for a new Party to take a reservation with respect to a species listed in Appendix I, II, or III, within 90 days after the date that the Party deposits its instrument of ratification; (2) Article XV provides for a Party to take a reservation to an adopted amendment to Appendix I or II, within 90 days after the CoP at which the amendment was adopted; and (3) Article XVI provides for a Party to take a reservation on a species listed in Appendix III, or on any parts or derivatives of that species, at any time after the listing of the species. With Document CoP14 Doc. 49, the Secretariat presents a draft revision to Resolution Conf. 4.25 to clarify that, in cases where a Party holds a reservation in relation to a species that is subsequently transferred from one Appendix to another (or in other words deleted from one Appendix and simultaneously added to another Appendix), the reservation will be considered as no longer valid, and the Party will need to enter a new reservation if it wishes to maintain the reservation on the species. In the draft revision, the Secretariat also proposes to combine the two existing recommendations in Resolution Conf. 4.25 to shorten and simplify the text.

Species Trade and Conservation Issues

50. Great apes (Doc. 50). *Tentative U.S. negotiating position:* Undecided until certain reports are made available to the CITES Secretariat and reviewed. In Document CoP14 Doc. 50 the CITES Secretariat reviews activities involving great apes.

At SC54, held in October 2006, the Secretariat expressed its concern regarding a lack of information relating to orangutans that had been illegally imported into Cambodia and questioned whether the Convention was being adequately implemented. The Standing Committee called upon Cambodia to facilitate a mission by the Secretariat to assess implementation of the Convention, but to date the request has not been answered. The Secretariat will report on this subject at CoP14 and also has expressed its concerns regarding illicit trade in great apes by Egypt. The Standing Committee requested Egypt to prepare a report for CoP14 on its enforcement of the Convention, particularly with regard to the illicit trade in primates. The report has not yet been prepared. The Standing Committee recommended that the Conference of the Parties review the reports concerning Cambodia and Egypt and decide whether additional measures, including non-compliance measures or a verification mission by the Secretariat, are necessary.

The United States is unable to determine a definite position until the reports requested by the Secretariat from Cambodia and Egypt concerning reports on illegal trade in primates can be reviewed. The United States takes non-compliance issues very seriously and will look closely at the responses and reports requested from Cambodia and Egypt. The United States has been supportive of past actions recommended by the Secretariat in response to non-compliance issues, and unless there are circumstances that would warrant otherwise, we expect to continue our support of the Secretariat's recommendations.

51. Cetaceans (Doc. 51; Japan). *Tentative U.S. negotiating position:* Oppose. This document contains two draft decisions that, if adopted, would direct the Animals Committee to include in its Review of the Appendices all cetaceans in Appendix I that are managed by the International Whaling Commission (IWC). The second draft decision would direct the CITES Secretariat to write to the IWC Secretariat conveying the concern of the Conference of the Parties regarding the postponement of the Revised Management Scheme discussions. The United States believes it is doubtful that any new and compelling information would be revealed by this review, since the whale species most highly traded have been carefully reviewed by the IWC Scientific Committee and have been under almost continuous scrutiny by the Parties since CoP9 in 1994.

52. Asian big cats (Doc. 52). *Tentative U.S. negotiating position:* Support. In Document CoP14 Doc. 52, the Secretariat notes that several countries have achieved success in halting the downward population trend for wild tigers by using well-equipped and trained anti-poaching units. However, the Secretariat contends that, despite all the attention and money that have been put towards conserving tigers, wild tiger populations are probably at greater risk of extinction today than ever before. Unless the CoP can identify any new approach to the conservation of Asian big cat species, the Secretariat sees little option other than for the Parties to renew their efforts to eliminate illicit trade in specimens of these species.

53. Elephants

53.1 Trade in elephant specimens (Doc. 53.1). *Tentative U.S. negotiating position:* Undecided, pending the outcome of the African elephant range States dialogue meeting and discussions at SC55. This document was submitted by the Secretariat to report on a number of items related to both domestic and international ivory trade. Specifically, the document provides information on accomplishments achieved under the Action Plan for the control of trade in African elephant ivory, adopted at CoP13; the Secretariat's efforts to verify if certain conditions have been met to allow international trade from government-owned ivory stocks for certain countries, in line with the annotation adopted at CoP12; a review of the implementation of ivory trade controls in Zimbabwe; and a number of recent items related to illegal

international trade in ivory. The Secretariat will report orally on this subject at CoP14 and make specific recommendations at that time. The United States will formulate its position based on the results of the African elephant range States dialogue meeting and reports expected at SC55 and CoP14.

53.2 Monitoring of illegal trade in ivory and other elephant specimens (Doc. 53.2). *Tentative U.S. negotiating position:* Undecided. At the time this notice was prepared, this document had not been posted on the Secretariat's website.

53.3 Monitoring of illegal hunting in elephant range States (Doc. 53.3). *Tentative U.S. negotiating position:* Undecided. This document was prepared by the Secretariat to report on progress since CoP13 in implementing the MIKE (Monitoring the Illegal Killing of Elephants) program. At SC54, the Committee agreed that MIKE baseline information was not yet complete (a condition required before the ivory sale agreed at CoP12 may take place) and that the Secretariat should report on the MIKE baseline at SC55. The Secretariat notes in Document CoP14 Doc. 53.3 that the completed baseline information is ready to be presented at SC55. The document discusses MIKE activities since CoP13 and describes the current status of funding for the African and Asian MIKE programs. Although funding has been secured to support the MIKE program in Africa through 2011, the Secretariat is seeking $4 million to support MIKE activities in Asia for the period 2007–2011. The Secretariat will report orally on this subject at CoP14, including information on the outcomes of the baseline discussions at SC54 and fund-raising efforts. The United States will formulate its position based on the results of the African elephant range States dialogue meeting and reports expected at SC55 and CoP14.

53.4 Illegal ivory trade and control of internal markets (Doc. 53.4; Kenya and Mali). *Tentative U.S. negotiating position:* Undecided. This document submitted by Kenya and Mali is intended to support CoP14 Prop. 6. Document CoP14 Doc. 53.4 chronicles ivory seizures since CoP13 and provides information on domestic ivory markets around the world. Kenya and Mali propose amendments to Resolution Conf. 10.10 (Rev. CoP12), including a recommendation that Parties whose elephant populations are listed in Appendix I not introduce proposals to transfer those populations to Appendix II for a period of 20 years and a 20-year moratorium on ivory trade from Appendix-II populations, except for non-commercial trade in hunting trophies and the sale approved at CoP12. The document also includes a draft decision urging ivory-importing countries and others to provide financial and technical support for implementation of the Action Plan for the control of trade in African elephant ivory. We appreciate the position of Kenya and Mali relative to conservation efforts for African elephants. However, we note that a 20-year ban on listing proposals may be contrary to Article XV of the Treaty, which provides for any Party to propose an amendment to Appendix I or II at any CoP. The United States will formulate its final position based on the results of the African elephant range States dialogue meeting and reports expected at SC55 and CoP14.

54. Rhinoceroses (Doc. 54). *Tentative U.S. negotiating position:* Support in principle, but financial decisions are still undecided. In Document CoP14 Doc. 54, the Secretariat reports on the outcome of the projects undertaken by IUCN and TRAFFIC related to the conservation of and trade in African and Asian rhinoceroses. The Secretariat proposes to incorporate the reporting role of the IUCN/SSC African and Asian Rhino Specialist Groups and TRAFFIC into Resolution Conf. 9.14 (Rev. CoP13). The Secretariat also proposes two draft decisions related to the continued illegal trade in rhinoceros horns and one draft decision related to site-based monitoring of rhinoceros populations. The Secretariat notes that there are substantial financial implications associated with adopting its recommendations on this issue. The United States applauds the work undertaken by IUCN and TRAFFIC and supports continued work in combating the illegal hunting and trade in rhinoceroses. However, with regard to the financial implications of adopting the recommendations in the document, we believe that any items related to budgeting and financing activities under CITES must be carefully considered by the Parties in light of other priorities.

55. Tibetan antelope (Doc. 55). *Tentative U.S. negotiating position:* Support. Resolution Conf. 11.8 (Rev. CoP13) instructed the Standing Committee to undertake a regular review of the enforcement measures taken by the Parties to eliminate illicit trade in Tibetan antelope products on the basis of the CITES Secretariat's report, and to report the results at each meeting of the Conference of the Parties. This document submitted by Secretariat summarizes the report.

56. Saiga antelope (Doc. 56). *Tentative U.S. negotiating position:* Support, with additions. This document refers to Decisions 13.27 through 13.35 on saiga antelope, which were to be implemented prior to CoP14. These interconnected decisions were directed to the range States of the saiga antelope (Kazakhstan, Mongolia, the Russian Federation, Turkmenistan and Uzbekistan, and possibly China), other Parties (specifically those that are important consumers of and traders in saiga products, and those that could act as financial donors) and bodies, the Standing Committee, and the CITES Secretariat to address serious concerns over the continuously deteriorating conservation status of the saiga antelope. This document reports on the progress in accomplishing these decisions over the past 3 years, and recommends additional draft decisions to the Parties to ensure the continued conservation of saiga antelope. The saiga antelope was listed in Appendix II in 1995. The most significant threat to the species is illegal hunting, primarily for the Asian traditional medicine trade. In the document, the Secretariat notes that anti-poaching efforts have intensified in some parts of the saiga's range, and should be extended to its entire range. We wish to underscore the significance of this statement, because poaching continues to impact conservation efforts to restore the saiga population, which decreased from one million to 30,000 animals in the 1990s. According to the Secretariat's document, the Russian Federation is the only range country that has not signed the Memorandum of Understanding (MoU) for the Conservation, Restoration and Sustainable Use of the Saiga Antelope (*Saiga tatarica tatarica*). The MoU contains a Saiga Action Plan that calls for measures to restore the habitat and populations of the saiga antelope, and enhance transboundary and international cooperation through, *inter alia*, a regional conservation and management strategy. Therefore, the Secretariat recommends that the Russian Federation sign the MoU as soon as possible. The United States has provided financial support for the conservation and protection of the saiga antelope in the wild and for the range States workshop on this species in May 2002 in Kalmykia. We support the Secretariat's recommendations and plan to suggest the inclusion of saiga antelope on the agenda of the Standing Committee meetings between CoP14 and CoP15.

57. Tortoises and freshwater turtles (Doc. 57). *Tentative U.S. negotiating position:* Undecided. The United States has been involved in developing CITES

listing proposals and policy advice on the trade in tortoises and turtles for a number of years. While we generally do not have an objection to the amendments suggested by the Secretariat—provided they are endorsed by consensus by the Asian range and trading States—we are concerned that the CITES Parties have not paid sufficient attention to these trade problems after listing a number of Asian turtle species in Appendix II at CoPs 12 and 13. Due to the continuing and evolving trade in these species in Asia, including farming practices that may negatively impact wild populations, the United States believes that additional study and discussion of these problems is needed, and we plan to introduce this point at CoP14.

58. Hawksbill turtle (Doc. 58). *Tentative U.S. negotiating position:* Support. We agree with the Secretariat that no further action is needed. No funding was found for the convening of a workshop to develop a collaborative regional strategy for the conservation of hawksbill sea turtles, perhaps because it is regulation of international trade and not management that is the main responsibility of CITES. However, the Inter-American Convention for the Protection and Conservation of Sea Turtles, at its last meeting passed a resolution calling for a workshop to evaluate the current status of hawksbill sea turtle populations in the Wider Caribbean and Western Atlantic, and to present the best available methods of research and conservation for the species. The United States will announce its support for the IAC workshop and recommend that CITES collaborate with this and other relevant bodies concerning this species such as the Caribbean Environment Program.

59. Sharks

59.1 Report of the Animals Committee (Doc. 59.1). *Tentative U.S. negotiating position:* Support with exception. The report contains: (1) A review of implementation issues related to sharks listed in the CITES Appendices, to provide assistance to Parties in managing the species covered by the Convention; (2) information on specific cases where trade is having an adverse impact on sharks and the key species of sharks affected in this way; and (3) a listing and analysis of those species that are specifically threatened by trade. The proposal contains a large number of wide-ranging decisions and recommendations. As indicated by the Secretariat, at CoP14 a working group will review and edit the draft decisions; prioritize and rationalize the proposed measures; minimize overlapping instructions; look into reducing and simplifying the reporting burden; and assess the cost of implementing the draft decisions. The United States will work to ensure that this work is completed.

59.2 Additional conservation measures (Doc. 59.2; Australia). *Tentative U.S. negotiating position:* Support. This document states that, while the report from the Animals Committee to this meeting of the Conference of the Parties contains a number of useful suggestions for consideration to protect and conserve sharks, additional measures should be considered under the agenda item addressing sharks. These measures include: (1) That countries with National Plans of Action (NPOA–Sharks) strongly encourage the remaining shark-fishing countries to develop and implement NPOA–Sharks; (2) that regional fishing management organizations implement regional plans of action; and (3) that Parties greatly improve their data collection and reporting. The United States is one of the 16 countries that have implemented a NPOA–Sharks and is a lead country for promoting the sustainable use of shark resources.

59.3 Trade measures regarding the porbeagle *Lamna nasus* and the spiny dogfish *Squalus acanthias* (Doc. 59.3; Germany, on behalf of the European Community Member States). *Tentative U.S. negotiating position:* Undecided. This document will be considered if proposals for listing porbeagle and spiny dogfish in Appendix II are adopted. The document contains a draft decision that, if adopted, would direct the Animals Committee, in consultation with the FAO and other relevant experts, to examine trade in porbeagles and spiny dogfish and report at the 16th meeting of the Conference of the Parties. The Secretariat believes Resolution Conf. 12.6 on Conservation and Management of Sharks already directs the Animals Committee to make species-specific recommendations to the Conference of the Parties, if necessary, on improving the conservation status of sharks and the regulation of international trade in these species. FAO has been present at each of the recent meetings of the Animals Committee and has assisted the Committee in discussions on marine fish species, including sharks.

60. Sturgeons and Paddlefish

60.1 Report of the Secretariat (Doc. 60.1). *Tentative U.S. negotiating position:* No position is necessary; the CoP is asked to note the report. This document was prepared by the Secretariat to report on progress made in developing a trade database for sturgeon specimens subject to annual quotas (Decisions 13.44–13.47) and other activities related to sturgeon conservation.

60.2 Amendment of Resolution Conf. 12.7 (Rev. CoP13)

60.2.1 Proposal of the Standing Committee's Working Group on Sturgeons (Doc. 60.2.1; Islamic Republic of Iran). *Tentative U.S. negotiating position:* Support some provisions; oppose others. Two documents (CoP14 Doc. 60.2.1 and CoP14 Doc. 60.2.2) contain proposed amendments to the resolution on conservation and trade of sturgeons and paddlefish (Resolution Conf. 12.7 (Rev. CoP13)) and should be considered together. Document CoP14 Doc. 60.2.1 was submitted by the Islamic Republic of Iran, on behalf of the Standing Committee's working group on sturgeons, and Document CoP14 Doc. 60.2.2 was submitted by the Russian Federation. We fully support some of the changes proposed, including a reduction of the personal effects exemption for caviar from 250g to 125g, but we have serious concerns about others, including the proposed extension of the timeframe established at CoP13 for export of caviar from shared stocks. The United States has participated in past working groups on this issue, including the group established at SC54. Document CoP14 Doc. 60.2.1 includes text that was not agreed to by the working group and will require further discussion at the CoP. We expect that a working group will be established at CoP14, and we plan to continue to participate fully on this important issue. We will develop a final position based on the outcome of discussions at CoP14.

60.2.2 Proposal of the Russian Federation (Doc. 60.2.2). *Tentative U.S. negotiating position:* See discussion on Document CoP14 Doc. 60.2.1 above.

61. Toothfish: report of CCAMLR (Doc. 61). *Tentative U.S. negotiating position:* Support. At CoP12, the Parties adopted Resolution Conf. 12.4, Cooperation between CITES and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) regarding trade in toothfish, that encouraged CCAMLR to ''maintain a permanent flow of information'' to CITES through the Conference of the Parties. Document CoP14 Doc. 61 is CCAMLR's report to the CoP and contains four recommendations for the Conference of the Parties to: (1) request four particular CITES Parties that are either involved in illegal, unregulated, and unreported (IUU) fishing for toothfish or engaged in toothfish trade without having fully implemented CCAMLR conservation measures to report their position regarding

implementing Resolution Conf. 12.4 for consideration at the next CCAMLR annual meeting; (2) notify CITES Parties whose fishing vessels are engaged in IUU fishing for toothfish that their actions seriously undermine the objectives of CCAMLR; and (3) reinforce the provision of Resolution Conf. 12.4 that recommends that CITES Parties that capture or trade in toothfish adhere to CCAMLR if they have not already done so and, in any case, cooperate voluntarily with its conservation measures, particularly the catch documentation scheme (CDS).

The United States recognizes the threat that IUU fishing poses to toothfish populations and fully supports adoption of CCAMLR conservation measures by all countries involved in the toothfish trade. We renew our full endorsement and strong support of the fundamental principles and language adopted in Resolution Conf. 12.4 in 2002.

62. Sea cucumbers (Doc. 62). *Tentative U.S. negotiating position:* Support. This document fulfills the decision of the last CoP, that the Animals Committee should prepare, for consideration at the 14th meeting of the Conference of the Parties, a discussion paper on the biological and trade status of sea cucumbers to provide scientific guidance on the actions needed to secure their conservation status. The United States has actively participated in this process and will continue to do so.

63. Trade in traditional medicines (Doc. 63; Australia). *Tentative U.S. negotiating position:* Support. In its document, Australia recommends a number of revisions to Resolution Conf. 10.19 (Rev. CoP12) (Traditional medicines), primarily aimed at encouraging Parties to pursue the development and use of alternative ingredients in traditional medicines as a preferred alternative to breeding Appendix-I species in captivity for commercial purposes. The United States shares Australia's concerns regarding the potential for creating or increasing demand for wild Appendix-I species by using captive-bred specimens in traditional medicines.

64. Bigleaf mahogany: Report of the Working Group (Doc. 64). *Tentative U.S. negotiating position:* Support. In Document CoP14 Doc. 64, prepared by the Chairman of the Plants Committee with the assistance of the Chairman of the Bigleaf Mahogany Working Group (BMWG), the Plants Committee recommends adoption of a number of new draft decisions related to the continuation of the BMWG under the Plants Committee and the interpretation of the annotations for tree species listed in the Appendices. Additionally, the Plants Committee recommends a draft decision directed to the Plants Committee that it review at its 17th meeting (anticipated to be held in April 2008) range State reports on implementation of the CITES listing for bigleaf mahogany and consider whether there is a need to include the species in the Review of Significant Trade. The United States supports the continuation of the BMWG under the Plants Committee, but believes that, if by the 17th meeting of the Plants Committee (PC17), sufficient progress has not been made in improving the regulation of trade, the species should be included in the Review of Significant Trade as a matter of urgency.

65. Report of the Central Africa Bushmeat Working Group (Doc. 65). *Tentative U.S. negotiating position:* Support. Document CoP14 Doc. 65 presents the Coordinator's report of the Central Africa Bushmeat Working Group in fulfillment of Decision 13.102 on progress in implementing national action plans relating to the trade in bushmeat and other initiatives regarding this issue. The United States has supported the work of the Working Group since its inception and applauds the progress the group has made in supporting the development of national strategies and action plans to combat international commercial bushmeat trade.

Amendment of the Appendices

66. Periodic review of the Appendices (Doc. 66). *Tentative U.S. negotiating position:* Support. The Review of the Appendices is an activity conducted by the Animals and Plants Committees to ensure that the CITES Appendices continue to accurately reflect the biological and trade status of species included in the Appendices. This document recounts efforts by the Animals and Plants Committees, with the involvement of the Standing Committee, to establish an objective and efficient process for selecting species for review. Although the two technical committees, through a working group, developed a ''rapid assessment'' technique for selecting species for review, this procedure was subsequently determined to not be practicable for selecting a workable list of species for review. The Animals and Plants Committees have suggested that further work is needed to develop a process for selecting species for review, and are proposing that the work done thus far should be used as a starting point for further refining and finalizing these efforts.

68. Proposals to Amend Appendices I and II (Doc. 68)

Prop. 1. Transfer of *Nycticebus* spp. from Appendix II to Appendix I. Proposed by Cambodia. *Tentative U.S. negotiating position:* Support. Slow lorises (*Nycticebus* spp.) are prosimians, an ancient group of primates. The genus is widely distributed in at least 14 South and Southeast Asian countries. Large-scale deforestation has reduced the habitat for *Nycticebus* species, and thus it can be inferred that the genus has undergone a reduction in overall population numbers. In September 2006, the IUCN/SSC Primate Specialist Group revised its classification of *Nycticebus* species based on the IUCN Red List criteria and recommended that all species now be considered Vulnerable or Endangered. Recent scientific studies have also revealed that the genus *Nycticebus* contains more species than previously thought, and consequently, the individual species may consist of smaller populations. All species of *Nycticebus* have a low reproductive rate, making them particularly vulnerable to exploitation. Therefore, it seems that the biological criteria are met for listing in Appendix I according to Resolution Conf. 9.24 (Rev. CoP13). The proposal also demonstrates that international trade in species of *Nycticebus* has been, and still is taking place, primarily for medicinal purposes and for use as pets. Although official figures for legal trade are relatively low, much of the trade is illegal, as evidenced by the number of seizures taking place, indicating that the real trade volume is likely to be much higher.

Prop. 3. Transfer the Ugandan population of leopard (*Panthera pardus*) from Appendix I to Appendix II with an annotation that trade is to be allowed for the exclusive purpose of sport hunting for trophies and skins for personal use, to be exported as personal effects; and with an annual export quota of 50 leopards for the whole country. Proposed by Uganda. *Tentative U.S. negotiating position:* Oppose transfer to Appendix II; oppose the proposed export quota of 50 leopards per year. The proposal cites both Resolution Conf. 10.14 (Rev. CoP13) and Resolution Conf. 9.24 (Rev. CoP13) for the approval of an annual export quota of 50 leopards. The proposal is not written in accordance with the format for proposals to amend the Appendices as per Annex 6 to Resolution Conf. 9.24 (Rev. CoP13). As a result, it does not demonstrate that the population in Uganda no longer meets the biological criteria for inclusion in Appendix I or which precautionary measure will be in

place. The CITES Secretariat has suggested that Uganda request consideration of this proposal under agenda item 37 (Appendix-I species subject to export quotas) rather than item 68 (Proposals to amend the Appendices).

Uganda asserts that the proposed export quota of 50 leopards per year is a precautionary figure that will account for both animal control and sport hunting. The United States, as reflected in the document we submitted for CoP12 on establishing scientifically based quotas and in accordance with Resolution Conf. 9.21 (Rev. CoP13), which calls for establishment of a scientific basis for proposed quotas, is keen to ensure that annual export quotas are established on strong biological data. Although a quota of 50 is considered by Uganda as precautionary, the proposal does not provide any supporting biological information for this figure. Therefore, it cannot be determined whether the population can be sustained under the proposed quota figure.

Prop. 4. Maintenance of the African elephant (*Loxodonta africana*) populations of Botswana, Namibia, South Africa, and Zimbabwe in Appendix II in terms of Article II, paragraph 2(b), with the replacement of all existing annotations with annotations on trade, export quotas, and proceeds regarding raw ivory. Proposed by Botswana and Namibia. *Tentative U.S. negotiating position:* Undecided. The proposal would maintain the populations of Botswana, Namibia, South Africa, and Zimbabwe in Appendix II with changes to the annotations. The annotations would be replaced to allow the establishment of annual export quotas for trade in raw ivory. The ivory would be sold to trading partners that have been certified by the Secretariat, in consultation with the Standing Committee, and the income from the trade in raw ivory would be used exclusively for elephant conservation and community development programs. The United States will formulate its position based on the results of the African elephant range states dialogue meeting and reports expected at SC55 and CoP14.

Prop. 5. Amendment of the annotation of the African elephant (*Loxodonta africana*) populations of Botswana. Proposed by Botswana. *Tentative U.S. negotiating position:* Undecided. This proposal would amend the annotation for Botswana's elephant population from the live animal trade condition ''for *in situ* conservation programs'' only to ''for commercial purposes.'' ''Trade in leather goods'' would be changed from ''non-commercial'' to ''commercial'' purposes (as is the case for Namibia and South Africa). Trade in registered raw ivory could only come from registered government-owned stocks originating in Botswana and subject to the conditions of Resolution Conf. 10.10 (Rev. CoP12) concerning domestic manufacturing and trade. A maximum of 40 metric tons of ivory could be traded and exported in a single shipment under strict supervision of the Secretariat. The income of the trade would be used exclusively for elephant conservation and community conservation and development programs within or adjacent to the elephant range. The proposed annotation would allow an immediate ''one-off'' sale and annual sales of up to 8 metric tons of registered stocks of raw ivory for commercial purposes. The United States will formulate its position based on the results of the African elephant range states dialogue meeting and reports expected at SC55 and CoP14.

Prop. 6. Amendment of the annotation of the African elephant (*Loxodonta africana*) populations of Botswana, Namibia, and South Africa. Proposed by Kenya and Mali. *Tentative U.S. negotiating position:* Undecided. This proposal would amend the annotations of the populations of Botswana, Namibia, and South Africa to prohibit trade in raw or worked ivory for 20 years, except for hunting trophies for non-commercial purposes, the one-off sale agreed upon at CoP12, and Namibian ekipas (ivory trinkets) for non-commercial purposes. It also revokes Zimbabwe's annotation to sell ivory carvings for non-commercial purposes. The United States will formulate its position based on the results of the African Elephant Range State Dialogue meeting and reports expected at SC55 and CoP14.

Prop. 8. Amendment of the annotation of the vicuña (*Vicugna vicugna*) population of Bolivia for the exclusive purpose of allowing international trade in wool sheared from live vicuñas, and in cloth and items made thereof, including luxury handicrafts and knitted articles. Proposed by Bolivia. *Tentative U.S. negotiating position:* Undecided. In February 2003, Bolivia listed its vicuña population in Appendix II for wool and products derived from sheared live animals of the populations of the Conservation Units of Mauri-Desaguadero, Ulla Ulla, and Lípez-Chichas; and wool products made from sheared live animals of the rest of the population of Bolivia. This proposal would amend the annotation to include the entire Bolivian vicuña population for wool and products. The rest of the annotation remains unchanged. Although the wild population is increasing, we would like an explanation for the decrease in the population of Lípez-Chichas of over 2,000 specimens between 2002 and 2004.

Prop. 9. Inclusion of Barbary red deer (*Cervus elaphus barbarus*) in Appendix I. Proposed by Algeria. *Tentative U.S. negotiating position:* Oppose. The Barbary red deer is considered a subspecies of red deer (*Cervus elaphus*) and is confined to Tunisia, Algeria, and a reintroduced population in Morocco. However, recent genetic analysis has indicated that these populations in North Africa are virtually indistinguishable from *C. elaphus corsicanus* in Sardinia, Italy, and the reintroduced population in Corsica, France. One assessment considers all these populations to belong to a separate species, *Cervus corsicanus.* The Barbary red deer has been included in Appendix III at the request of Tunisia since 1976. The subspecies was assessed as ''Lower risk/near threatened'' by IUCN in 1996. The wild population is reported to have decreased historically, and appears to have a restricted area of distribution. However, it is unclear if the biological criteria are met due to the uncertainty of its taxonomy. According to the proposal, there is no national utilization, no legal or illegal trade, and no actual or potential trade impacts. Therefore, the trade criteria for an Appendix-I listing are not met. Threats are reported to include poaching and forest fires; listing in Appendix I is not likely to benefit the conservation of this species.

Prop. 10. Inclusion of Cuvier's gazelle (*Gazella cuvieri*) in Appendix I. Proposed by Algeria. *Tentative U.S. negotiating position:* Oppose. The Cuvier's gazelle is distributed in Algeria, Morocco, and Tunisia in small scattered populations. The species has been included in Appendix III at the request of Tunisia since 1976. The species was assessed by IUCN as ''Endangered'' in 1996, on the basis that the population numbered below 2,500 mature individuals and was declining. In 2005–2006, the Algerian population was estimated at 500 individuals, and populations were reported to be stable. According to the proposal, there is no national utilization, no legal or illegal trade, and no actual or potential trade impacts. Therefore, the trade criteria for an Appendix-I listing are not met. Threats are reported to include poaching and forest fires; listing in Appendix I is not likely to benefit the conservation of this species.

Prop. 11. Inclusion of Dorcas gazelle (*Gazella dorcas*) in Appendix I. Proposed by Algeria. *Tentative U.S. negotiating position:* Oppose. The Dorcas gazelle has a patchy distribution in at least 19 countries in the arid and sub-arid zones of the Sahelo-Saharan region and in the Near East. The species has been included in Appendix III of CITES at the request of Tunisia since 1976. According to the proposal, the species' population in the wild has declined significantly, perhaps by 50% within the past half-century, due to hunting with motorized vehicles and, to a lesser extent, degradation and disappearance of habitat. The species was assessed as ''Vulnerable'' by IUCN in 2000, and is included in Appendix I of the Convention on Migratory Species (CMS). The species does not appear to meet the biological criteria for inclusion in Appendix I, because there is no indication that the species' range is restricted in extent or that the overall population is small. The proposal does not provide any information on trade, and although the CITES trade database shows very low levels of international trade, it is mainly in live specimens, and to a lesser extent body parts and trophies. Therefore, the trade criteria for an Appendix-I listing are not met. Threats are reported to include poaching and overgrazing by cattle. Listing in Appendix I is not likely to benefit the conservation of this species.

Prop. 12. Inclusion of slender-horned gazelle (*Gazella leptoceros*) in Appendix I. Proposed by Algeria. *Tentative U.S. negotiating position:* Support. The slender-horned gazelle is distributed across eight or nine countries in northern Africa. The species has been included in Appendix III of CITES at the request of Tunisia since 1976. The species was assessed as ''Endangered'' by IUCN in 1996 and appears to meet the biological criteria for an Appendix-I listing. According to the proposal, threats to the species include motorized hunting and degradation of vegetation. International trade in trophies does occur, but is not well documented. From a precautionary standpoint this species merits inclusion in Appendix I.

Prop. 13. Transfer of the Brazilian population of black caiman (*Melanosuchus niger*) from Appendix I to Appendix II. Proposed by Brazil. *Tentative U.S. negotiating position:* Undecided. Brazil submitted this proposal to transfer its population from Appendix I to Appendix II. The population in Brazil comprises approximately 80% of the species' range, is estimated to comprise 16 million individuals, and is increasing. Brazil proposes to harvest 695 specimens per year in the Mamirau? Sustainable Development Reserve. In subsequent years, a harvest quota of 5–7% of the non-hatchling wild population (primarily juvenile males) would be in place throughout Brazil. We have some concerns about the adequacy of safeguards against illegal harvest, uncontrolled exports from Brazil, and possible effects on the species in adjacent range countries. We would also like to hear the opinions of the other range States (Bolivia, Colombia, Ecuador, Guyana, Peru, and Suriname). We note that this species is currently listed as endangered under the Endangered Species Act, and as such, even if the proposal is adopted, the import of specimens into the United States for commercial purposes would remain prohibited.

Prop. 14. Transfer Guatemalan beaded lizard (*Heloderma horridum charlesbogerti*) from Appendix II to Appendix I. Proposed by Guatemala. *Tentative U.S. negotiating position:* Support. The Guatemalan beaded lizard is one of four subspecies of beaded lizard, a large venomous species native to Mexico and Guatemala. The Guatemalan beaded lizard is endemic to the Motagua Valley in eastern Guatemala and is considered to be one of the most endangered animals in the world. This subspecies was formally described in 1988, a decade later thought to be extinct in the wild, and then re-discovered in 2002. There are an estimated 170–250 individuals of this subspecies; it is believed to have declined based on the difficulty of locating individuals compared to the 1980s. The major threats to the Guatemalan beaded lizard are habitat destruction, over-collection for local and foreign use, persecution by locals, and effects of hurricanes. Collection and trade in this subspecies are illegal in Guatemala. However, illegal domestic and international trade occur due to the high demand for the subspecies by collectors. Even a small level of trade in this subspecies is significant due to its extremely low population numbers.

Resolution Conf. 9.24 (Rev. CoP13) states that split-listing a species should generally be avoided due to the potential enforcement problems it creates, and it states that taxonomic listings below the species level should be avoided unless the taxon in question is highly distinctive and the use of the name would not give rise to enforcement problems. Consultations with experts have revealed that specimens of this subspecies from one year of age to adulthood can be distinguished from other subspecies. Potential identification difficulties of very young animals should not be an issue of concern because only adult specimens have been found in the wild. This subspecies meets the biological and trade criteria for an Appendix-I listing, and prevention of any level of trade in wild specimens of this critically endangered subspecies would contribute significantly to its conservation.

Prop. 15. Inclusion of porbeagle (*Lamna nasus*) in Appendix II with entry into effect of the inclusion to be delayed by 18 months to enable Parties to resolve the related technical and administrative issues. Proposed by Germany, on behalf of the European Community Member States. *Tentative U.S. negotiating position:* Undecided. The proponent has cited that the species' life history, vulnerability to overexploitation, inadequate fisheries management, and overfishing as supporting reasons for the proposal. There is not sufficient data in the proposal to support the statement that international trade is one of the driving factors in this species' overfished status or a factor that could prohibit populations from rebounding. Both the United States and Canada are actively managing the species to reduce fishing pressure. It is also not clear whether it is possible (efficient and enforceable) to distinguish porbeagle sharks from other species of sharks in trade. The Fish and Wildlife Service (Service) and the National Marine Fisheries Service (NMFS) are studying the proposal and consulting with other Parties to develop the U.S. position.

Prop. 16. Inclusion of spiny dogfish (*Squalus acanthias*) in Appendix II with entry into effect of the inclusion to be delayed by 18 months to enable Parties to resolve the related technical and administrative issues. Proposed by Germany, on behalf of the European Community Member States. *Tentative U.S. negotiating position:* Undecided. The proponent has cited that the species' life history, vulnerability to overexploitation, inadequate fisheries management, and overfishing as supporting reasons for the proposal. The proposal calls for the listing of the species throughout its range. The Northeast Atlantic stock has suffered a large decline, but a number of other global stocks are currently stable. There are currently both Federal and interstate fishery management plans for spiny dogfish in the United States. The proponent also indicates that population declines in several Northern Hemisphere stocks, combined with high market demand, are driving fishing pressure on other stocks that are now beginning to supply international

markets. The proposal contains little information to support this observation. The Service and NMFS are studying the proposal and consulting with other Parties to develop the U.S. position.

Prop. 18. Inclusion of European eel (*Anguilla anguilla*) in Appendix II. Proposed by Germany, on behalf of the European Community Member States. *Tentative U.S. negotiating position:* Undecided. The European eel occurs in coastal areas and freshwater ecosystems in Europe, northern Africa, and the Mediterranean parts of Asia. The proponent has cited that the species' complex life history in combination with heavy exploitation in all of its life stages and high fishing mortality, along with habitat loss, pollution, climate change affecting ocean currents, and damming of rivers, as factors that have resulted in sharp population declines. Poaching and illegal trade in European eels is also a concern. However, because the fishery is small in scale and specialized, bycatch of the species is not considered a threat to the species. Although there are various regional management measures in place, there is no regulatory protection mechanism in place to regulate international trade in the European eel. Due to historical and recent declines, as measured from harvest data (e.g., an average 95–99% decline in harvest in 19 rivers in 12 countries), the species appears to meet the criteria in Resolution Conf. 9.24 (Rev. CoP13) for inclusion in Appendix II. However, the similarity of appearance between this species and other eels in the genus *Anguilla,* including the American eel (*A. rostrata*), which is also in international trade, presents implementation and enforcement difficulties for such a listing.

Prop. 20. Inclusion of Brazilian populations of spiny lobster (*Panulirus argus and P. laevicauda*) in Appendix II. Proposed by Brazil. *Tentative U.S. negotiating position:* Oppose. The proponent states that the status of these species in Brazilian waters is severely overfished and that overfishing is still occurring mainly due to take of undersized animals. The United States feels strongly that, as the world's largest importer of Brazil's spiny lobsters, we should make every effort to support Brazil for its efforts to conserve and manage spiny lobster in their waters. However, this proposal is not supportable because it would result in a split-listing of the species that would not be enforceable. Enforcement authorities in importing countries would not be able to determine whether spiny lobsters entering their countries were coming from Brazil, and thus required to be accompanied by CITES export permits, or whether they had originated elsewhere. Inclusion of these species in Appendix III throughout their ranges would provide greater conservation benefit and would track the species throughout the Wider Caribbean. The Service and NMFS are consulting bilaterally with the Government of Brazil and multilaterally with other governments in the region to consider additional tools for the conservation of spiny lobster populations.

Prop. 24. Deletion of leaf-bearing cacti in the genera *Pereskia* and *Quiabentia* from Appendix II. Proposed by Argentina. *Tentative U.S. negotiating position:* Undecided. This proposal would remove all species of these leaf-bearing cacti from Appendix II. For some of these species, whose status in the wild is unclear, we are concerned about the impact that unregulated trade may have on these species.

Prop. 25. Deletion of leaf-bearing cacti in the genus *Pereskiopsis* from Appendix II. Proposed by Mexico. *Tentative U.S. negotiating position:* Support. This proposal would remove *Pereskiopsis* spp. from Appendix II. We have evaluated this proposal and discussed it directly with the Mexican CITES authorities, and have determined that the removal of this genus from Appendix II should not result in the unsustainable use of these species for trade or enforcement difficulties for regulating trade in other species due to similarity of appearance.

Prop. 26. Merging and amendment of annotations #1, #4 and #8 for cacti (*Cactaceae* spp. (#4)) and orchids (*Orchidaceae* spp. (#8)) in Appendix II, and all taxa annotated with annotation #1. Proposed by Switzerland. *Tentative U.S. negotiating position:* Oppose. This proposal was produced outside the process that was established by the Plants Committee, at the direction of the Parties, to streamline the annotations for CITES-listed medicinal plants. The proposed language broadens the exemptions as well as the taxa exempted, while providing little information on the impact of unregulated trade on the species. In particular, we note that inclusion of provisions to exempt leaves did not receive support from the Plants Committee when discussed at its 15th meeting (PC15), and the proposed provision to exempt herbarium specimens has been previously rejected by the Parties as not being consistent with the terms of the Convention.

Prop. 27. Amendment of the annotations to *Adonis vernalis, Guaiacum* species, *Hydrastis canadensis, Nardostachys grandiflora, Panax ginseng, Panax quinquefolius, Picrorhiza kurrooa, Podophyllum hexandrum, Pterocarpus santalinus, Rauvolfia serpentina, Taxus chinensis, T. fuana, T. cuspidata, T. sumatrana*, and *T. wallichiana,* Orchidaceae species in Appendix II, and all Appendix-II and -III taxa annotated with annotation #1. Proposed by Switzerland as the Depositary Government, at the request of the Plants Committee. *Tentative U.S. negotiating position:* Support. This document was produced by consensus of the Medicinal Plant Annotations Working Group (MPAWG) in consultation with the Plants Committee, under the direction of the Conference of the Parties, to assess the effectiveness of and streamline the annotations for CITES-listed medicinal plants (CoP13: Decisions 13.50–13.52). The proposal clarifies terms and tracks currently exempted material believed to be in trade, without expanding upon the exemptions for species.

Prop. 29. Amendment of the annotation to *Euphorbia* species. Proposed by Switzerland. *Tentative U.S. negotiating position:* Oppose. As currently written, the annotation is difficult to understand and may provide the opportunity to exclude wild-collected specimens from CITES controls.

Prop. 30. Inclusion of pernambuco (*Caesalpinia echinata*) in Appendix II, including all parts and derivatives. Proposed by Brazil. *Tentative U.S. negotiating position:* Support on the condition that the proposal will be amended at the CoP to exempt a limited quantity of manufactured musical bows for personal use (e.g., by professional musicians), or something similar. Pernambuco is the primary wood used to make fine bows for stringed musical instruments, for which there is no other comparable wood substitute.

Pernambuco is a slow-growing tropical tree restricted to the Atlantic Coastal Forest of Brazil. Since 1992, the species has been listed as threatened in Brazil, and is categorized as endangered by the IUCN. Although Brazil has strict national controls in place that regulate the use of this species, the species and its Atlantic Forest habitat remain poorly protected, and enforcement of environmental laws is constrained by the availability of financial and human resources. Conservationists, and bow makers and musicians worldwide are concerned about the conservation and sustainable use of existing stocks of pernambuco. Several entities (e.g., the International Pernambuco Conservation Initiative) are actively working in Brazil

to promote conservation and reforestation of pernambuco.

The listing of pernambuco in Appendix II would support the efforts undertaken by the Brazilian Government to ensure that trade is both legal and sustainable by requiring specimens in trade to have CITES permits. However, given the number of existing bows worldwide, a listing of the species that includes all parts and derivatives may be overly burdensome on traveling musicians without providing substantial conservation benefit. We will work with Brazil and other Parties on this proposal to promote the conservation of this species while avoiding unnecessary constraints on products already in trade.

Prop. 31. Inclusion of rosewood or cocobola (*Dalbergia retusa*) in Appendix II, and *D. granadillo* for look-alike reasons. Proposed by Germany, on behalf of the European Community Member States. *Tentative U.S. negotiating position:* Undecided. *Dalbergia retusa* is a slow-growing tree of tropical dry forests from Mexico to Panama; *D. granadillo* occurs in El Salvador and Mexico. *Dalbergia retusa* has been extensively harvested, and some areas are reported to be commercially exhausted. The United States imports rosewood, which is used primarily for the production of musical instruments. We are evaluating this proposal to determine if it meets the requirements for inclusion in Appendix II. The positions of range countries on this proposal are critical to the development of our position, and therefore, we are currently consulting with them on this proposal to determine how we can best work cooperatively for the conservation and sustainable use of this species.

Prop. 32. Inclusion of Honduras rosewood (*Dalbergia stevensonii*) in Appendix II. Proposed by Germany, on behalf of the European Community Member States. *Tentative U.S. negotiating position:* Undecided. Honduran rosewood is restricted to swamp forests of southern Belize, northern Guatemala, and southeastern Mexico. The United States imports rosewood, which is used primarily for the production of musical instruments. We are evaluating this proposal to determine if it meets the requirements for inclusion in Appendix II. The positions of range countries on this proposal are critical to the development of our position, and therefore, we are currently consulting with them on this proposal to determine how we can best work cooperatively for the conservation and sustainable use of this species.

Prop. 33. Inclusion of the genus *Cedrela* in Appendix II. Proposed by Germany, on behalf of the European Community Member States. *Tentative U.S. negotiating position:* Undecided. The proposal would include Spanish cedar (*C. odorata*), and all other species in the genus *Cedrela* (an estimated six species) for look-alike reasons, in Appendix II. Spanish cedar is a wide-ranging species of lowland forests in the Caribbean Islands, Central America, Mexico, and South America. In 2001, Colombia and Peru included their populations of Spanish cedar in Appendix III, with annotation #5, which designates logs, sawn wood and veneer sheets. Since this listing, exports of Spanish cedar from Peru to the United States have increased. We are consulting with the range countries to clarify the support for, and the anticipated effects of, this proposal. We will work with range countries and other Parties on this proposal to promote sustainable forest management and conservation of this species.

Prop. 34. Amendment of the annotation to exempt certain artificially propagated hybrids of Orchidaceae (interspecific and intergeneric hybrids of *Cymbidium, Dendrobium, Miltonia, Odontoglossum, Oncidium, Phalaenopsis* and *Vanda*) included in Appendix II. Proposed by Switzerland. *Tentative U.S. negotiating position:* Oppose. This proposal would merge existing taxon-specific exemptions on the Orchidaceae family, but more importantly would broaden exemptions for artificially propagated hybrids to include the genera *Miltonia, Odontoglossum,* and *Oncidium*. There are concerns that the exemption of New World genera would create enforcement problems for range countries, a sentiment that was previously raised at CoP12 and CoP13.

Prop. 35. Amendment of the annotation to exempt certain artificially propagated hybrids of Orchidaceae (interspecific and intergeneric hybrids of *Cymbidium, Dendrobium, Phalaenopsis,* and *Vanda*) included in Appendix II. Proposed by Switzerland as the Depositary Government, at the request of the Plants Committee. *Tentative U.S. negotiating position:* Support. This proposal would replace confusing language in the existing taxon-specific orchid hybrid exemptions (referred to as footnote 8) with language proposed and agreed upon by consensus of the Plants Committee.

Prop. 37. Deletion of the current annotation for *Taxus chinensis, T. fuana,* and *T. sumatrana,* and adoption of a new annotation for *T. cuspidata* in Appendix II. Proposed by Switzerland, as Depositary Government, at the request of the Standing Committee. *Tentative U.S. negotiating position:* Support Part A; oppose Part B of the proposal. The adoption of Part A of this proposal would delete the annotation to exempt labeled, potted artificially propagated plants of *T. chinensis, T. fuana,* and *T. sumatrana* from CITES regulations. Adoption of Part B would add a new annotation to the listing of *T. cuspidata* to exempt labeled, potted artificially propagated plants of hybrids and cultivars of the species from CITES regulations. This proposal seeks to rectify the adoption of an annotation at CoP13 for these taxa, which was subsequently determined to contravene the provisions of the Convention. However, it is the opinion of the United States that this proposal is similarly flawed in that it allows an exemption for whole plants or artificially propagated hybrids and cultivars of *T. cuspidata,* but does not exempt readily recognizable parts and derivatives.

Conclusion of the Meeting

69. Determination of the time and venue of the next regular meeting of the Conference of the Parties (no document). *Tentative U.S. negotiating position:* Not applicable. The Secretariat does not normally circulate a document on the time and venue of the next CoP. We anticipate receiving information on this at CoP14, at which time the United States will develop a negotiating position. The United States favors holding CoP15 in a country where all Parties and observers will be admitted without political difficulties, and where facilities are available to ensure the safe and efficient conduct of the meeting.

70. Closing Remarks (No document)

Future Actions

During our regular public briefings at CoP14, we will discuss any changes in our negotiating positions. After CoP14, we will publish a notice to invite public input on whether the United States should take a reservation on any of the amendments to the CITES Appendices. Whereas CITES provides a period of 90 days from the close of a CoP for any Party to enter a reservation with respect to an amendment to Appendix I or II, the United States has never entered a reservation on any CITES listing. As discussed in the **Federal Register** notice of November 17, 1987 (52 FR 43924), entering a reservation would do very little to relieve importers in the United States from the need for foreign export permits because the Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*) make it a Federal offense to import into the United States any animals

taken, possessed, transported, or sold in violation of foreign conservation laws. If the foreign nation has enacted CITES, and has not taken a reservation with regard to any species, part, or derivative, the United States would continue to require CITES documents as a condition of import. A reservation by the United States also would provide exporters in this country with little relief from the need for U.S. export documents. Receiving countries that are party to CITES will require CITES-equivalent documentation from the United States even if it enters a reservation, because the Parties have agreed to allow trade with non-Parties (including reserving countries) only if they issue documents containing all of the information required on CITES permits and certificates, and only if the same findings have been made prior to issuance of the documents.

Author: This notice was prepared by Clifton A. Horton, Division of Management Authority; under the authority of the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: May 24, 2007.

Kenneth Stansell,

Acting Director.

[FR Doc. 07–2714 Filed 5–29–07; 11:34 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–72912; AK–964–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Bering Straits Native Corporation. The lands are in the vicinity of Shaktoolik, Alaska, named Christmas Mountain, and are located in:

Kateel River Meridian, Alaska

T. 10 S., R. 9 W.,
Sec. 31.
Containing 614.76 acres.
T. 11 S., R. 9 W.,
Secs. 6 and 7.
Containing 1,235.56 acres.
T. 10 S., R. 10 W.,
Secs. 35 and 36.
Containing 1,280.00 acres.
T. 11 S., R. 10 W.,
Secs. 1, 2, 11, and 12.
Containing 2,559.84 acres.
Aggregating 5,690.16 acres.

Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until July 2, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Eileen Ford,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–10596 Filed 5–31–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–40304; AK–964–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Bering Straits Native Corporation. The lands are in the vicinity of Shaktoolik, Alaska, named Reindeer Cove and are located in:

Kateel River Meridian, Alaska

T. 12 S., R. 12 W.,
Secs. 6, 7, and 18.
Containing 1,890.82 acres.
T. 12 S., R. 13 W.,
Secs. 1, 2, 11, 12, 13, and 14.
Containing 3,465.00 acres.
Aggregating 5,355.82 acres.

Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until July 2, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Eileen Ford,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–10613 Filed 5–31–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161144]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Anadarko Petroleum Corp., El Paso E&P Company, LP, Maar County Line LP, Michiwest Energy Inc., Muskegon

Development Co., North Finn LLC, Strickler County Line LP, William J. Strickler, Watson Street LP, and Walter Wood for competitive oil and gas lease WYW161144 for land in Johnson County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessees have paid the required $500 administrative fee and $163.00 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW161144 effective December 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7–10608 Filed 5–31–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0112).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the Performance Measures Data, Form MMS–131.

DATES: Submit written comments by July 31, 2007.

ADDRESSES: You may submit comments by any of the following methods listed below. Please use the Information Collection Number 1010–0112 as an identifier in your message.

- E-mail MMS at *rules.comments@mms.gov.* Identify with Information Collection Number 1010–0112 in the subject line.
- *Fax:* 703–787–1093. Identify with Information Collection Number 1010–0112.
- *Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention:* Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0112'' in your comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of Form MMS–131.

SUPPLEMENTARY INFORMATION:

Title: Performance Measures Data, Form MMS–131.

OMB Control Number: 1010–0112.

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331 *et seq.*), as amended, requires the Secretary of the Interior to preserve, protect, and develop OCS oil, gas, and sulphur resources; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition. These responsibilities are among those delegated to the MMS. MMS generally issues regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protect the environment; and result in diligent exploration, development, and production of OCS leases.

Beginning in 1991, MMS has promoted, on a voluntary basis, the implementation of a comprehensive Safety and Environmental Management Program (SEMP) for the offshore oil and gas industry as a complement to current regulatory efforts to protect people and the environment during OCS oil and gas exploration and production activities.

From the beginning, MMS, the industry as a whole, and individual companies realized that at some point they would want to know the effect of SEMP on safety and environmental management of the OCS. The natural consequence of this interest was the establishment of performance measures. We will be requesting OMB approval for an extension of the performance measures on data Form MMS–131.

The responses to this collection of information are voluntary, although we consider the information to be critical for assessing the effects of the OCS Safety and Environmental Management Program. We can better focus our regulatory and research programs on areas where the performance measures indicate that operators are having difficulty meeting MMS expectations. We are more effective in leveraging resources by redirecting research efforts, promoting appropriate regulatory initiatives, and shifting inspection program emphasis. The performance measures also give us valuable quantitative information to use in judging the reasonableness of company requests for alternative compliance or departures under 30 CFR 250.141 and 250.142. We also use the information collected to work with industry representatives to identify and request ''pacesetter'' companies to make presentations at periodic workshops.

Knowing how the offshore operators, as a group, are doing and where their own company ranks, provides company management with information to focus their continuous improvement efforts. This leads to more cost-effective prevention actions and, therefore, better cost containment. This information also provides offshore operators and organizations with a credible data source to demonstrate to those outside the industry how well the industry and individual companies are doing.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR Part 2) and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' No items of a sensitive nature are collected. Responses are voluntary. We intend to release data collected on Form MMS–131 only in a summary format that is not company-specific.

Frequency: The frequency is annual, during the 1st quarter of the year.

Estimated Number and Description of Respondents: Approximately 100 Federal OCS oil and gas or sulphur lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The currently approved ''hour'' burden for Form MMS–131 is 504 hours. We estimate the public reporting burden averages 8 hours per response. This includes the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost''

Burden: We have identified no ''non-hour cost'' burden associated with Form MMS–131.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Policy: Before including your address, phone number, email 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.

MMS Information Collection Clearance Office: Arlene Bajusz, (202) 208–7744.

Dated: May 18, 2007.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E7–10615 Filed 5–31–07; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–948 (Review)]

Individually Quick Frozen Red Raspberries From Chile

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on individually quick frozen (''IQF'') red raspberries from Chile.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on IQF red raspberries from Chile would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 23, 2007. Comments on the adequacy of responses may be filed with the Commission by August 14, 2007. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* June 1, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 9, 2002, the Department of Commerce issued an antidumping duty order on imports of IQF red raspberries from Chile (67 FR 45460). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. —The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Chile.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found a single Domestic Like Product consisting of both organic and non-organic IQF red raspberries.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–170, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all domestic processors, grower/processors, and growers of IQF red raspberries.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is July 9, 2002.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 23, 2007. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 14, 2007. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the

Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 25, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–10408 Filed 5–31–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Review)]

Polyethylene Terephthalate Film From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on polyethylene terephthalate (''PET'') film from India and the antidumping duty orders on PET film from India and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on PET film from India and the antidumping duty orders on PET film from India and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 23, 2007. Comments on the adequacy of responses may be filed with the Commission by August 14, 2007. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* June 1, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–171, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 1, 2002, the Department of Commerce issued a countervailing duty order on imports of PET film from India (67 FR 44179) and antidumping duty orders on imports of PET film from India and Taiwan (67 FR 44174–44175). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are India and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all PET film, not including equivalent PET film.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry to include all domestic producers of PET film.

(5) The Order Date is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the Order Date is July 1, 2002.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 23, 2007. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 14, 2007. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification

(or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country(ies) since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country(ies), and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 25, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–10407 Filed 5–31–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 U.S.C. 50.7, notice is hereby given that on May 18, 2007, a proposed Consent Decree in *United States* v. *Baldwinville Products, Inc. et al.*, Civil Action No. 4:07–cv–40146 was lodged with the United States District Court for the District of Massachusetts.

In this action the United States sought cost recovery with respect to the Birch Hill Dam and Reservoir Project Area Site, located on the Millers and Otter Rivers, in Worcester County, Massachusetts (''the Site''), under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCIA'') against Baldwinville Products, Inc. and Erving Industries, Inc. (collectively, the ''Settling Defendants''). Under the terms of the proposed settlement, the Settling Defendants will pay $215,000 to reimburse the United States for costs incurred at the Site. The Settling Defendants shall also undertake certain sampling work in the event flood waters exceed certain levels.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree.

Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Baldwinville Products, Inc.,* (D. Mass.), D.J. Ref. 90–11–3–1728.

The Consent Decree may be examined at the Office of the United States Attorney, Donohue Federal Building, 595 Main Street, Room 206, Worcester, Massachusetts, and at the United States Army Corps of Engineers, New England District, 969 Virginia Road, Concord, Massachusetts. During the public comment period, the Consent Decree, may also be examined of the following Department of Justice Web-site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@fleetwood@usdoj.gov),* fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Chief, Environmental Enforcement and Natural Resources Division.

[FR Doc. 07–2700 Filed 5–31–07; 8:45am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on May 17, 2007, a proposed Consent Decree in *United States* v. *Kerr-McGee Corporation,* Civil Action No. 07–CV–01034–WDM–MJW as lodged with the United States District Court for the District of Colorado.

The Consent Decree resolves claims by the United States against Kerr-McGee Corporation (''Kerr-McGee'') under section 113 of the Clean Air Act, 42 U.S.C. 7413 at Kerr-McGee's Cottonwood Wash, Ouray, and Bridge compressor stations located on tribal lands in the Uinta Basin and in the Denver-Julesburg Basin in Weld County, Colorado. The Consent Decree will require Kerr-McGeee to install low emission dehydrators, enclose flares on certain condensate storage tanks and replace pneumatic controllers with ''low bleed'' components and also install either catalytic controls on large engines or replace old engines with newer, lower emitting units. The decree establishes federally enforceable limits on the compressor stations to restrict the sources' potential to emit, keeping it below the Clean Air Act's major source threshold until EPA finalizes a Synthetic Minor Source Permitting Program in Indian Country. The decree also requires Kerr-McGee to pay a civil penalty of $150,000 to the United States and $50,000 to the State of Colorado and perform supplemental environmental projects valued at $250,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Kerr-McGee Corporation*, D.J. Ref 90–5–2–1–08656.

The Consent Decree may be examined at the Office of the United States Attorney, 1225 Seventeenth Street, Suite 700, Denver, Colorado 80202, and at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*toniafleetwood@usdoj.gov*, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the entire Consent Decree with exhibits from the Consent Decree Library, please enclose a check in the amount of $44.75 (25 cents per page reproduction costs) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy of the decree exclusive of exhibits, please enclose a check in the amount of $20.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–2701 Filed 5–31–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under The Clean Water Act, Oil Pollution Act, and Endangered Species Act

Notice is hereby given that on May 21, 2007, a proposed Consent Decree in *United States* v. *Kinder Morgan Energy Partners, L.P., et al.* Civil Action No. 2:07–00952–GEB–EFB was lodged with the United States District Court for the Eastern District of California.

In this action the United States and the State of California sought civil penalties, injunctive relief, response costs, and natural resource damages as a result of three oil spills from

defendants' pipeline into waters of the United States and the State of California. Pursuant to the Decree, the defendants will pay $3,795,135 in civil penalties, $1,426,298 for response and reimbusement costs and natural resource damages and $20,000 for restoration projects. The defendants also commit to undertake several actions as injunctive remedy to prevent the recurrence of pipeline spills.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Kinder Morgan Energy Partners, et al.*, D.J. Ref. 90–5–1–1–08427.

The Consent Decree may be examined at the office of the United States Attorney, Eastern District of California, 501 I Street, Sacramento, CA 95814, and at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Consent Decree may also by obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $12.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–2699 Filed 5–31–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 018–2007]

Justice Management Division; Privacy Act of 1974; System of Records

AGENCY: Justice Management Division, DOJ.

ACTION: Modification to Privacy Act Notice.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice (JUSTICE), Justice Management Division (JMD), Office of Attorney Recruitment and Management is modifying, in part, a system of records notice entitled ''Federal Bureau of Investigation Whistleblower Case Files, JUSTICE/JMD–023,'' last published in full text on September 7, 2005, at 70 FR 53253; and modified in part on April 3, 2007, at 72 FR 15906.

DATES: The modification is effective on June 1, 2007.

FOR FURTHER INFORMATION CONTACT: Mary E. Cahill, 202–307–1823.

SUPPLEMENTARY INFORMATION: The Department is making a change in the section of the notice entitled ''Retention and Disposal'' in order to provide the current retention and disposition schedule approved by the National Archives and Records Administration. The records and disposition schedule given in the last publication of this notice was in error.

Since this is a minor administrative change, notification to Congress and the Office of Management and Budget is not required. The modified text is as follows.

Dated: May 22, 2007.

Lee J. Lofthus,

Assistant Attorney General for Administration.

JUSTICE/JMD–023

SYSTEM NAME:

Federal Bureau of Investigation Whistleblower Case Files.

* * * * *

RETENTION AND DISPOSAL:

PERMANENT. Transfer to the Washington National Records Center two years after closing. Transfer to the National Archives 10 years after closing.

* * * * *

[FR Doc. E7–10523 Filed 5–31–07; 8:45 am]

BILLING CODE 4410–PB–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 015–2007]

Environmental and Natural Resources Division; Privacy Act of 1974; Removal of a System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of Justice (Justice), Environmental and Natural Resources Division (ENRD), is removing a published notice of a Privacy Act system of records entitled ''Appraisers, Approved Attorneys, Abstractors and Title Companies Files Database System, Justice/ENRD–001.'' The system notice was published in the **Federal Register** on February 23, 2000, at 65 FR 8989; and a partial modification was published on October 20, 2005, at 70 FR 61159.

The system was comprised of a listing of practitioners deemed qualified to perform appraisals and provide title evidence in connection with land acquisitions by the United States, and was originally created as a procedural aid in connection with title reviews mandated by 40 U.S.C. 255 (now 40 U.S.C. 3111). More specifically, it was created pursuant to the ''Standards for the Preparation of Title Evidence in Land Acquisitions by the United States'' [''Standards'']. Maintaining the nationwide listing proved too unmanageable, however, and the ENRD discontinued its use when it replaced the old ''Standards'' with the new ''Title Standards 2001,'' which created minimum national standards for use by local government agencies in approving providers of title evidence.

The database that was the subject of the Privacy Act notice was deleted by ENRD users from their Personal Computers (PCs) prior to 2002, and then was completely destroyed by ENRD's Office of Information Technology, in accordance with Departmental policy, when all Division PC's were replaced in 2002.

Therefore, the notice of ''Appraisers, Approved Attorneys, Abstractors and Title Companies Files Database System'' is removed from the Department's compilation of Privacy Act systems of records notices, effective on the date of publication of this notice.

Dated: May 22, 2007.

Lee J. Lofthus,

Assistant Attorney General for Administration.

[FR Doc. E7–10524 Filed 5–31–07; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 15, 2007, Wayne Lee Hauge, 24 Railroad Avenue, P.O. Box 276, Ray, North Dakota 58849–0276, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of marihuana (7360), a basic class of controlled substance listed in Schedules I.

The applicant seeks to cultivate marihuana for commercial sale and industrial purposes.

Any other such applicant, and any person who is presently registered with DEA to bulk manufacture marihuana may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537; or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson Davis Highway, Alexandria, Virginia 22301; and must be filed no later than July 31, 2007.

Dated: May 25, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–10485 Filed 5–31–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 15, 2007, David Carl Monson, 313 Rainbow Road, P.O. Box 8, Osnabrock, North Dakota 58269–0008, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of marihuana (7360), a basic class of controlled substance listed in schedule I.

The applicant seeks to cultivate marihuana for commercial sale and industrial purposes.

Any other such applicant, and any person who is presently registered with DEA to bulk manufacture marihuana may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537; or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson Davis Highway, Alexandria, Virginia 22301; and must be filed no later than July 31, 2007.

Dated: May 25, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–10525 Filed 5–31–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application Nos. D–11340, Hawaii Emergency Physicians Associated, Inc. Profit Sharing Plan; D–11369, The Swedish Health Services Pension Plan (the Plan); L–11382, Sheet Metal Workers Local Union 17 Insurance Fund (the Fund); and D–11393 and D–11394, Paul Niednagel IRAs and Lynne Niednagel IRAs (collectively, the IRAs), et al.]

Notice of Proposed Exemptions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. ____ , stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: ''*moffitt.betty@dol.gov*'', or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed

exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Hawaii Emergency Physicians Associated, Inc. Profit Sharing Plan (the Plan)

Located in Kailua, Hawaii

[Application No. D–11340]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Sale (the Sale) by the Plan to 407 Partners LLC (the LLC), a limited liability corporation, and a party in interest to the Plan, of a parcel of improved real property (the Property) located in Kailua, Hawaii. This proposed exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) All terms and conditions of the Sale are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(b) The fair market value of the Property has been determined by a qualified, independent appraiser;

(c) The Sale is a one-time transaction for cash;

(d) The Plan does not pay any commissions, costs or other expenses in connection with the Sale; and

(e) The Plan will receive an amount equal to the greater of: (i) $3,250,000; or (ii) The current fair market value of the Property, as established by a qualified independent, appraiser at the time of the Sale.

Summary of Facts and Representations

Hawaii Emergency Physicians Associated, Inc. (the Company), a Hawaii corporation, is the sponsor of the Plan. The Company is a medical practice engaged in providing emergency medical care services in hospitals throughout Hawaii. The Company employs 42 individuals and sponsors no employee benefit plans other than the Plan.

The Plan is a profit sharing plan which, as of December 31, 2005, had participants and beneficiaries totaling 52. The administrator of the Plan is a retirement committee (the Committee) comprised of employees of the Company. As of December 31, 2005, the Plan's assets had an aggregate fair market value of $20,439,461.67.

All of the assets of the Plan are held in the Hawaii Emergency Physicians Associated, Inc. Profit Sharing Plan Trust (the Trust) for which the Bank of Hawaii serves as the trustee (the Trustee). The assets of the Plan held in the Trust consist of various securities and real property.

The Plan's real property holdings in the Trust include the Property which consists of a parcel of real estate located at 402 Uluniu Street, Kailua, Hawaii 96734. The Property was acquired from an unrelated party on June 8, 1989. The Property has an estimated value of $3,250,000 as of October 25, 2005 and constitutes approximately 15% of the total value of Plan assets as of October 25, 2005.

The Property consists of a tract of approximately 13,124 square feet of land which is improved by a three story office and apartment building with 14,962 square feet of gross space and surface parking with 16 stalls. No party in interest has ever used or leased all or any portion of the Property. The Plan originally acquired the Property at a total cost of $1,500,000 from an unrelated third party. The Property is also in close proximity to four parcels of property owned by partners of the LLC.

The Property was appraised on October 25, 2005, by Sanford D. Goto, Inc., a Certified Real Estate Appraiser (the Appraiser). The Appraiser has been engaged in real estate appraisal and consulting services since 1983. The Appraiser is independent of the Company and is located in Honolulu, Hawaii. The Appraiser determined the value of the Property by utilizing three approaches: The cost approach, the market data approach, and the income approach. The values determined under each approach were utilized to establish a final assessed value of $3,250,000 as of October 25, 2005. A subsequent appraisal was performed by Harlin Young, an independent, certified real estate appraiser since 1971, on December 10, 2005 reflecting a value of $3,200,000 for the Property. The LLC, however, agreed to accept the greater value of $3,250,000 as determined by the October 25, 2005 appraisal as the basis for the sales price of this proposed exemption. Mr. Young represents that notwithstanding the existence of the four nearby parcels owned by the partners of the LLC, the value of the Property is not affected by the proximity of the LLC partner's real estate holdings due to assemblage value.

Pursuant to the terms of the Plan's Trust Agreement, the Committee has been delegated the authority to direct the investments of the Plan. The Committee determined that it is in the best interests of the Plan's participants and beneficiaries to sell the Property to the LLC, a limited liability corporation, the members of which include shareholders of the Company and participants of the Plan and communicated that recommendation to the Trustee, which approved the Sale subject to the Department's consent.

The Committee represents that the proposed exemption is designed to allow the Plan, and thus its participants and beneficiaries, to receive maximum value for the Property. The Committee also wishes to diversify the investment holdings of the Plan such that the Plan's assets are invested in more liquid forms of investment. The Committee intends to use the proceeds of the sale of the Property to invest in such assets. The Committee represents that the sale of the Property will increase diversification, provide the maximum possible investment return for the Plan, and significantly increase the Plan's liquidity, all of which will significantly benefit the Plan's participants and beneficiaries.

There are some members of the Committee that are also members of the LLC. However, these individuals represented a minority of the Committee at the time the Committee made the decision to sell the Property to the LLC. Further, these individuals recused themselves from the decision making process related to this exemption request and were not involved in the decision concerning the Sale. Members of the Committee who were not members of the LLC and who actually participated in the decision to sell the Property to the LLC are all physicians.

In summary, the Applicant represents that the subject transaction satisfies the statutory criteria contained in section 408(a) of the Act and section 4975(c)(2) of the Code for the following reasons: (a) All terms and conditions of the Sale are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party; (b) The fair market value of the Property has been

determined by a qualified, independent appraiser; (c) The Sale is a one-time transaction for cash; (d) The Plan does not pay any commissions, costs or other expenses in connection with the Sale; and (e) The Plan will receive an amount equal to the greater of: (i) $3,250,000; or (ii) The current fair market value of the Property, as established by a qualified, independent appraiser at the time of the Sale.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 693–8562 (this is not a toll-free number).

The Swedish Health Services Pension Plan (the Plan)

Located in Seattle, Washington

[Application No. D–11369]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1)(A), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply effective April 14, 2005, to two contributions in-kind (the Contribution(s)) to the Plan of securities (the Securities) made on April 14th and 15th 2005 by Swedish Health Services (the Applicant), the Plan sponsor, a party in interest with respect to the Plan, provided that the following conditions were met:

(a) The Securities were valued at their fair market value at the time of each Contribution;

(b) The Contributions represented no more than 20% of the total assets of the Plan;

(c) The Plan has not paid any commissions, costs or other expenses in connection with the Contributions;

(d) The Contributions represented a contribution in lieu of cash to the Plan to meet ERISA filing requirements;

(e) The Contributions were based on publicly traded closing prices of the Securities on the date of the transfer; and

(f) The terms of the Contributions between the Plan and the Applicant were no less favorable to the Plan than terms negotiated at arm's length under similar circumstances between unrelated third parties.

Effective Date: This exemption, if granted, will be effective as of April 14, 2005.

Summary of Facts and Representations

1. The Applicant represents that the Plan is an individually-designed, defined benefit pension plan tax-qualified under Code Section 401(a). The Applicant established the Plan in 1966 and has sponsored and maintained the Plan since then for eligible employees of the Applicant who meet the requirements set out in the Plan. As of December 31, 2004, the value of the Plan's assets was $269,987,650.

The Applicant provides hospital, medical and health care services and is a tax-exempt organization under Code Section 501(c)(3). The Applicant is the sponsor and named fiduciary of the Plan. The Applicant appoints members of the Swedish Health Services Employee Benefits Administrative Committee to carry out the general administration of the Plan. The Applicant represents that it makes all contributions necessary to fund the Plan in accordance with the Code and the Act.

Wells Fargo NA (the Trustee) was appointed by the Applicant. Acquisition, diversification, disposition (for purposes of investment and reinvestment) and investment of the Plan's assets are the responsibility of the Trustee, except to the extent otherwise provided in the Plan's trust agreement (the Trust Agreement). The Trust Agreement provides that the Applicant may appoint one or more investment managers to have sole responsibility for investment of all or part of the Trust assets. The Applicant appointed investment managers who assembled custom-designed portfolios for investment of the Trust assets in accordance with the Plan's investment policy and guidelines. The Trust Agreement provides that the Trustee will act on investment instructions given to it by an investment manager and in doing so, the Trustee will only be an administrative agent in carrying out the directed investment transactions.[1] The Trustee serves as the commercial bank for the Applicant in addition to serving as Trustee for the Plan.

Investment managers (the Investment Managers) have been appointed to direct investment of the Plan assets pursuant to the authority granted in the Plan and the Trust. Among the Investment Managers are Sanford Bernstein & Associates (Bernstein), Batterymarch Financial Management, Fred Alger Management, Inc., American Funds (EuroPacific) and PIMCO. The Investment Managers assembled custom-designed portfolios for investment of the Plan assets in accordance with the Plan's investment policy and guidelines. The Applicant's business account is managed by the same Investment Managers who invest the Plan assets. Further, the investment objectives of the Applicant's business account and the investment policy of the Plan are similar.

2. The Applicant instructed the Trustee to notify the Investment Managers to select securities held in the Applicant's business account to be transferred to the Plan. By E-mail, the Trustee notified the Investment Managers and collected from each Investment Manager a list of appropriate securities held in the Applicant's business account for transfer to the Plan's account. Each Investment Manager was allocated a percentage of the total Plan assets for management (Target Asset Allocation Percentage). To maintain the Plan assets under management by each Investment Manager after the contribution at or near the Investment Manger's Target Asset Allocation Percentage, the dollar amount of securities to be selected by the Investment Manager was specified by the Applicant. For example, Bernstein's target asset allocation was 14.5%. To maintain Bernstein's asset allocation percentage at approximately 14.5% after the contribution, it was necessary for Bernstein to identify securities valued at approximately $3.5 million to be transferred to the Plan.

On April 14 and April 15, 2005 contributions were made to the Plan on behalf of the Applicant. The total value of the amounts contributed was slightly less than $30,000,000. The Applicant states that these amounts were contributed to the Plan to bring the Plan's funding level above minimum filing requirements under section 4010 of ERISA. Of this amount approximately $14 million constituted the Contributions and the balance was contributed in cash. The Trustee transferred the Securities selected by the Investment Managers from the Applicant's business account to the Plan

[1] Under ERISA section 403(a)(1), a plan may expressly provide that a trustee is subject to the direction of a named fiduciary who is not a trustee, in which case the trustee shall be subject to proper directions of such fiduciary which are made in accordance with the terms of the plan and which are not contrary to the Act. 29 U.S.C. 1103(a)(1).

account and confirmed the transfer with the Applicant verbally. According to the Trustee, the market value of the Securities credited to the Plan account was based on the closing price of each security on the date of transfer based on public pricing reports.

At no time did the Trustee inform the Applicant that the Contributions were not in compliance with the Code or the Act or otherwise take any action to prevent the prohibited transactions from occurring. The Applicant represents that Trustee administration continued as usual until the prohibited transaction was discovered by the Applicant. The Applicant became aware that the Contributions were a prohibited transaction on or about July 18, 2005, when the Applicant's ERISA counsel reviewed the Plan statements and informed the Applicant that the Contributions were prohibited.[2]

3. As soon as the Applicant became aware of the prohibited transaction, the Applicant represents that it proceeded to take appropriate action. The Applicant contacted the Department and filed an application for exemptive relief. Furthermore, the Applicant reviewed the business and Plan account statements, verified that the Securities were transferred from the Applicant's business account to the Plan account, and evaluated the scope of the prohibited transaction. In addition, the Applicant compiled a report of the then current value of each Security and concluded that the Securities had increased in value by $1,403,110 from the Contribution date to September 30, 2005. The Applicant represents that because of the favorable performance of the Securities and the Investment Managers' instructions to retain the same asset allocation in the Plan, the Applicant did not direct a sale of the Securities at that time.

The Contributions consisted of approximately 100 different Securities, including mutual fund shares. The Securities have a readily ascertainable fair market value and are publicly traded on an established market or are mutual fund shares, which are valued daily. The Trustee credited to the Plan's account the fair market value of the Securities as of the Contribution dates, and the Plan's actuaries credited to the Plan's funding standard account the fair market value of the Securities reported on the Plan account statements provided by the Trustee.

4. The Applicant was unaware that the Contributions were prohibited under the Act. The Trustee implemented the Contributions without objection or comment and did not inform the Applicant of the existence of a prohibited transaction. The Applicant represents that in the future, all transactions that may involve fiduciary self dealing, and in particular, potential prohibited transactions will be submitted to ERISA counsel for review and approval, prior to entering into such transaction. Additionally, the Applicant has undertaken a program conducted by ERISA counsel, involving internal training sessions for fiduciary self dealing issues as well as possible prohibited transaction situations.

5. The Applicant represents that the proposed exemption is in the interests of the Plan and its participants and beneficiaries because it allows the Plan's assets to continue to be invested in accordance with the investment objectives of the Investment Managers, without undertaking unnecessary, costly and administratively burdensome transactions. By transferring the Securities directly to the Plan, the Plan's investment objectives were achieved without the Plan incurring transaction costs that the Plan otherwise would have incurred to purchase the Securities.

The Applicant represents that the proposed exemption is protective of the rights of Plan participants and beneficiaries because the Contributions were based on publicly traded closing price of each Security on the date of transfer. Further the Plan paid no commissions, costs, or other expenses with respect to the Contributions.

6. In summary, the Applicant represents that the proposed exemption satisfies the statutory criteria because: (a) The Securities were valued at their fair market value at the time of each Contribution; (b) The Contributions represented no more than 20% of the total assets of the Plan; (c) The Plan has not paid any commissions, costs or other expenses in connection with the Contributions; (d) The Contributions represented a contribution in lieu of cash to meet ERISA filing requirements; (e) The Contributions were based on publicly traded closing prices of the Securities on the date of the transfer; and (f) The terms of the Contributions between the Plan and the Applicant were no less favorable to the Plan than terms negotiated at arm's length under similar circumstances between unrelated third parties.

[2] The Department wishes to note that ERISA's general standards of fiduciary conduct would apply to the Contribution. In this regard, section 404(a) of the Act requires, among other things, that a plan fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries in a prudent fashion.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the Applicant and Department within 15 days of the date of publication of the Notice of proposed exemption in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 693–8540 (this is not a toll-free number).

Sheet Metal Workers Local Union 17 Insurance Fund (the Fund),

Located in Boston, Massachusetts

[Exemption Application Number: L–11382]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570 subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act shall not apply to the purchase (the Purchase) by the Fund of a business condominium unit (Unit No. 1) from the Sheet Metal Workers International Association Local 17 Building Association, Inc. (the Building Corporation), a party in interest with respect to the Fund, provided that the following conditions are satisfied:

(a) The terms and conditions of the transaction are no less favorable to the Fund than those which the Fund would receive in an arm's length transaction with an unrelated party;

(b) The Purchase of Unit No. 1 by the Fund is a one-time transaction for cash;

(c) The Fund will not pay any sales commissions, fees, or other similar expenses to any party as a result of the proposed transaction;

(d) The Fund will purchase Unit No. 1 from the Building Corporation for the lesser of (1) $800,000 or (2) the fair market value of the Property as determined on the date of the purchase by a qualified, independent appraiser;

(e) The proposed transaction will be consummated only after a qualified, independent fiduciary, acting on behalf of the Fund, negotiates the relevant terms and conditions of the transaction and determines that proceeding with the transaction would be in the interest of the Fund; and

(f) The independent fiduciary monitors the transaction on behalf of the Fund to ensure compliance with the agreed upon terms.

Summary of Facts and Representations

1. The Fund, which is sponsored by the Sheet Metal Workers International Association Local Union No. 17, AFL–CIO (the Union), is an employee welfare benefit plan within the meaning of section 3(1) of the Act. The Fund has been headquartered in an office condominium owned by the Fund that is located at 43 Kingston Street, 5th Floor (the Existing Facility) in Boston, Massachusetts; the Fund has occupied this condominium since March of 1984. As a multiemployer trust fund operating in conformity with the requirements of the Labor Management Relations (Taft-Hartley) Act of 1947 (as amended), the Fund was established under an Agreement and Declaration of Trust (the Trust Agreement) dated May 22, 1950 between the Union and participating employers (with the most recent amendment and restatement of this Trust Agreement occurring on May 1, 1984). The Fund is designed to provide health benefits, life insurance, and related benefits for eligible participants and their dependents. The Fund presently is self-funded, but has an administrative services only (ASO) contract with Blue Cross and Blue Shield of Massachusetts, Inc. with respect to the Fund's provision of medical benefits. As of March 1, 2007, the Fund had 1,380 active participants, 522 retiree participants, and 2,451 beneficiaries/dependents. As of November 30, 2006, the Fund had total assets of $43,697,288.

The Fund is established by two sponsoring organizations. The first is the Union, a labor organization that represents employees in the sheet metal industry. The second is an association of employers entitled the Sheet Metal and Air Conditioning Contractors National Association of Boston (SMACNA). The Fund is funded by contributions made by employers to the Fund pursuant to one or more collective bargaining agreements. The Fund is administered by a six member Board of Trustees (the Trustees) consisting of three Employer Trustees appointed by SMACNA and three Union Trustees named by the Union. The Trustees of the Fund, who have investment discretion over the assets of the Fund (except to the extent delegated to one or more investment managers), are represented by the applicant to include: Messrs. Joseph Cullen, Jack Desmond, and Kevin Gill, who were appointed by SMACNA; and Messrs. Fred Creagher, Festus Joyce, and James Wool, who were appointed by the Union. The Trustees employ a salaried Fund Administrator, Mr. Robert W. Keough, to oversee the operations of the Fund. In addition to the Fund Administrator, the Fund employs four other employees, all of whom are located in the Existing Facility and perform various administrative tasks for the Fund.

2. The Fund represents that the Building Corporation, a non-profit corporation operating pursuant to section 501(c)(5) of the Code and chapter 180 of the Massachusetts General Laws, is wholly owned by the Union. The Building Corporation also owns the business condominium unit that is the subject of the proposed transaction, designated as Unit No. 1, which consists of approximately 3,340 square feet of floor area occupying the ground level of a two-story office building (the Building). The Union currently occupies condominium Unit No. 2 of the Building, which serves as headquarters for the Union. The Building, which is located at 1157 Adams Street, Boston, Massachusetts, is situated on land consisting of two adjacent parcels (the Parcels) owned by the Building Corporation. The Parcels are contiguous to another parcel of land (the Adjacent Parcel) located at 1181 Adams Street in Boston; the Adjacent Parcel is owned by a Union-sponsored apprenticeship plan and contains a separate building (the Training Facility) designed for the training of Union members. The Union began construction of the Building in 2004 to provide new office space for the Union, and also to provide a possible new location for the Fund's offices. There are currently no other tenants in the Building.

3. In 2005, the Trustees of the Fund designated a subcommittee (the Subcommittee) consisting exclusively of employer Trustees to examine the Fund's current and anticipated office space needs. The Subcommittee subsequently determined that the Existing Facility was inadequate for the needs of the Fund, and that it would be in the best interests of the Fund to relocate to Unit No. 1. Among other things, the Subcommittee reported to the Trustees that the efficient operation of the Fund has been adversely affected by the limited area (approximately 1,500 square feet) of the Existing Facility, which has produced congested working conditions and practical obstacles to efficient compliance with the federal requirements pertaining to the confidentiality of participant and beneficiary medical information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). By contrast, the Subcommittee reported that the acquisition of Unit No. 1 would provide a significant increase in the quality and quantity of Fund office and storage facilities, improved handicapped accessibility, on-site parking space, increased physical security, and greater proximity to major thoroughfares and public transportation. The Subcommittee also advised that the layout of Unit No. 1 would help to ensure the privacy of HIPAA-protected health information pertaining to the Fund's participants and beneficiaries. Furthermore, the Subcommittee reported that Unit No. 1 would provide Fund participants and beneficiaries with close proximity to the offices of the Union and the Training Facility, thus providing Union members who are also Fund participants with convenient ''one-stop shopping'' for Union-related services and benefits. After reporting these findings to the Trustees, the Subcommittee obtained authorization from the Trustees of the Fund to obtain an initial independent appraisal of Unit No. 1 to assist in the determination of an appropriate purchase price.

Pursuant to this authorization, Unit No. 1 was appraised on June 30, 2005 by the firm of Integra Realty Resources, Inc. (hereinafter ''Integra'') of Boston, Massachusetts. Integra represents that it is a large property valuation and consulting firm operating throughout the United States, with substantial expertise in the valuation of standard commercial property types. The Fund represents that Integra receives less than one percent of its gross income from the Union. The Subcommittee recommended the selection of Integra to the Trustees after the Fund Administrator obtained favorable references from the Fund's attorney, the Fund's special ERISA counsel, and an outside consultant who monitors and reviews investment managers for the Fund. Specifically, the special ERISA counsel based his recommendation upon past dealings with Integra, its credentials as a real estate appraiser, and the reasonableness of the compensation charged for its appraisal services. The Fund represents that Integra is wholly independent of and unrelated to the Union and the Building Corporation. Moreover, the Fund represents that Integra has no ownership or financial interest in the Union, the Building Corporation, or the property that is the subject matter of the contemplated transaction. One of the Integra directors who conducted the appraisal, Mr. Edward K. Wadsworth, MAI, is a certified general real estate appraiser licensed by the Commonwealth of Massachusetts; Mr. Wadsworth has more than 20 years of experience in the valuation of commercial office buildings, industrial

properties, condominiums, and agricultural and conservation lands in the metropolitan Boston area.

In the initial appraisal report that it issued on July 18, 2005, Integra determined that Unit No. 1 had a fair market value of $935,000 as of June 20, 2005. An additional summary appraisal of Unit No. 1 was conducted by Integra in March of 2007. This summary appraisal report was issued by Integra on April 11, 2007, and valued Unit No. 1 at $935,000 as of March 28, 2007.

4. On March 1, 2006, the Fund also retained Integra to represent the interests of the Fund as an independent fiduciary (the Independent Fiduciary) in connection with the proposed purchase of Unit No. 1 by the Fund. The selection of Integra by the Trustees to act as an independent fiduciary was based upon the recommendation of the Subcommittee, which had obtained favorable references concerning Integra's capacity to satisfactorily perform these services from the Fund's attorney and the Fund's special ERISA counsel. In its service contract (Agreement) with the Fund, dated March 1, 2006, the Independent Fiduciary was authorized to negotiate of the terms and conditions of the purchase and sale of Unit No. 1 on behalf of the Fund. In addition, the Agreement provided that, in the event an exemption is granted by the Department, the Independent Fiduciary would monitor the proposed transaction in accordance with its fiduciary obligations under the Act to ensure that such favorable terms are achieved.

The Fund represents that Integra has past experience as an ERISA fiduciary, and understands its duties and responsibilities under ERISA in serving as an independent fiduciary for the Fund with respect to the proposed transaction. The lead person responsible for performing these fiduciary services for Integra is the aforementioned Mr. Wadsworth, who has extensive experience as an ERISA independent fiduciary in connection with evaluation and oversight of a variety of real estate transactions involving ERISA-covered plans (including multiemployer plans) in the metropolitan Boston area.

On April 29, 2006, the Independent Fiduciary issued a report to the Fund Administrator concerning the proposed transaction. In this report, the Independent Fiduciary reported that it had reviewed the contemplated purchase of Unit No. 1 by the Fund, and had determined that such a transaction would be in the interests of the Fund and protective of the rights of the participants and beneficiaries in the Fund. To support this determination, the Independent Fiduciary found that a number of serious functional shortcomings present at the Existing Facility—such as inefficient and crowded working conditions, a lack of adequate parking, and the lack of a fire sprinkler system—would be remedied by relocating the Fund's offices to Unit No. 1.

5. The Fund requests an administrative exemption from the Department to purchase Unit No. 1 from the Building Corporation. The Fund represents that the Purchase is in the best interests of the Fund for the reasons described above. The Fund proposes to purchase Unit No. 1 from the Building Corporation for cash in a one-time transaction, and represents that the Building Corporation proposes to sell Unit No. 1 to the Fund for the lesser of (1) $800,000 or (2) the fair market value of Unit No. 1 as determined on the date of the purchase by a qualified, independent appraiser. The $800,000 figure for the purchase of Unit No. 1 was determined by the Subcommittee as the maximum expenditure the Fund could afford after considering the liquidity needs of the Fund and other relevant economic factors. The Fund represents that the proposed cash purchase of Unit No. 1 by the Fund would involve the expenditure of less than 2% of the total assets held by the Fund as of November 30, 2006. The Fund further represents that the proposed transaction will not be consummated unless and until the Department grants the requested exemption. If the Department grants the proposed exemption, a final appraisal of Unit No. 1 will be performed at the time of the real estate closing by an independent qualified appraiser.

6. In summary, the Fund represents that the proposed transaction satisfies the requirements for an administrative exemption under section 408(a) of the Act because (a) the terms of the transaction are no less favorable to the Fund than terms negotiated under similar circumstances at arm's length with unrelated third parties, (b) the Purchase is a one-time transaction for cash; (c) the Fund will not pay any sales commissions, fees, or other similar expenses to any party as a result of the proposed transaction, (d) the Fund will purchase Unit No. 1 from the Building Corporation for the lesser of (1) $800,000 or (2) the fair market value of Unit No. 1 as determined on the date of the purchase by a qualified, independent appraiser, (e) the proposed transaction will be consummated only after a qualified, independent fiduciary, acting on behalf of the Fund, negotiates the relevant terms and conditions of the transaction and determines that proceeding with the transaction would be in the interest of the Fund, and (f) the independent fiduciary monitors the transaction on behalf of the Fund to ensure compliance with the agreed upon terms.

Notice to Interested Persons: The Fund represents that interested personas will receive, within fifteen (15) days after the date of its publication in the **Federal Register**, a copy of this Notice of Proposed Exemption (the Notice). In this regard, the Fund proposes mailing a copy of the Notice, accompanied by a copy of the supplemental statement (the Supplemental Statement) required pursuant to 29 CFR 2570.43(b)(2), to all participants and beneficiaries of the Fund by first class mail, postage prepaid. In addition, the Fund proposes to post copies of the Notice and the Supplemental Statement at the entrance to the Fund's Existing Facility at 43 Kingston Street, Boston, Massachusetts; on the bulletin board or area where notices are generally posted by the Union at the local's headquarters at 1157 Adams Street, Boston, Massachusetts; and on the bulletin board or area where notices are generally posted at the Training Center at 1181 Adams Street, Boston, Massachusetts.

The Department must receive all written comments and requests for a hearing no later than forty-five (45) days after publication of the Notice in the **Federal Register**.

For Further Information Contact: Mr. Mark Judge of the Department, telephone (202) 693–8339. (This is not a toll-free number).

Paul Niednagel IRAs and Lynne Niednagel IRAs (collectively, the IRAs),

Located in Laguna Niguel, California

[Exemption Application Numbers: D–11393 and D–11394]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570 subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(D) and (E) of the Code, shall not apply to the purchase (the Purchase) by the respective IRAs [3] of Paul and Lynne Niednagel (the Account Holders) of certain ownership interests (the Units) from Pacific Island Investment Partners, LLC (Pacific Island) (the issuer of the Units), an entity which is indirectly controlled by Daniel and Stephen Niednagel (the Principals), both of

[3] Because each IRA has only one participant, there is no jurisdiction under 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

whom are lineal descendents of the Account Holders and therefore disqualified persons with respect to the IRAs, provided that the following conditions are satisfied:

Conditions

(a) The Purchase of the Units by each IRA is a one-time transaction for cash;

(b) The price paid by each IRA to purchase a Unit ($10,000) is identical to the price paid by other Pacific Island investors to acquire a Unit;

(c) The terms and conditions of each Purchase are at least as favorable as those available in an arm's length transaction with an unrelated third party;

(d) Each IRA does not pay any commissions or other expenses in connection with each Purchase; and

(e) The IRA assets invested in the Units do not exceed 25% of the total assets of each IRA at the time of the Purchase.

Summary of Facts and Representations

1. The applicants describe the Account Holders, the Principals, and the IRAs as follows:

(a) Paul Niednagel is the spouse of Lynne Niednagel and the father of each of the Principals. He is the beneficial owner of a traditional IRA trusteed by Charles Schwab and established under section 408 of the Code. He is also the beneficial owner of a Roth IRA trusteed by Pensco Trust Company and established under 408A of the Code. As of December 31, 2006, the combined value of these IRAs was $727,114.01.

(b) Lynne Niednagel is the spouse of Paul Niednagel and the mother of each of the Principals. She is the beneficial owner of a traditional IRA trusteed by Charles Schwab and established under section 408 of the Code. She is also the beneficial owner of a Roth IRA trusteed by Pensco Trust Company and established under section 408A of the Code. As of December 31, 2006, the combined value of these IRAs was $ 69,535.24.

(c) Daniel Niednagel is the 100% owner of Skizzim.com, also doing business as Skizzim Financial (Skizzim). Stephen Niednagel is the 100% owner of Three Arch Capital, LLC (Three Arch). Both Skizzim and Three Arch manage the assets of, and are respectively 50% owners of, a limited liability company known as Bird Rock Ventures, LLC (Bird Rock). Bird Rock, in turn, operates as the manager of Pacific Island. In addition, Daniel and Stephen Niednagel serve as Principals of Pacific Island.

2. The Units are issued by Pacific Island, which is a California limited liability company formed to invest in commercial and real estate loans. Pacific Island's primary activity is to purchase, at a discount, sub-performing or non-performing real estate loans (the Loans). The Loans will be primarily secured by first, second, and third trust deeds (and related collateral) on real property located in California, although Pacific Island may invest in Loans secured by real property in other states.

3. A private placement consisting of 250 Units of limited liability company interest in Pacific Island, at a uniform purchase price of $10,000 per Unit, was offered to investors beginning on August 28, 2003. The purpose of this placement is to provide Pacific Island with sufficient capital to acquire the Loans. The acquisition of a Unit by an investor entitles such person to admission as a member (Member) of Pacific Island. Units may only be sold to investors who (i) buy a minimum of one Unit (or a fractional Unit thereof, computed on a pro-rata basis) for a purchase price of $10,000, and (ii) represent in writing that they meet the investor suitability requirements established by Bird Rock (the Manager) as well as those that may be required under Federal or State law. The financial exposure of such Members is limited to each Member's respective investment interests in the Units.

4. The applicants request an exemption for the proposed Purchase of the Units by the individual IRAs (both traditional and Roth) of the respective Account Holders. As of January 1, 2007, the Account Holders, in their individual capacities, hold approximately 10.0% of the Units of Pacific Island, while the lineal descendents of the Account Holders hold approximately 15.7% of the Units. Accordingly, the majority of the Units in Pacific Island are owned by Members other than the Account Holders and their lineal decedents.[4]

5. The applicants represent that each IRA will pay no commissions or other expenses in connection with the Purchase. The Purchase will involve a one-time transaction for cash. Each IRA will pay a purchase price ($10,000) for a Unit of Pacific Island; this price is identical to the price paid for each Unit of Pacific Island by other investors. The applicants further represent that the value of the Units to be purchased will not exceed 25% of the value of the assets of each IRA at the time of the proposed transaction.

6. The applicants represent that the proposed transactions are feasible in that each Purchase will involve a one-time transaction for cash. Furthermore, the applicants represent that the proposed transaction will be in the best interests of each IRA in that the Purchases will enable each IRA to invest in an instrument which, based on recent history, has yielded a favorable rate of return for investors. In this connection, the applicants represent that the Purchases of Units by the IRAs will not require the payment of commissions or other expenses.

Finally, the applicants represent that the transactions will be protective of the rights of each participant because, at the time of the Purchase, the investment will not exceed 25% of the assets of each IRA.

7. In summary, the applicants represent that the proposed transactions satisfy the statutory criteria of section 4975(c)(2) of the Code because: (a) The Purchase of the Units will be a one-time transaction for cash; (b) Each IRA will purchase each Unit at a price ($10,000) that is identical to the price paid by other investors in acquiring a Unit; (c) The terms and conditions of each Purchase will be at least as favorable as those available in an arm's length transaction with an unrelated third party; (d) Each IRA will not pay any commissions or other expenses in connection with each Purchase; and (e) The IRA assets invested in the Units will not exceed 25% of the total assets of each IRA at the time of the Purchase.

Notice to Interested Persons: Because the applicants are the only participants in the IRAs, it has been determined that there is no need to distribute this notice of proposed exemption (the Notice) to interested persons. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Judge of the Department, telephone (202) 693–8339. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404

[4] The Department notes that a divergence of interests may develop over time between (1) the IRAs and the IRA fiduciaries in their capacities as individuals, or (2) the IRAs and other persons in which the IRA fiduciaries, in their individual capacities, may have an interest. In the interests develops event that such a divergence of, the IRA fiduciaries would be required to take steps to eliminate the conflict of interest in order to avoid engaging in a prohibited transaction.

of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of May, 2007.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department Of Labor.

[FR Doc. E7–10488 Filed 5–31–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Proposed Collection for Data Validation Requirement for Employment and Training Programs; Comment Request

AGENCY: Employment and Training Administration (ETA), Labor.

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. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning a revision of a data validation requirement for the following employment and training programs: Workforce Investment Act (WIA) Title IB, Wagner-Peyser, Trade Adjustment Assistance (TAA), National Farmworker Jobs (NFJP), Indian and Native American Employment and Training, and Senior Community Service Employment (SCSEP).

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 31, 2007.

ADDRESSES: Submit written comments to the U.S. Department of Labor, Employment and Training Administration, Office of Performance and Technology, 200 Constitution Avenue, NW., Room S–5206, Washington, DC 20210, Attention: Karen A. Staha, Director, Division of System Accomplishments. Telephone number: (202) 693–3031 (this is not a toll-free number). Fax: (202) 693–3490. E-mail: *Staha.Karen@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Traci DiMartini, Office of Performance and Technology, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5206, Washington, DC 20210; telephone: (202) 693–3698 (this is not a toll-free number); fax: (202) 693–3490; e-mail: *Dimartini.Traci@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The accuracy and reliability of program reports submitted by states and grantees using Federal funds are fundamental elements of good public administration, and are necessary tools for maintaining and demonstrating system integrity. The President's Management Agenda to improve the management and performance of the Federal government has emphasized the importance of complete information for program monitoring and improving program results. States and grantees receiving funding under WIA Title IB, Wagner-Peyser Act, TAA, and the Older Americans Act (i.e., SCSEP) are required to maintain and report accurate program and financial information (WIA section 185 (29 U.S.C. 2935) and WIA Regulations 20 CFR 667.300(e)(2), Wagner-Peyser Act section 10 (29 U.S.C. 49i), Older Americans Act section 503(f)(3) and (4) (42 U.S.C. 3056a(f)(3) and (4)), and TAA regulations 20 CFR 617.57). Further, all states and grantees receiving funding from ETA and the Veterans' Employment and Training Service are required to submit reports or participant records and attest to the accuracy of these reports and records.

Performance audits conducted by the Department of Labor's Office of Inspector General, however, found that the accuracy of reported performance outcomes could not be assured due to insufficient local, state, and Federal oversight. To address this concern and meet the Agency's goal for accurate and reliable data, ETA implemented a data validation process in order to ensure the accuracy of data collected and reported on program activities and outcomes.

Data Validation. The data validation requirement for employment and training programs strengthens the workforce system by ensuring that accurate and reliable information on program activities and outcomes is available. Data validation is intended to accomplish the following goals:

- Ensure that critical performance data are accurate.
- Detect and identify specific problems with a state's or grantee's reporting process, including software and data issues, to enable the state or grantee to correct the problems.
- Help states and grantees analyze the causes of performance successes and failures by displaying participant data organized by performance outcomes. In addition, the process allows states and grantees to select appropriate validation samples necessary to compute statistically significant error rates.

Data validation consists of two parts:

1. Report validation evaluates the validity of aggregate reports submitted to ETA by checking the accuracy of the reporting software used to calculate the reports. Report validation is conducted by processing a complete file of participant records into validation counts and comparing the validation counts to those reported by the state or grantee.

2. Data element validation assesses the accuracy of participant data records.

Data element validation is conducted by reviewing samples of participant records against source documentation to ensure compliance with Federal definitions.

Data Validation Background. WIA Title IB, Wagner-Peyser, and TAA program staff have been conducting data validation for three years. The states received training prior to beginning validation and receive ongoing training and technical assistance from ETA throughout the validation process. NFJP grantees have been conducting data validation for two years, and have received ongoing training and technical assistance during this period. SCSEP grantees will begin data validation by the end of Calendar Year (CY) 2007. Indian and Native American program grantees will pilot validation by 2008.

Resources. The requirement to perform validation derives from states' and grantees' responsibility to provide accurate information on program activities and outcomes to ETA. States and grantees are expected to provide resources for conducting validation from their administrative funds. Validation of program performance is a basic responsibility of grantees, who are required to report on program performance, in accordance with statutory provisions and Department of Labor regulations (29 CFR 95.51 and 97.40). ETA has taken a number of steps to minimize the resources needed for data validation, including developing tools that states and grantees can use to conduct validation. The estimates provided below indicate that annual staff requirements for a state to continue data validation operations for WIA Title IB, Wagner-Peyser, and TAA programs will be on average 792 hours each year (or less than ½ of a staff year) for all three programs combined. For the NFJP, Indian and Native American program, and SCSEP grantees, the annual staff requirements will be on average 103 hours (or about 1/20 of a staff year) for each grant.

Data Validation Tools. To reduce the startup costs of implementing data validation, there are standardized software and user handbooks that states and grantees can use to conduct data validation. Software and handbooks have already been developed for the state programs and the NFJP, and will be developed for the Indian and Native American program and the SCSEP.

- Software generates samples, worksheets, and reports on data accuracy. For report validation, the software validates the accuracy of aggregate reports that are generated by the state's or grantee's reporting software and produces an error rate for each reported count. For data element validation, the software generates a sample of the participant records and data elements for the state or grantee to validate. The software produces worksheets on which the validator records information after checking the source documentation in the sampled case files. The software calculates error rates for each data element, with confidence intervals of 3.5 percent for large states/grantees and 4 percent for small states/grantees.
- User handbooks provide detailed information on software installation, building and importing a validation file, and completing report and data element validation. The handbooks also explain the validation methodology, including sampling specifications and data element validation instructions for each data element to be validated.

Data Recording and Reports. States and grantees submit their validation results electronically to ETA in the same manner as other reports. The results are stored in a data base in ETA's headquarters in Washington, DC, and compiled in an annual validation accuracy report.

Training and Technical Assistance. ETA has provided validation training and technical assistance to states in regional sessions on an ongoing basis since the summer of 2003. Technical assistance has also been provided on an ongoing basis to the NFJP grantees. Training for the SCSEP will take place in CY 2007. Indian and Native American program grantees will receive training prior to implementation. States and grantees may obtain technical assistance on validation procedures and the use of the validation tools by contacting ETA's Office of Performance and Technology.

Revisions have been made for two reasons. First, for the initial information collection request, ETA combined the burden estimates for all the programs since all would be incurring start-up burden. This time, ETA has disaggregated the estimates for each program to distinguish those that are just beginning to implement data validation and have yet to incur a startup burden, from those that have already implemented data validation and will incur no new start-up burden when the information collection is extended.

Second, some of the data elements to be validated have been revised to reflect the changes made to specific program reporting requirements and the definitions of the performance measures. These changes include: The addition of WIA Title IB validation requirements for the National Emergency Grants (NEG) and older youth funding streams; the deletion of data elements from the WIA Title IB adult, dislocated worker, and younger youth program validation requirements; and the deletion of data elements from the TAA validation requirements. The new data element requirements are documented in the programs' data validation user handbooks.

II. Review Focus

The Department of Labor 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.

III. Current Actions

Type of Review: Revision of Approved Collection.

Agency: Employment and Training Administration.

Title: Data Validation Requirement for Employment and Training Programs

OMB Number: 1205–0448.

Recordkeeping: States and grantees must maintain complete records of all validation activities for three years. The retention requirement will apply to records of all validation activities, including files, worksheets, reports, and source documentation.

Affected Public: State, local and tribal government entities and private non-profit organizations.

Total Respondents: 318 (53 states and 265 grantees).

Frequency: Complete data validation annually.

Total Responses: 424 (3 responses each for the 53 states and 1 response for each of the 265 grantees).

Average Annual Time per Respondent: 792 hours for states' validations for WIA Title IB, Wagner-Peyser, and TAA combined, and 103 hours per grantee for the NFJP, Indian

and Native American program, and the SCSEP.

Total Annual Burden Hours: 41,970 for all 53 states plus 27,361 for all 265 grantees when fully implemented.

Average Annual Cost per Respondent/ Total Burden Cost (operating/ maintaining): $25,736 on average per state and $1,364,025 per year for all states to complete validation for the WIA Title IB, Wagner-Peyser, and TAA programs. The estimated annual cost of conducting validation for the NFJP, Indian and Native American program, and the SCSEP grantees is $1,960 on average per grantee and $519,301 total.

Total Burden Hours (start-up): There is no startup burden for WIA Title IB, Wagner-Peyser, and TAA programs because this was incurred when data validation was first implemented three years ago. NFJP grantees have been conducting data validation for two years and have received ongoing training and technical assistance during this period SCSEP grantees will begin data validation by the end of CY 2007. Indian and Native American program grantees will pilot validation by 2008. Startup activities for the Indian and Native American program and SCSEP will require an additional 75 hours on average per grantee in the initial year of validation for a total of 16,072 start-up burden hours.

Total Burden Cost (start-up): $1,311 for each of the 74 SCSEP grants and $847 for each of the 141 Indian and Native American program grantee for 281,931 combined for the 215 grantees in the initial year of validation for both the Indian and Native American program and the SCSEP, and $0 for NFJP and the WIA Title IB, Wagner-Peyser, and TAA programs.

Data validation, when fully implemented, is estimated to require an annual burden of 69,331 hours and $1,883,326 for operating all six programs subject to the validation requirement. And as stated earlier, an additional 16,072 hours and $281,931 in start-up burden in the initial year of validation is estimated for the Indian and Native American and SCSEP grantees. These estimates represent a significant decrease in costs and a slight increase in hours from the current OMB inventory for ETA data validation. The change is attributable to three factors:

- The elimination of start-up costs for WIA, Wagner-Peyser, and TAA programs, and the NFJP validation;
- Updates in the number of grantees required to conduct data validation; and
- Updates to the hourly cost of conducting data validation for grantee staff.

Comments submitted in response to this comment request 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: May 21, 2007.

John R. Beverly, III,

Administrator, Office of Performance and Technology.

[FR Doc. E7–10558 Filed 5–31–07; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Office

Soliciting Participation in Electronic Copyright Office (eCO) Beta Test

AGENCY: Copyright Office, Library of Congress.

ACTION: Public notice.

SUMMARY: In July 2007, the Copyright Office will initiate a beta testing phase in the development of its automated registration system, electronic Copyright Office (eCO). Requests to participate in eCO beta testing are being accepted from the public at this time. Participants will be selected in the order that requests are received and based on an array of submission criteria, and basic registration claims will be accepted at a reduced rate established for electronic filings.

DATES: Requests for participation in the beta test of the Copyright Office's online registration system are being accepted through the Office's Web site beginning June 1, 2007.

ADDRESSES: Requests to participate in the beta test of the Copyright Office's electronic online registration system may be filed through the Office's Web site at: http://www.copyright.gov/eco/beta–request.html.

FOR FURTHER INFORMATION CONTACT: David Christopher, Special Assistant to the Register of Copyrights, Office of the Register, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Telephone: (202) 707–8825. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Office is a service unit within the Library of Congress. The mission of the Copyright Office is to promote creativity by administering and sustaining an effective national copyright system that relies on the collection, processing, storage and dissemination of information to fulfill its duties under title 17 of the United States Code and title 37 of the Code of Federal Regulations. Congress enacted the first federal copyright law in 1790 and it has been revised periodically over the years.

In 1870 Congress established a national copyright function in the Library of Congress and required that all works be deposited and registered in this single location. The registration and deposit of works under copyright protection serves two important purposes: to create a public record of copyright registration and to enrich the collections of the Library of Congress for the benefit of the American people. The Copyright Office administers the copyright law by registering claims to copyright, recording legal documents relating to copyright ownership (i.e., recordation), acquiring copyrighted works for deposit in the collections of the Library of Congress, and handling administrative provisions of statutory licenses and obligations. The Copyright Office provides authoritative advice on copyright to the Congress and the Executive Branch, and the judiciary, and serves as a resource to the domestic and international communities. The Office responds to public requests for information and engages in outreach programs to contribute to the public discussion of copyright issues.

Processing systems

The Copyright Office has operated in essentially the same manner for many years and is primarily a paper–based operation. Most remitters submit paper applications for copyright registration and paper documents for recordation. Correspondence is also produced primarily on paper and stored in paper files. Works submitted for registration are often bulky and contain multiple items. Currently, materials submitted for registration move through several different divisions without the benefit of tracking systems to identify the location of each individual work during its processing.

The Copyright Office has six principal office–wide systems that are used for workflow management: fee processing, correspondence tracking, imaging, statutory license information, historical copyright information, and electronic receipts. There are some automated interfaces between the systems, but the systems are not integrated with each other or with other related Library of Congress processes. Numerous small PC–based systems have also been developed to track many transactions that the larger systems were not designed to support. Some systems rely

on hardware that is aging and increasingly vulnerable to failure.

Business process reengineering (BPR)

Recognizing that information technology provides new opportunities to improve public services and enable online submissions for copyright registration and other services, the Copyright Office embarked on an extensive multi–year reengineering initiative in September 2000. There are eight major objectives of the reengineering program: to enhance operational efficiencies and improve timeliness of Copyright Office services; provide public services online; ensure prompt availability of new copyright records; provide better tracking of individual items in the workflow; increase acquisition of digital works for the Library of Congress collections; contain costs of registration, recordation, and other services; strengthen security within the Copyright Office; and use staff and space efficiently.

The foundation of the reengineering initiative is the redesigned business processes that deliver the Office's services to the public in key areas. The following principal processes have been redesigned:

1. The **Acquire Deposit** process includes the acquisition of published materials requested by the Library of Congress and the receipt of published works submitted in compliance with the mandatory deposit provision of the copyright law.

2. The **Answer Request** process includes all activities to respond to requests for information or materials related to copyright records.

3. The **Maintain Accounts** process handles all money and financial transactions for the principal processes. This process includes transactions within deposit accounts which are standing accounts from which customers can draw funds to pay for services.

4. **Process Licenses** supports the administration of the compulsory licenses and statutory obligations contained in the Copyright Act. For certain licenses, the Copyright Office collects specified royalty fees for disbursement to copyright owners.

5. The **Receive Mail** process comprises the activities of sorting incoming mail, labeling materials with tracking numbers, scanning paper materials, creating electronic tracking records, and dispatching materials to the appropriate service process area.

6. The **Record Document** process handles the verification, cataloging, and production of certificates for documents relating to a copyright that are submitted for recordation in the Office.

7. The **Register Claim** process includes the examination, cataloging, and certificate production for copyright claims. A claim includes an application, fee, and copies of the work as required. When a work is registered, a certificate of registration is issued to the applicant.

Additionally, as part of BPR implementation, the Copyright Office designed the to–be organizational environment to support the redesigned processes. The redesigned processes, organization, facilities, and information systems infrastructure will enable the Copyright Office to make a strategic transformation to electronic delivery of services while maintaining the capability of processing hard copy objects within the electronic environment. The Copyright Office will be able to conduct business and public services online whenever possible, scan and make searchable all non–electronic receipts, route and control all business with flexible process workflows, and make works published only electronically available to the Library of Congress.

Electronic Copyright Office (eCO)

The Copyright Office plans to implement parts of its multi–year business process reengineering (BPR) initiative later this year. A major objective of the BPR initiative is to increase the availability of Copyright Office services online. This objective will be met through the introduction of an automated registration system, electronic Copyright Office (eCO), which is scheduled for release to the public later this year. Currently in the alpha testing phase of development, eCO will allow users to submit applications, deposits, and fees electronically through a portal on the Copyright Office Web site. In addition to reducing processing time lags and operational costs in the long term, eCO will provide for a streamlined application experience for users. As a further incentive to applicants the Copyright Office will offer a reduced filing fee for claims registered electronically.

eCO Beta Test for registration of claims

Notice is hereby given that in July 2007, the Copyright Office plans to initiate beta testing for the electronic registration of claims. Requests to participate in eCO beta testing are being accepted from the public and a broad array of applicants will be selected in the order that requests are received and based on the criteria listed below.

- Type of work;
- Type of deposit copy;
- File format (electronic deposit copies);
- File size (electronic deposit copies);
- Frequency of registration;
- Published versus unpublished works;
- Individual versus company/organization; and
- Type of payment.

Initially, eCO beta testing will cover basic registration claims for **literary works** (*e.g.*, books, single serial issues, manuscripts, contributions to collective works, compilations of data or other literary subject matter, etc.), **visual arts works** (*e.g.*, artwork applied to clothing, cartographic works, cartoons, comic strips, drawings, paintings, fabric, and architectural drawings or plans, etc.), performing arts works (*i.e.*, musical works, including any accompanying words; dramatic works, such as scripts, including any accompanying music; choreographic works; and motion pictures and other audiovisual works), and **sound recordings** (*i.e.*, works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work). At a later date, system testing will expand to cover additional registration claim types including group registrations, vessel hull designs, mask works, renewals, and corrections and amplifications of existing registrations. Participants in eCO beta testing will be invited to file basic registration claims online at the rate established for electronic filings, $35.

A notice announcing eCO beta testing has been posted to the Copyright Office Web site at http://www.copyright.gov/eco/beta–announce.html. The notice directs interested parties to submit a request to participate in eCO beta testing via a short Web–based form accessible at http://www.copyright.gov/eco/beta–request.html. The first group of selected participants will receive eCO system log–in information and instructions via email prior to the beta test launch date. Additional requesters will be invited to participate in later stages of eCO beta testing. Requesters not selected for eCO beta testing will receive email notification when eCO is released to the public later this year.

Dated: May 29, 2007

Marybeth Peters,

Register of Copyrights.

[FR Doc. E7–10623 Filed 5–31–07; 8:45 am]

BILLING CODE 1410–30–S

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

May 23, 2007.

TIME AND DATE: 10 a.m., Thursday, May 31, 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: *Jaxun* v. *Asarco, LLC,* Docket No. PENN 2002–23–C. (Issues include whether the Administrative Law Judge erred in requiring a miner pursuing a claim under section 105(c)(3) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 815(c)(3), to obtain representation or risk dismissal of his claim.)

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. 07–2731 Filed 5–29–07; 4:52 pm]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before July 2, 2007 (Note that the new time period for requesting copies has changed from 45 to 30 days after publication). Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001. E-mail: *requestschedule@nara.gov.* FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending (Note that the new time period for requesting copies has changed from 45 to 30 days after publication)

1. Department of the Air Force, Agency-wide (N1–AFU–06–3, 2 items, 2 temporary items). Forms, correspondence, reports, and other records relating to inter-service transfer of officers and recall of officers to active duty.

2. Department of the Army, Agency-wide (N1–AU–07–5, 3 items, 1 temporary item). System outputs and reports associated with an electronic information system used to track basic human resources data on contractors deployed with U.S. forces. Data includes but is not limited to names, social security numbers, addresses,

assignments, locations, and names of next of kin. Proposed for permanent retention are the master file and system documentation.

3. Department of Defense, Office of Inspector General (N1–509–07–1, 9 items, 6 temporary items). Records of the General Counsel including administrative hearings, legal proceedings, opinions on proposed directives, responses to requests for document searches, and working papers maintained by individual attorneys. Proposed for permanent retention are office functional files, historical legislative files, and policy files.

4. Department of Defense, National Geospatial-Intelligence Agency (N1–537–03–10, 8 items, 8 temporary items). Copies of gravity, geodesy, gravimetry, and isostasy files maintained outside the primary recordkeeping systems. Also included are bibliographic index files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of Homeland Security, Office of Public Affairs (N1–563–07–3, 6 items, 2 temporary items). Background research materials accumulated by the history office. Proposed for permanent retention are historical collection files documenting the decisions and policies of the Department's senior leadership; oral history recordings, transcripts, and finding aids; and program management files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of Homeland Security, Transportation Security Administration (N1–560–07–1, 3 items, 3 temporary items). Authorization forms granting overnight guests at airport hotels access to commercial establishments beyond airport screening checkpoints. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of the Interior, Office of the Secretary (N1–48–07–4, 82 items, 58 temporary items). Records of the Office of Hearings and Appeals, including monthly and quarterly caseload reports, duplicative litigation files, docketing files, electronic docketing system, system input files, record return cards and other records. Proposed for permanent retention are recordkeeping copies of program case files, decision files, appeals reading files and hearings reading files.

8. Department of the Interior, Bureau of Reclamation (N1–115–07–1, 19 items, 18 temporary items). Records relating to administrative or mission-related functions, including administration, environmental monitoring, financial activities, law enforcement, personnel matters, public affairs, property management, research and development, and water reclamation. Proposed for permanent retention are case files relating to fish and wildlife management. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

9. Department of Justice, Civil Division (N1–60–07–1, 5 items, 2 temporary items). Miscellaneous general file reference copies of enclosures for Class 9, war matters. Proposed for permanent retention are case files relating to Executive Branch Emergency Powers and Presidential War Powers (1930–1949) and enclosures relating to World War I Alien Property matters.

10. Department of Justice, Federal Bureau of Investigation (N1–65–06–11, 3 items, 3 temporary items). Inputs, master file, and system documentation for a jewelry and gem database which tracks stolen jewelry.

11. Department of Justice, Federal Bureau of Investigation (N1–65–06–12, 4 items, 1 temporary item). Database used to track requests for records submitted by members of the Joint Intelligence Committee. Proposed for permanent retention are redacted and un-redacted paper and electronic versions of records and the indexes to the records used by the Joint Intelligence Committee Inquiry review to address questions related to the September 11, 2001, terrorist attacks.

12. Department of Transportation, Federal Railroad Administration (N1–399–07–7, 3 items, 2 temporary items). Records accumulated within the Office of Administrator and Deputy Administrator including copies of speeches and testimonies. Proposed for permanent retention are recordkeeping copies of speeches and testimonies of the Administrator and Deputy Administrator. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

13. Department of the Treasury, Bureau of the Public Debt (N1–53–06–8, 18 items, 16 temporary items). Records relating to procedures for federal investments, state and local government investments, and Treasury loans receivables. Proposed for permanent retention are historical records relating to interest rates and borrowing for government investments.

14. Department of Veterans Affairs, Veterans Health Administration (N1–15–07–1, 1 item, 1 temporary item). Echocardiogram images captured on video cassette tapes. A written report is filed in the patient folder.

15. Department of Veterans Affairs, Veterans Health Administration (N1–15–07–2, 1 item, 1 temporary item). Emergency room registers for agency medical care facilities. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

16. Environmental Protection Agency, Agency-wide (N1–412–07–03, 1 item, 1 temporary item). Records relating to the implementation of the post-award monitoring, evaluation, and oversight of grants and other assistance agreements. Included are correspondence, reports, policies and procedures, office-specific plans, and other documentation. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

17. Environmental Protection Agency, Headquarters (N1–412–07–10, 2 items, 2 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to records series regardless of the recordkeeping medium. Records include communications and distribution strategy files, including plans, publications, and reports; and regional oversight and coordination files, including implementation reports, inspections, correspondence, reviews, and related records. Paper recordkeeping copies of these files were previously approved for disposal.

Dated: May 25, 2007.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E7–10573 Filed 5–31–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for GPRA Performance Assessment (13853); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended) the National Science Foundation announces the following meeting.

Name: Advisory Committee for GPRA Performance Assessment—(13853).

Date and Time: June 14, 2007, 8 a.m.–5 p.m.; June 15, 2007 8:30 a.m.–4 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 375.

If you are attending the meeting and need access to the NSF building, please contact Joyce Grainger (*jgrainge@nsf.gov*) for a visitor's badge.

Contact: Ms. Joyce Grainger, BFA/BD, National Science Foundation, *jgrainge@nsf.gov.* Telephone: 703–292–4481.

Type of Meeting: Open.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF) Director regarding the Foundation's performance as it relates to the Government Performance and Results Act of 1993 (GPRA).

Agenda: Presentations and discussion of topics regarding the assessment of accomplishments of NSF awards as they relate to three strategic outcome goals stated in the National Science Foundation's 2006–2011 Strategic Plan: Discovery, Learning, and Research Infrastructure.

Thursday, June 14, 2007

Welcome and Introductions; Charge to the Committee; and overview presentations on Foundation-wide issues in the context of performance assessment. The Committee, in subgroups, will analyze and assess accomplishments under the Discovery, Learning, and Research Infrastructure strategic outcome goals.

Friday, June 15, 2007

The NSF Deputy Director will meet with the Committee. The Committee reconvenes as a Committee of the Whole to hear progress reports from the strategic goals' subgroups, discuss findings and conclusions, make recommendations, and complete preparation of the final report to NSF.

Dated: May 25, 2007.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–10482 Filed 5–31–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

NUREG/CR–6931 Volume 1, ''CAROLFIRE Test Report Volume 1: General Test Descriptions and the Analysis of Circuit Response Data, Draft for Public Comment,'' and NUREG/CR–6931 Volume 2, ''CAROLFIRE Test Report Volume 2: Cable Fire Response Data for Fire Model Improvement, Draft for Public Comment—Revision 1''

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability of ''CAROLFIRE Test Report Volume 1: General Test Descriptions and the Analysis of Circuit Response Data, Draft for Public Comment,'' and ''CAROLFIRE Test Report Volume 2: Cable Fire Response Data for Fire Model Improvement, Draft for Public Comment—Revision 1,'' and request for public comment.

SUMMARY: The NRC is making NUREG/CR–6931 Volume 1, ''CAROLFIRE Test Report Volume 1: General Test Descriptions and the Analysis of Circuit Response Data, Draft for Public Comment,'' and NUREG/CR–6931 Volume 2, ''CAROLFIRE Test Report Volume 2: Cable Fire Response Data for Fire Model Improvement, Draft for Public Comment—Revision 1'' available for public comment for a period of 45 days.

DATES: Comments on these documents should be submitted during the 45-day public comment period. Comments received after that date will be considered to the extent practicable. To ensure efficient and complete comment resolution, comments should include volume, section, page, and line numbers of the document to which the comment applies, if possible.

ADDRESSES: Members of the public are invited and encouraged to submit written comments to Michael Lesar, Chief, Rulemaking, Directives and Editing Branch, Office of Administration, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments can also be hand delivered to Michael Lesar, 11545 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Comments may also be sent electronically to *NRCREP@nrc.gov.*

These documents are available at the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* under Accession No. ML071300299; on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment.html;* and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. The PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; e-mail *PDR@NRC.GOV.*

FOR FURTHER INFORMATION CONTACT: Mark H. Salley, Fire Research Branch, Materials Engineering Directorate, Office of Nuclear Regulatory Research, telephone (301) 415–2840, e-mail *mxs3@nrc.gov.*

SUPPLEMENTARY INFORMATION: The purpose of NUREG/CR–6931 Volume 1 entitled ''CAROLFIRE Test Report Volume 1: General Test Descriptions and the Analysis of Circuit Response Data, Draft for Public Comment,'' is to document the fire test data taken during the *Ca*ble *R*esponse t*o* *L*ive *Fire* (CAROLFIRE) testing program to resolve ''Bin 2 items'' identified in Regulatory Issue Summary (RIS) 2004–03. RIS 2004–03 clarifies the scope of regulatory compliance inspections related to post-fire safe shutdown circuit analysis, and specifically, the cable failure modes effects analysis including spurious operation of plant equipment. The relevant Bin 2 items represent those cable failure mode configurations for which current data and understanding were lacking when the RIS was issued; CAROLFIRE provides that data.

The purpose of NUREG/CR–6931 Volume 2 entitled ''CAROLFIRE Test Report Volume 2: Cable Fire Response Data for Fire Model Improvement, Draft for Public Comment—Revision 1,'' is to document the fire data taken during the CAROLFIRE program to foster the development of tailored cable thermal response and electrical failure fire modeling tools. This represents an extension of ongoing NRC fire model Verification and Validation efforts that address a recognized gap in current fire modeling capabilities.

The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing this document is available to the NRC staff. These documents are issued for comment only and are not intended for interim use. The NRC will review public comments received on the documents, incorporate suggested changes as necessary, and issue the final NUREG/CR–6931 Volumes 1 and 2 for use.

Dated at Rockville, MD, this 21st day of May 2007.

For the Nuclear Regulatory Commission.

Mark A. Cunningham,

Director, Division of Fuel, Engineering and Radiological Research, Office of Nuclear Regulatory Research.

[FR Doc. E7–10611 Filed 5–31–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27840]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 25, 2007.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May, 2007. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing

to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 2007, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE.,Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Prudential Unit Trusts Prudential Equity Trust Shares 1 [File No. 811–5046]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. By January 10, 2005, each series of applicant had made its final liquidating distribution to unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on March 1, 2007, and amended on May 22, 2007.

Applicant's Address: First Trust Portfolios, L.P., 1001 Warrenville Rd., Suite 300, Lisle, IL 60532.

Seligman Quality Municipal Fund, Inc. [File No. 811–6100]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On March 23, 2007, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $125,904 incurred in connection with the liquidation were paid by applicant. Applicant has retained $1,000 in cash to pay certain outstanding expenses related to the liquidation.

Filing Dates: The application was filed on May 1, 2007, and amended on May 21, 2007.

Applicant's Address: 100 Park Ave., New York, NY 10017.

California Investment Trust II [File No. 811–4418]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 4, 2007, applicant transferred its assets to California Investment Trust, based on net asset value. Expenses of $74,000 incurred in connection with the reorganization were paid by the acquiring trust.

Filing Dates: The application was filed on April 27, 2007, and amended on May 18, 2007.

Applicant's Address: 44 Montgomery St., Suite 2100, San Francisco, CA 94104.

Putnam Florida Tax Exempt Income Fund [File No. 811–6129]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 26, 2007, applicant transferred its assets to Putnam Tax Exempt Income Fund, based on net asset value. Expenses of $52,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on April 27, 2007.

Applicant's Address: One Post Office Sq., Boston, MA 02109.

First Fiduciary Trust [File No. 811–21445]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on April 25, 2007.

Applicant's Address: 442 W 47th St., Kansas City, MO 64112.

TT International U.S.A. Feeder Trust [File No. 811–9975]

TT International U.S.A. Master Trust [File No. 811–10151]

Summary: Applicants, a feeder fund and a master fund, respectively, in a master-feeder structure, each seek an order declaring that it has ceased to be an investment company. On September 26, 2005, TT International U.S.A. Master Trust (''Master Trust'') distributed substantially all of its assets to TT International U.S.A. Feeder Trust (''Feeder Trust''). On that same day, the Feeder Trust made a liquidating distribution to its shareholders other than TT International, its investment adviser, based on net asset value. The Master Trust has retained certain cash and tax reclamation assets, which are being held in custody by The Northern Trust Company. Once the Master Trust receives the outstanding tax reclamation amounts, it will make a final liquidating distribution to the Feeder Trust, which in turn will make a final distribution to TT International. Applicants' investment adviser, TT International, paid $65,000 in expenses incurred in connection with each liquidation.

Filing Dates: The applications were filed on December 6, 2005, and amended on May 8, 2007.

Applicant's Address: C/O SEI Investments Global Funds Services, One Freedom Valley Dr., Oaks, PA 19456.

Antenor Fund, LLC [File No. 811–21089]

Beaumont Fund, LLC [File No. 811–21090]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 31, 2006, each applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $3,333 incurred in connection with each liquidation were paid by Prospero Capital Management, LLC, investment adviser to each applicant.

Filing Dates: The application for Antenor Fund, LLC was filed and amended on March 1, 2007, and amended on April 20, 2007. The application for Beaumont Fund, LLC was filed on April 20, 2007.

Applicant's Address: C/O Prospero Capital Management, LLC, Wall Street Plaza, 88 Pine St., 31st Floor, New York, NY 10005.

First Funds [File No. 811–6589]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By June 2, 2006, applicant had transferred its assets to corresponding series of Goldman Sachs Trust, based on net asset value. Expenses of $966,321 incurred in connection with the reorganization were paid Goldman Sachs Asset Management, the surviving fund's investment adviser.

Filing Dates: The application was filed on January 17, 2007, and two amended applications were filed on March 29, 2007, and May 21, 2007.

Applicant's Address: First Tennessee Bank National Association, Attn: Karen Kruse, 530 Oak Court Dr., Suite 200, Memphis, TN 38117.

Agile Funds, Inc. [File No. 811–21329]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By February 15, 2007, all of applicant's shareholders had redeemed their shares at net asset value. Expenses of $5,000 incurred in connection with the liquidation were paid by Tactical Allocation Services, LLC, applicant's investment adviser.

Filing Dates: The application was filed on February 28, 2007, and amended on April 18, 2007.

Applicant's Address: C/O Tactical Allocation Services, LLC, 4909 East Pearl Circle, Suite 300, Boulder, CO 80301.

Cohen & Steers Quality REIT Preferred Fund, Inc. [File No. 811–21086]

Cohen & Steers Dividend Advantage Realty Fund, Inc. [File No. 811–21203]

Cohen & Steers Total Return Realty Fund II, Inc. [File No. 811–21310]

Cohen & Steers Dividend All Star Fund, Inc. [File No. 811–21573]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not propose to make a public offering or engage in business of any kind.

Filing Dates: The applications were filed on March 21, 2006, and amended on May 16, 2007.

Applicant's Address: 280 Park Ave., 10th Floor, New York, NY 10017.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10561 Filed 5–31–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55814; File No. SR–CBOE–2007–27]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto Relating to Class Quoting Limits

May 25, 2007.

I. Introduction

On March 5, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for termination of a Market-Maker or Remote Market-Maker (''RMM'') appointment in an option class traded on Hybrid if the Market-Maker or RMM has not submitted any electronic quotations in that option class during the preceding 30 days. The Exchange submitted Amendment No. 1 to the proposed rule change on April 18, 2007. The proposed rule change, as amended, was published for comment in the **Federal Register** on April 25, 2007.[3] The Commission received no comments on the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

CBOE Rule 8.3A establishes the upper limit, *i.e.*, Class Quoting Limit (''CQL''), on the number of members that may quote electronically in a particular product traded on CBOE's Hybrid Trading System and Hybrid 2.0 Platform (collectively ''Hybrid'').[4]

The purpose of this rule change is to amend CBOE Rule 8.3A to adopt an interpretation which is applicable only in those option classes traded on Hybrid in which the CQL for the option class is full and there is a waiting list of member(s) requesting the ability to quote electronically in the option class. Specifically, in the event a Market-Maker or RMM who holds an appointment in an option class traded on Hybrid has not submitted any electronic quotations in that option class during the preceding 30 days (calculated on a rolling basis), then the Market-Maker or RMM's appointment in that option class will be terminated effective immediately. CBOE will notify the Market-Maker or RMM prior to terminating its appointment, and the rule provides that CBOE can make exceptions to this Interpretation and Policy in unusual circumstances.

The Market-Maker or RMM can subsequently request an appointment in the option class. If there is a wait-list of members requesting the ability to quote electronically, then the Market-Maker or RMM will be placed on the wait-list for the option class. CBOE intends to implement the proposal upon approval by the Commission.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [5] and, in particular, the requirements of Section 6 of the Act.[6] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[7] in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes that the proposal should enhance liquidity by helping to ensure that members who might be willing to provide competitive quotations and liquidity in an option class are given an opportunity to do so.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–2007–27), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10555 Filed 5–31–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55811; File No. SR–CHX–2007–08]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving Proposed Rule Change To Expand Its Price Manipulation Rule To Address Additional Instances of Improper Behavior

May 24, 2007.

On March 21, 2007, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] to amend its rule relating to price manipulation. The proposed rule change was published for comment in the **Federal Register** on April 20, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

I. Description of the Proposal

The Exchange seeks to amend its rule relating to price manipulation to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55644 (April 19, 2007), 72 FR 20570.

[4] *See* Securities Exchange Act Release No. 51429 (March 24, 2005), 70 FR 16536 (March 31, 2005) (approving SR–CBOE–2005–58).

[5] The Commission has considered the amended proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55625 (April 12, 2007), 72 FR 19998.

address two separate instances of improper activity: (1) Manipulative conduct consisting of a single event (in addition to a series of events, as the current rule contemplates) and (2) manipulation based upon the entry of orders as opposed to that based solely upon the entry of trades. The proposal would also expand the rule to address conduct by persons associated with a participant firm, in addition to the firm's partners, directors, officers and registered employees.

II. Discussion

After careful review, the Commission finds that CHX's proposal to amend its rule relating to price manipulation is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission believes that these changes would appropriately establish that improper price manipulation could occur upon the entry of orders at successively higher or lower prices, not just upon the execution of trades at successively higher or lower prices. Additionally, the Commission believes that these changes would appropriately establish that improper price manipulation could occur with a single trade or order at a price higher or lower than the market.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CHX–2007–08) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10554 Filed 5–31–07; 8:45 am]

BILLING CODE 8010–01–P

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55816; File No. SR–DTC–2006–16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Amending FAST and DRS Limited Participant Requirements for Transfer Agents

May 25, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 12, 2006, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on March 29, 2007, and May 3, 2007, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by the DTC.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC proposes to amend its rules to update, standardize, and restate the requirements for the Fast Automated Securities Transfer Program (''FAST''), to delineate the responsibilities of DTC and the transfer agents with respect to the securities held by transfer agents as part of the FAST program, and to restate the requirements for transfer agents participating in the Direct Registration System (''DRS'').

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 DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] The exact text of the DTC's proposed rule change is set forth in its filing, which can be found at *http://www.dtc.org/impNtc/mor/index.html#2006.*

[3] The Commission has modified portions of the text of the summaries prepared by the DTC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Prior to the establishment of the FAST program, transfers of securities to or from DTC occurred by sending securities back and forth between DTC and transfer agents. In the case of securities being deposited with DTC, DTC sent the certificates to the transfer agent for registration into the name of DTC's nominee, Cede & Co., and the transfer agent returned the reregistered certificates to DTC. In the case of securities being withdrawn from DTC, DTC sent the certificates registered in the name of Cede & Co. to the transfer agent for reregistration into the name designated by the withdrawing DTC participant, and the transfer agent returned the reregistered security to DTC for delivery to the withdrawing participant. This process exposed securities to risk of loss during transit between DTC and transfer agents and resulted in the expense of making physical deliveries of securities.

Under the FAST program, transfer agents hold FAST-eligible securities registered in the name of Cede & Co. in the form of balance certificates. As additional securities are deposited or withdrawn from DTC, transfer agents adjust the denomination of the balance certificates as appropriate and electronically confirm theses changes with DTC. Such ''FAST agents'' are holding in custody those securities that would otherwise be held at DTC for the benefit of DTC's participants. As such, the FAST program reduces the movement of certificates between DTC and the transfer agents and therefore reduces the costs and risks associated with the creation, movement, and storing of certificates to DTC, DTC participants, issuers, and transfer agents.[4]

The FAST program has grown substantially since first being introduced in 1975.[5] Recent changes in the rules of the major securities exchanges are expected to further accelerate this growth.[6] Those exchange

[4] For a description of DTC's current rules relating to FAST, see Securities Exchange Act Release Nos. 34–13342 (March 8, 1977) [File No. SR–DTC–76–3]; 34–14997 (July 26, 1978) [File No. SR–DTC–78–11]; 34–21401 (October 16, 1984) [File No. SR–DTC–84–8]; 34–31941 (March 3, 1993) [SR–DTC–92–15]; and 34–46956 (December 6, 2002) [File No. SR–DTC–2002–15].

[5] DTC introduced the FAST program in 1975 with 400 issues and 10 agents. Currently, there are over 930,000 issues and approximately 90 agents in FAST.

[6] Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR–NYSE–2006–29]; 54290 (August 8,

rules require, as a listing prerequisite, that issues be eligible for processing through DRS. Since becoming a FAST agent is a criterion for transfer agents' eligibility for participation in DRS, DTC anticipates significant growth in the FAST program as DRS becomes more widely used or eventually becomes mandatory.

DRS allows investors to hold a security as the registered owner in electronic form on the books of the issuer rather than holding indirectly through a financial intermediary that holds the security in ''street name'' or holding through the use of a certificate. Through the use of FAST, DRS also allows for the transfer of a DRS position from the books of the issuer to a financial intermediary through the facilities of DTC.[7]

(1) Proposed Amendments to DTC's FAST Requirements

Despite the FAST program's robust past growth and expected future growth, the transfer agent eligibility requirements for FAST have not substantially changed since the implementation of FAST and do not: (i) Take into account the increased volume and value of securities processed by the transfer agents, (ii) reflect the current availability of improved technology and other safeguards which would enhance the safety and soundness of securities held at the transfer agents in the name of Cede & Co. on behalf of DTC participants, and (iii) require the use of standardized audit reports to certify transfer agents' processes and controls.

In light of the FAST program's growth, DTC has reexamined the requirements of the FAST program with a view toward ensuring that the assets in the custody of transfer agents, which ultimately belong to DTC's participants and their customers, are adequately protected. As more fully described below, DTC has identified aspects of the FAST program's requirements that need updating, including: (i) Insurance requirements (to take into account transaction volumes and values conducted by transfer agents), (ii) safekeeping requirements (to clarify and to enhance security and fire protection standards and to take into consideration technological advances that allow for economical security improvements), (iii) regulatory and bookkeeping requirements (to ensure compliance with applicable laws and regulations and utilize standardized audit reports certifying as to transfer agents' processes and controls), and (iv) fees (to clarify transfer agents' responsibilities). Taking these aspects into account, DTC proposes to amend and to restate the requirements for FAST transfer agents as set forth below in order to improve the soundness and safety of securities assets held for DTC on behalf of DTC participants and to provide better defined requirements as more issuers and transfer agents participate in the immobilization and dematerialization of securities. As a result, DTC proposes the following minimum requirements for transfer agents participating in the FAST program.

1. Transfer agent must be registered with the Commission, except where the transfer agent's participation in the FAST program is limited to acting solely for municipal issues (transfer agents must provide DTC with evidence of such), and follow all applicable rules under the Exchange Act, as well as all other applicable federal and state laws, rules, and regulations, applicable to transfer agents, including OFAC regulations. In addition, the transfer agent must provide DTC with a written notification as soon as practicable, if its regulator has taken any regulatory action against the transfer agent with respect to an alleged violation of such laws, rules, or regulations. Any regulatory reports or information furnished to DTC, including that required pursuant to this Item No. 1 and Item No. 14 below, shall be held as confidential by DTC and will not be used for any purpose other than to manage the risk of DTC and its Participants. All other information furnished to DTC pursuant to the requirements set forth herein shall be held in at least the same degree of confidence as may be required by law or the rules and regulations of the Commission.[8]

2. The transfer agent must execute and fulfill the requirements of the appropriate form of Balance Certificate Agreement with DTC (in the appropriate form).[9]

3. When applying for FAST status, the transfer agent must include the name and CUSIP of a minimum of one issue it wishes to add to the FAST program. Issues eligible for the FAST program must be: (i) Traded on an exchange registered under Section 6 of the Exchange Act, (ii) municipal securities, or (iii) transferred by a transfer agent that already acts as a FAST transfer agent for at least five (5) other issues that are traded on an exchange. The above provisions notwithstanding, DTC reserves the complete discretion to include or exclude any particular issue in the FAST program.

4. The transfer agent must sign and fulfill requirements of the Operational Criteria for the FAST Transfer Agent Processing[10] and must comply with all applicable provisions of DTC's Operational Arrangements (''OA'')[11] as amended from time to time.

5. In order to provide for the operational proficiency and efficiency of the program, on being accepted as a FAST transfer agent, the transfer agent must complete DTC's training on FAST functionality.

6. In order to protect against a risk of loss, the transfer agent must carry and provide evidence of a minimum of the following Bankers Blanket Bond Standard Form 24, or similar coverage, in proportion to transaction volume the agent processes, as follows:

a. $10 million with a deductible of no more than $50,000 for a transfer agent with 25,000 or fewer transfer transactions per year as reported to the Commission.

b. $25 million with a deductible of no more than $100,000 for a transfer agent with over 25,000 transfer transactions per year as reported to the Commission.

2006), 71 FR 47262 (August 16, 2006) [File No. SR–Amex–2006–40]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR–NASDAQ–2006–08]; 54410 (September 7, 2006), 71 FR 54316 (September 14, 2006) [File No. SR–NYSE Arca-2006–31]; 55482 (March 15, 2007), 72 FR 13544 (March 22, 2007) [File No. SR–Phlx–2006–69]; 55481 (March 15, 2007), 72 FR 13544 (March 22, 2007) [File No. SR–CHX–2006–33]; and 55480 (March 15, 2007), 72 FR 13544 (March 22, 2007) [File No. SR–BSE–2006–46].

[7] For a description of DTC's rules relating to DRS, see Securities Exchange Act Release Nos. 34–37931 (November 7, 1996) [File No. SR–DTC–96–15]; 34–41862 (September 10, 1999) [File No. SR–DTC–99–16]; 34–42366 (January 28, 2000) [File No. SR–DTC–00–01]; 34–42704 (April 19, 2000) [File No. SR–DTC–00–04]; 34–43586 (November 17, 2000) [File No. SR–DTC–00–09]; 34–44969 (August 14, 2001) [File No. SR–DTC–2001–07]; 34–45232 (January 3, 2002) [SR–DTC–2001–18]; 34–45430 (February 11, 2002) [File No. SR–DTC–2002–01]; and 34–48885 (December 5, 2003) [File No. SR–DTC–2002–17]; 34–52422 (September 14, 2005) [File No. SR–DTC–2005–11].

[8] The Commission notes that records relating to Commission examinations are highly confidential and are included herein only as one part of DTC's risk management system. Review of Commission examination records is a supplement to DTC's risk management program.

[9] DTC currently maintains three forms of the Balance Certificate Agreement: one for transfer agents, one for issuers acting as their own agent, and one for parties using a processing agent. DTC is consolidating these forms into a single form, as attached as Exhibit 2 to its filing.

[10] The Operational Criteria for the FAST Transfer Agent Processing is attached as Exhibit 2(b) to DTC's filing.

[11] For more information relating to DTC's OA, see Securities Exchange Act Release Nos. 34–45994 (May 29, 2002), 67 FR 39452 [File No. SR–DTC–2002–02]; 34–24818 (August 19, 1987), 52 FR 31833 [File No. DTC–87–10]; 34–25948 (July 27, 1988), 53 FR 29294 [File No. DTC–88–13]; 34–30625 (April 23, 1992), 57 FR 18534 [File No. DTC–92–06]; 34–35649 (April 26, 1995), 60 FR 21576 [File No. DTC–94–19]; and 34–39894 (April 21, 1998), 63 FR 23310 [File No. DTC–97–23].

In addition, the transfer agent must: (i) Carry a minimum of $1 million in Errors and Omissions insurance with a deductible of no more than $25,000 and must show evidence of the policy on applying for FAST status and (ii) have a ''mail'' insurance policy of $10 million or more and show evidence of the policy on applying for FAST status. The Errors and Omissions coverage shall identify DTC as an additional insured. The ''mail'' coverage shall identify DTC as a loss payee but shall not be invalidated by any act or neglect of the insured.

In the event that a transfer agent can demonstrate that its existing coverage and/or capitalization would provide similar protections to DTC as the requirements set forth herein, it may apply to DTC for a waiver of the deductibles set out above. DTC shall have sole discretion as to whether or not to grant any such waiver.

7. In order to facilitate consistent protection against losses relating to securities in a transfer agent's control, the transfer agent must notify DTC as soon as practicable of notice of any actual lapse in insurance coverage or change in business practices, such as increasing volumes or other business changes that would result in the transfer agent requiring additional insurance coverage as outlined above. Such notice shall be delivered to:

DTC, Inventory Management—1SL, 55 Water Street, New York, New York 10041.

And with a copy to:

DTC, General Counsel's Office, 55 Water Street—22nd Floor, New York, New York 10041.

8. The transfer agent must provide proof to DTC of the new or substitute policy for all required insurance at least 30 days prior to any expiration or change in insurance limits of a previous insurance policy.

9. To further facilitate Item No. 7 above, the terms of the insurance coverage noted above must state that the insurance provider must notify DTC within five (5) days of notice of any threatened or actual lapse in the above coverage requirements.

10. The transfer agent must establish and maintain electronic communications with DTC to balance FAST positions on a daily schedule.

11. The transfer agent must provide on an annual basis to DTC within ten (10) business days of filing with the SEC an accountant's report (pursuant to Exchange Act Rule 17Ad–13, Annual Study of Evaluation of Internal Accounting Controls) attesting to the soundness of controls to safeguard securities assets and reliability and integrity of computer systems, including confidentiality of customer account or other non-public information. To the extent that a transfer agent obtains a SAS–70 audit report, the transfer agent shall provide DTC with a copy of the report within ten (10) business days of the transfer agent's receipt of the report. In addition, the transfer agent must provide, within the same time frame as required for such report, a report from an external certified public accountant:

a. Certifying that the transfer agent is complying with all of DTC's requirements relating to FAST agents including and without limitation to (a) those listed herein, (b) the Operational Criteria for FAST Transfer Agent Processing, (c) the Operational Agreement and (d) the Balance Certificate Agreement;

b. certifying that the agent meets any SEC requirements for business continuity planning; and

c. containing an SSAE 10 report (or the equivalent) attesting to the soundness of the transfer agent's control in meeting the requirements set forth herein; however an SSAE–10 need not be provided if the transfer agent has provided a SAS–70 audit report in accordance with the provisions of this paragraph 11.

12. FAST agents must safeguard all the securities assets as stated under SEC Rule 17Ad–12 and with at least the following additional DTC requirements:

a. Maintaining a theft and fireproof safe of no less than 350 pounds with a minimum anti-theft test rating of UL 687 and a minimum fire rating of UL 72;

b. maintaining a theft and fire central monitoring alarm system protecting the entire premises;

c. all certificates will be maintained in a secure location, accessible only by authorized personnel; and

d. certificates shall not be left unattended unless stored in a secure location or a ''locked'' safe.

13. Personnel with access to the safe and the codes for the centralized monitoring system will be governed by the Commission's Rule 17f–2, which includes but is not limited to rules for fingerprinting staff that physically handle certificates.

14. The transfer agent upon application must provide DTC with a copy of the two most recent Commission examination reports as well as any follow-up correspondence. In addition, the transfer agent on an ongoing basis must provide DTC with notice of any alleged material deficiencies documented by the Commission within 5 business days of the transfer agent being notified of such material deficiencies.

15. During regular business hours upon advance notice, DTC reserves the right to visit and inspect to the extent pertaining to their position the transfer agent's facilities, books, and records but is not obligated to do so.

16. The transfer agent may only charge DTC fees (*i.e.*, deposit, withdrawal, ''rush,'' cancellation, registration, or other transfer fees) that: (a) Are contractually agreed to by the issuer, (b) are the same for all other registered holders, and (c) do not violate the regulations of the relevant securities exchange relating to transfer agent fees.

17. Existing FAST agents shall have a period of six (6) months from the date of the Commission's approval of this rule filing within which they must comply with these requirements, including the submission to DTC of a signed Balance Certificate Agreement, signed Operational Criteria, and all supporting documentation referenced herein. If an agent is not compliant with these requirements upon the expiration of such period, DTC shall have the right, using sole discretion, to terminate or to continue the agent's FAST status.

18. An agent acting on behalf of a transfer agent or an issuer acting on its own behalf shall have the same rights and responsibilities under these requirements as if it were the transfer agent.

(2) Proposed Amended and Restated Eligibility Requirements for DRS Limited Participants

DTC is proposing the following restatement of the eligibility requirements for DRS Limited Participants [12] and the DRS eligibility requirements for DRS issues to promote consistency with the FAST program requirements as well as to further ensure the soundness of the DRS system as follows. In order to be eligible to be a DRS Limited Participant, a transfer agent must:

1. Participate in the FAST program and abide by the rules outlined in the FAST requirements above.

2. Execute a DTC Limited Participant Account agreement.

3. Deliver transaction advices directly to investors relating to DRS Withdrawal-by-Transfer requests and provide DTC with a file (in a format and using functionality as specified by DTC from time to time) containing the transaction advice delivery date.

[12] DRS Limited Participants are transfer agents that participate in DRS through DTC. They are bound to certain provisions of the DTC rules. Securities Exchange Act Release No. 34–37931 (November 7, 1996) [File No. SR–DTC–96–15].

4. Complete DTC's program on training of DRS and Profile Modification System (''Profile'') functionality.

5. Participate in the Profile surety or insurance programs to initiate Profile transactions.[13]

6. Implement program changes related to DTC systems modifications within a reasonable time upon receiving notification from DTC of such modifications.

7. Implement program changes to support and expand DRS processing capabilities as agreed to by the DRS Ad Hoc Committee.

8. Mail a transfer advice or statement to shareholders within three (3) business days of each DRS account transaction that affects the shareholder's position or more often as required by the Commission's regulations.

Existing DRS Limited Participants shall have a period of six (6) months from the date of the Commission's approval of this rule filing within which they must comply with these requirements. If an agent is not compliant with these requirements upon the expiration of such period, DTC shall have the right using its sole discretion to terminate or to continue the agent's status as a DRS Limited Participant.

(3) Eligibility Requirements for DRS Issues

In order for an issue to be eligible as a DRS issue, the following eligibility requirements must be met:

1. The issue must be transferred by a transfer agent accepted as a DTC DRS Limited Participant.

2. The issue must be included in the FAST program and may not be added to DRS if ''out of balance'' positions exist.

3. The issuer or transfer agent for the issue must mail a transaction advice or statement within three (3) business days of each DRS account transaction that affects the shareholders position or more often as required by Commission regulations.

(4) DTC's Proposed Standard of Care Obligations With Respect to FAST

DTC is proposing to establish a clearer demarcation of responsibility and liability with respect to the FAST program. Historically, DTC believes the Commission has left to user-governed clearing agencies the question of how to allocate losses associated with, among other things, clearing agency functions.[14] In conjunction with its approval of these standards, the Commission noted that while it had ''called on registered clearing agencies to undertake, by rule, to deliver all fully-paid securities in their control to, or as directed by, the participant for whom the securities are held,'' given that registered clearing agencies had demonstrated a high level of responsibility in safeguarding securities and funds, a standard of care based on a strict standard of liability was not required either with respect to failures of the clearing agency or a sub-custodian. DTC notes that securities in the FAST program are held by a transfer agent and are not within the immediate custody and control of DTC. As such, after a transfer agent is accepted to the FAST program, DTC is proposing the addition of a clarifying provision to Rule 6 to state that DTC will not be liable for the acts or omissions of FAST Agents or other third parties, unless caused directly by DTC's gross negligence, willful misconduct, or violation of federal securities laws for which there is a private right of action. In addition, DTC proposes that under no circumstance shall DTC be liable for selecting or accepting any third party as an agent of DTC, including a transfer agent participating in the FAST Program.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act, as amended,[15] and the rules and regulations thereunder because it improves standards relating to the eligibility of transfer agents and issues for its FAST and DRS programs. As such, it assures the safeguarding of securities and funds which are in the custody or control of DTC or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC 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. The Commission requests comments as to whether the rule change will effect competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–DTC–2006–16 in the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2006–16. 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

[13] In DRS, instructions to transfer shares are sent by a broker-dealer that is a DTC participant or by a transfer agent that is a DRS Limited Participant through Profile. Profile provides screen based indemnification against false instructions from the party submitting the instructions through DRS. The indemnity is supported by either a surety bond or an insurance policy.

[14] Securities Exchange Act Release Nos. 34–20221 (September 23, 1983) and 34–22940 (February 24, 1986). In this regard, DTC adopted a uniform standard with respect to certain of its procedures, or Service Guides, such that DTC is not liable for any loss incurred by a participant other than one caused directly by gross negligence or willful misconduct on the part of DTC. See Securities Exchange Act Release No. 34–44719 (August 17, 2001) [File No. SR–DTC–2001–01].

[15] 15 U.S.C. 78q–s.

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of the DTC and on the DTC's Web site, *http://www.dtcc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2006–16 and should be submitted on or before June 22, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10553 Filed 5–31–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55815; File No. SR–NASDAQ–2007–027]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Amend the Generic Listing Standards for Portfolio Depositary Receipts and Index Fund Shares

May 25, 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 23, 2007, The NASDAQ Stock Market LLC (''Nasdaq'' 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 Nasdaq. On May 8, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is simultaneously approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend its existing rules to eliminate the requirement that the calculation methodology for the index underlying an exchange traded fund (''ETF'') be a methodology specified by rule and to adopt generic listing standards for a series of ETFs based solely or in part on fixed income indexes or securities. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and *http://nasdaq.complinet.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, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 19b–4(e) under the Act[4] provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[5] if the Commission has approved, pursuant to Section 19(b) of the Act,[6] the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivatives securities product, and the self-regulatory organization has a surveillance program for the product class.[7] Nasdaq has adopted generic listing standards to satisfy this rule for the listing and trading of portfolio depositary receipts (''PDRs'')[8] and index fund shares (''IFSs'')[9] (collectively, exchange traded funds or ''ETFs''), among others. The proposed rule change will eliminate from these generic listing standards the requirement that the calculation methodology for the index underlying an ETF be a methodology specified by rule. In addition, the proposed rule change will establish generic listing standards, trading rules, and procedures, including surveillance, to permit the listing and trading pursuant to Rule 19b–4(e) under the Act of ETFs based solely on fixed income indexes (''Fixed Income Indexes'') or on a combination of equity and fixed income indexes (''Combination Indexes'').

Index Methodology Change

Nasdaq rules currently permit Nasdaq to list an ETF without filing a proposed rule change if the ETF meets certain requirements.[10] Among those requirements is the requirement in Rules 4420(i)(3)(B) and 4420(j)(3)(B) that the index be calculated based on the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting or a methodology weighting components of the index based on any, some or all of the following: Sales, cash flow, book value and dividends. Nasdaq recently made a filing with the Commission to expand this list to accommodate new products and now proposes to remove this requirement to provide greater flexibility to index providers and ETF issuers to develop indexes that meet the investment objectives of investors. Further, removing these requirements will reduce the time required for products based on innovative index calculation methodologies to be brought to market. The indexes underlying ETFs would continue to be required to meet the other requirements of the generic listing standards. For example, domestic indexes require, without limitation, that the most heavily weighted component stock of an index not exceed 30% of the weight of the index, and the five most heavily weighted component stocks of an index not exceed 65% of the weight of the index,[11] and that an index include a minimum of 13 component stocks.[12] Similarly, the generic listing standards for international or global indexes require, without limitation, that the most heavily weighted component stock of an index not exceed 25% of the weight of the index, and the five most heavily weighted component stocks of

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces and supersedes the original filing in its entirety.

[4] 17 CFR 240.19b–4(e).

[5] 17 CFR 240.19b–4(c)(1).

[6] 15 U.S.C. 78s(b).

[7] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[8] Nasdaq Rule 4420(i).

[9] Nasdaq Rule 4420(j).

[10] Nasdaq Rules 4420(i) and 4420(j).

[11] Nasdaq Rules 4420(i)(3)(A)(i)c. and 4420(j)(3)(A)(i)c.

[12] Nasdaq Rules 4420(i)(3)(A)(i)d. and 4420(j)(3)(A)(i)d.

an index not exceed 60% of the weight of the index,[13] and that an index include a minimum of 20 component stocks.[14] Nasdaq believes that such requirements will ensure that underlying indexes are sufficiently diversified, and that their components are sufficiently liquid to serve as the basis for an ETF.[15]

Use of Fixed Income and Combination Indexes

The Commission has previously approved the trading on Nasdaq of a number of ETFs that are based on Fixed Income Indexes.[16] Nasdaq now proposes to establish generic listing standards, trading rules, and procedures, including surveillance, to permit the listing and trading pursuant to Rule 19b–4(e) of ETFs based solely on Fixed Income Indexes and Combination Indexes. The Commission recently approved similar standards for Amex.[17] The proposed rule is substantially similar to the Amex Rule.[18] Adopting generic listing standards for these securities and applying Rule 19b–4(e) should fulfill the intended objective of that Rule by allowing ETFs that satisfy the proposed generic listing standards to commence trading, without the need for a public comment period and Commission approval. This has the potential to reduce the time frame for bringing securities to market and thereby reduce the burdens on issuers and other market participants. If a particular index does not comply with the proposed generic listing standards under Rule 19b–4(e), Nasdaq may submit a separate filing pursuant to Section 19(b)(2) requesting Commission approval to list and trade the particular index-linked product.

Proposed Rules 4420(i) and (j) define the term ''Fixed Income Securities'' to include notes, bonds (including convertible bonds), debentures, or evidence of indebtedness that include, but are not limited to, U.S. Treasury securities (''Treasury Securities''), securities of government-sponsored entities (''GSE Securities''), municipal securities, trust-preferred securities,[19] supranational debt,[20] and debt of a foreign country or subdivision thereof. For purposes of the proposed definition, a convertible bond is deemed to be a Fixed Income Security until it is converted into its underlying common or preferred stock.[21] Once converted, the equity security may no longer continue as a component of a fixed income index under the proposed rules and, accordingly, would have to be removed from the index for the ETF to remain listed pursuant to the proposed rule.

Fixed Income Index Criteria

To list an ETF pursuant to the proposed generic listing standards for Fixed Income Indexes, the index underlying the ETF must satisfy all the conditions contained in proposed Rule 4420(i)(4) (for PDRs) or proposed Rule 4420(j)(4) (for IFSs). As with existing generic listing standards for ETFs based on domestic and international or global indexes, these listing criteria are designed to ensure that securities with substantial market distribution and liquidity account for a substantial portion of the weight of a Fixed Income Index.[22]

To list an ETF based on a Fixed Income Index pursuant to the proposed generic listing standards, the index must meet the following criteria:

- The index or portfolio must consist of Fixed Income Securities;
- Components that in aggregate account for at least 75% of the weight of the index or portfolio must have a minimum original principal amount outstanding of $100 million or more;
- No component Fixed Income Security (excluding a Treasury Security) represents more than 30% of the weight of the index, and the five highest weighted component fixed income securities in the index do not in the aggregate account for more than 65% of the weight of the index;[23]
- An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers;[24] and
- Component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either:[25]

■ From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act;[26]

■ From issuers that have a worldwide market value of outstanding common equity held by non-affiliates of $700 million or more;

■ From issuers that have outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least $1 billion;

■ Exempted securities, as defined in Section 3(a)(12) of the Act;[27] or

■ From issuers that are governments of foreign countries or political subdivisions of foreign countries.

The proposed generic listing requirements for ETFs based on Fixed

[13] Nasdaq Rules 4420(i)(3)(A)(ii)c. and 4420(j)(3)(A)(ii)c.

[14] Nasdaq Rules 4420(i)(3)(A)(ii)d. and 4420(j)(3)(A)(ii)d.

[15] The Commission recently approved similar changes to the rules of other exchanges. *See* Securities Exchange Act Release Nos. 55544 (March 27, 2007), 72 FR 15923 (April 3, 2007) (approving an American Stock Exchange LLC (''Amex'') proposal (the ''Amex Methodology Change'')); 55545 (March 27, 2007), 72 FR 15928 (April 3, 2007) and 55546 (March 27, 2007), 72 FR 15929 (April 3, 2007) (approving, on an accelerated basis, similar changes to the rules of the New York Stock Exchange (''NYSE'') and NYSE Arca, respectively).

[16] Securities Exchange Act Release No. 55300 (February 15, 2007), 72 FR 8227 (February 23, 2007) (SR–Nasdaq–2007–002, relating to the trading, pursuant to unlisted trading privileges, of 14 ETFs).

[17] Securities Exchange Act Release No. 55437 (March 9, 2007), 72 FR 12233 (March 15, 2007) (the ''Amex Rule'').

[18] The Amex Rule includes certain provisions that already appear elsewhere in Nasdaq's rules and are therefore not repeated. *See, e.g.,* Rules 4420(i)(4) and 4420(j)(4) (proposed to be renumbered as Rules 4420(i)(7) and 4420(j)(7)) relating to the trading hours for PDRs and IFSs, respectively. *See also* Rule 4613(a)(1)(B) relating to the minimum trading increment on Nasdaq.

[19] Trust-preferred securities are undated cumulative securities issued from a special purpose trust in which a bank or bank holding company owns all of the common securities. The trust's sole asset is a subordinated note issued by the bank or bank holding company. Trust preferred securities are treated as debt for tax purposes so that the distributions or dividends paid are a tax-deductible interest expense.

[20] Supranational debt represents the debt of international organizations such as the World Bank, the International Monetary Fund, regional multilateral development banks, and multilateral financial institutions. Examples of regional multilateral development banks include the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, and the Inter-American Development Bank. In addition, examples of multilateral financial institutions include the European Investment Bank and the International Fund for Agricultural Development.

[21] Under the Section 3(a)(11) of the Act, 15 U.S.C. 78c(a)(11), a convertible security is an equity security. However, for the purposes of the proposed generic listing criteria, Nasdaq believes that defining a convertible security (prior to its conversion) as a Fixed Income Security is consistent with the objectives and intention of the generic listing standards for fixed-income-based ETFs as well as the Act.

[22] The index criteria are loosely based on the standards contained in Commission and Commodity Futures Trading Commission (''CFTC'') rules regarding the application of the definition of narrow-based security index to debt security indexes. *See* Securities Exchange Act Release No. 54106 (July 6, 2006), 71 FR 39534 (July 13, 2006) (File No. S7–07–06) (the ''Joint Rules'').

[23] This is consistent with the standard for U.S. equity ETFs set forth in Rules 4420(i)(3)(A)c. and 4420(j)(3)(A)c. and the standard set forth by the Commission and the CFTC in the Joint Rules.

[24] The required number of unaffiliated issuers parallels the diversification requirement applicable to U.S. equity ETFs as set forth in Rules 4420(i)(3)(A)d. and 4420(j)(3)(A)d.

[25] Nasdaq notes that this proposed standard is consistent with a similar standard in the Joint Rules and is designed to ensure that the component fixed income securities have sufficient publicly available information.

[26] 15 U.S.C. 78m and 78o(d).

[27] 15 U.S.C. 78c(a)(12).

Income Indexes would not require that component securities in an underlying index have an investment-grade rating.[28] In addition, the proposed requirements do not include a minimum trading volume, due to the lower trading volume that generally occurs in the fixed income markets as compared to the equity markets.[29]

Listing and Trading of ETFs Based on Combination Indexes

To list an ETF pursuant to the proposed generic listing standards for Combination Indexes, an index underlying the ETF must satisfy all the conditions contained in proposed Rule 4420(i)(5) (for PDRs) or Rule 4420(j)(5) (for IFSs). As with ETFs based solely on Fixed Income Indexes, the generic listing standards are intended to ensure that securities with substantial market distribution and liquidity account for a substantial portion of the weight of both the equity and fixed income portions of a Combination Index.

The proposed rules provide that Nasdaq may list and trade ETFs based on a combination of indexes or a series of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market, pursuant to Rule 19b-4(e) under the Act, provided that: (i) Such portfolio or combination of indexes has been described in an exchange rule approved by the Commission for the trading of options, PDRs, IFSs, Index-Linked Exchangeable Notes, or Index-Linked Securities, and all of the standards set forth in the approval order are satisfied by the exchange employing generic listing standards; or (ii) the equity portion and fixed income portion of the component securities separately meet the criteria set forth in Rule 4420(i)(3) (equities) and proposed Rule 4420(i)(4) (fixed income) for PDRs and Rule 4420(j)(3) (equities) and proposed Rule 4420(j)(4) (fixed income) for IFSs.

Index Maintenance and Information

Nasdaq proposes to establish requirements regarding the maintenance and dissemination of index information in connection with ETFs based on Fixed Income Indexes and Combination Indexes. These rules would require that the underlying value of a Fixed Income Index be widely disseminated by one or more major market data vendors at least once a day during the time when the corresponding ETF trades on Nasdaq.[30] The rules also would require that the underlying value of a Combination Index be widely disseminated by one or more major market data vendors at least once every 15 seconds during the time when the corresponding ETF trades on Nasdaq, provided that, with respect to the fixed income components of the Combination Index, their impact on the index is required to be updated only once each day.[31] Nasdaq believes that these provisions reflect the nature of the fixed income markets as well as the frequency of intra-day trading information with respect to Fixed Income Securities. If the index value does not change during some or all of the period when trading is occurring on Nasdaq, the last official calculated index value must remain available throughout Nasdaq trading hours.

Moreover, if a Fixed Income Index or Combination Index underlying an ETF is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect a ''firewall'' around the personnel who have access to information concerning changes and adjustments to the index.[32] In addition, any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on index composition, methodology, and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the index.[33]

Application of General Rules

Proposed Rules 4420(i)(6) and 4420(j)(6) set forth requirements governing any ETF based on a Fixed Income Index or Combination Index. These include initial shares outstanding and the dissemination of the Intraday Indicative Value, which is an estimate of the value of a share of each ETF, updated at least every 15 seconds.

ETF Listing Criteria, Trading Rules, and Procedures

Under Nasdaq's proposal, an ETF based on a Fixed Income Index or Combination Index would be subject to the listing criteria set out in proposed Rules 4420(i)(9) and 4420(j)(9)[34] Accordingly, an ETF's NAV must be calculated at least once each day and disseminated to all market participants at the same time.[35] Also, where the value of the underlying index or portfolio of securities on which the ETF is based is no longer calculated or available, or if the ETF replaces the underlying index or portfolio with a new index or portfolio, Nasdaq would commence delisting proceedings unless the new index or portfolio meets the requirements of and listing standards set forth in Rules 4420(i) and 4420(j), as applicable.[36] Nasdaq proposes to clarify that if a sponsor of an ETF chose to replace an index or portfolio that did not meet any of Nasdaq's generic listing standards, approval by the Commission of a separate filing pursuant to Section 19(b)(2) of the Act to list and trade that ETF would be required.[37] An ETF based on a Fixed Income Index or Combination Index would be traded, in all respects, under Nasdaq's existing trading rules and procedures that apply to ETFs generally, including with respect to delisting and trading halts. In particular, Rule 4120(a)(9) provides that, if the Intraday Indicative Value or the index value applicable to that series of ETFs is not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or the index value occurs. If the interruption to the dissemination of the Intraday Indicative Value or the index value persists past the trading day in which it occurred, Nasdaq would halt trading no later than the beginning of the trading day following the interruption.[38]

As noted above, if a broker-dealer is responsible for maintaining (or has a role in maintaining) the underlying index, the broker-dealer would be required to erect and maintain a ''firewall,'' in a form satisfactory to

[28] *See* Joint Rules, 71 FR at 30537.

[29] Nasdaq believes that the requirement to have a minimum principal amount outstanding of $100 million, coupled with the proposed concentration requirements, would reduce the likelihood that an ETF listed under the proposal would be readily susceptible to manipulation.

[30] Nasdaq Rules 4420(i)(4)(B)(ii) and 4420(j)(4)(B)(ii).

[31] Nasdaq Rules 4420(i)(5)(A)(ii) and 4420(j)(5)(A)(ii).

[32] Rules 4420(i)(4)(B)(i), 4420(i)(5)(A)(i), 4420(j)(4)(B)(i), and 4420(j)(5)(A)(i).

[33] Rules 4420(i)(4)(B)(iii), 4420(i)(5)(A)(iii), 4420(j)(4)(B)(iii), and 4420(j)(5)(A)(iii).

[34] These rules will be renumbered from Rules 4420(i)(6) and 4420(j)(6).

[35] *See* proposed Rules 4420(i)(9)(A)(ii) and 4420(j)(9)(A)(ii) (requiring that, before approving an ETF for listing, Nasdaq will obtain a representation from the ETF issuer that the NAV per share will be calculated daily and made available to all market participants at the same time).

[36] *See* proposed Rules 4420(i)(9)(B)(i)b and 4420(j)(9)(B)(i)b.

[37] The Commission previously approved a similar clarification to the rules of the American Stock Exchange. *See* Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (approving SR–Amex–2006–78).

[38] If an ETF is traded on Nasdaq pursuant to unlisted trading privileges, Nasdaq would halt trading if the primary listing market halts trading in such ETF because the Intraday Indicative Value and/or the index value is not being disseminated. *See* Rule 4120(b)(9).

Nasdaq, to prevent the flow of non-public information regarding the underlying index from the personnel involved in the development and maintenance of such index to others such as sales and trading personnel.

Surveillance

Nasdaq represents that an ETF based on a Fixed Income Index or Combination Index would be covered under NASD Regulation's surveillance program for ETFs, which NASD Regulation administers for Nasdaq under a regulatory services agreement. NASD Regulation will implement written surveillance procedures for ETFs based on either a Fixed Income Index or a Combination Index.[39] Nasdaq represents that NASD Regulation's surveillance procedures are adequate to properly monitor the trading of ETFs listed pursuant to the proposed new listing standards. In addition, Nasdaq also has a general policy prohibiting the distribution of material, non-public information by its employees.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[40] in general and with Section 6(b)(5) of the Act,[41] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[39] *See* proposed Rules 4420(i)(6)(C) and 4420(j)(6)(C).

[40] 15 U.S.C. 78f.

[41] 15 U.S.C. 78f(b)(5).

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–NASDAQ–2007–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–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 office of Nasdaq.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–NASDAQ–2007–027 and should be submitted on or before June 22, 2007.

IV. Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[42] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act[43] 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, 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.

Currently, the Exchange must file a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act[44] and Rule 19b–4 thereunder[45] to list or trade any ETF based on Fixed Income Securities. The Exchange also must file a proposed rule change to list or trade an ETF based on a Fixed Income or Combination Index described in an exchange rule previously approved by the Commission as an underlying benchmark for a derivative security. Rule 19b–4(e) under the Act, however, provides that the listing and trading of a new derivative securities product by an SRO will not be deemed a proposed rule change pursuant to Rule 19b–4(c)(1) if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class. The Exchange's proposed rules for the listing and trading of ETFs pursuant to Rule 19b–4(e) based on (1) certain indexes with components that include Fixed Income Securities or (2) indexes or portfolios described in exchange rules previously approved by the Commission as underlying benchmarks for derivative securities fulfill these requirements. Use of Rule 19b–4(e) by Nasdaq to list and trade such ETFs should promote competition, reduce burdens on issuers and other market participants, and make such ETFs available to investors more quickly.[46]

The Commission has approved for listing and trading ETFs based on certain fixed income indexes and structured notes linked to a basket or

[42] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78s(b)(1).

[45] 17 CFR 240.19b–4.

[46] The Commission notes that failure of a particular ETF to satisfy the Exchange's generic listing standards does not preclude the Exchange from submitting a separate proposal to list and trade such ETF.

index of Fixed Income Securities.[47] Further, the Commission approved substantially similar generic listing standards for ETFs based on Fixed Income Indexes and Combination Indexes to be traded on Amex.[48] The Commission believes that adopting generic listing standards for ETFs based on Fixed Income and Combination Indexes should fulfill the intended objective of that rule by allowing those ETFs that satisfy the proposed generic listing standards to commence trading without a rule filing. Taken together, the Commission finds that the Nasdaq proposal meets the requirements of Rule 19b–4(e). All products listed under the proposed generic listing standards will be subject to existing Nasdaq rules governing the trading of ETFs.

Proposed Rule 4420(i) (for PDRs) and proposed Rule 4420 (j) (for IFSs) establish the standards for the composition of a Fixed Income Index or Combination Index underlying an ETF. These requirements are designed, among other things, to ensure that components of an index or portfolio underlying the ETF are adequately capitalized and sufficiently liquid, and that no one security dominates the index. The Commission believes that these standards are reasonably designed to ensure that a substantial portion of any underlying index or portfolio consists of securities about which information is publicly available, and that when applied in conjunction with the other applicable listing requirements, will permit the listing and trading only of ETFs that are sufficiently broad-based in scope to minimize potential manipulation. The Commission further believes that the proposed listing standards are reasonably designed to preclude Nasdaq from listing and trading an ETF that might be used as a surrogate for trading in unregistered securities.

The proposed generic listing standards also will permit Nasdaq to list and trade an ETF if the Commission previously has approved a rule of another exchange that contemplates listing and trading a derivative security based on the same underlying index. Nasdaq would be able to rely on the Commission's earlier approval order, provided that Nasdaq complies with the commitments undertaken by the other exchange set forth in the prior order, including any surveillance-sharing arrangements.

The Commission believes that Nasdaq's proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[49] 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. Under the Exchange's proposed listing standards, the underlying value of a Fixed Income Index is required to be widely disseminated by one or more major market data vendors at least once a day during the time when the corresponding ETF trades on the Exchange. Likewise, the underlying value of a Combination Index is required to be widely disseminated by one or more major market data vendors at least once every 15 seconds during the time when the corresponding ETF trades on the Exchange, provided that, with respect to the fixed income components of the Combination Index, the impact on the index is required to be updated only once each day.

Furthermore, the Commission believes that the proposed rules are reasonably designed to promote fair disclosure of information that may be necessary to price an ETF appropriately. If a Fixed Income Index or Combination Index underlying such an ETF is maintained by a broker-dealer or fund advisor, that entity must erect a firewall around the personnel who have access to information concerning changes and adjustments to the index. Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on index composition, methodology, or related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the index. The Commission also notes that proposed Rules 4420(i)(9)(A)(ii) and 4420(j)(9)(A)(ii), which would apply to an ETF listed and traded pursuant to this proposal, require that, before approving an ETF for listing, the Exchange will obtain a representation from the ETF issuer that the NAV per share will be calculated daily and made available to all market participants at the same time.

The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in an ETF when transparency cannot be assured. Rule 4120(a)(9) provides that, if the Intraday Indicative Value or the index value applicable to an ETF is not disseminated as required, the Exchange may halt trading during the day in which the interruption occurs. If the interruption continues, the Exchange will halt trading no later than the beginning of the next trading day.[50] Also, the Exchange will commence delisting proceedings in the event that the value of the underlying index is no longer calculated and widely disseminated on at least a 15-second basis (for Combination Indexes) or at least once a day (for Fixed Income Indexes).

The Commission notes that the Exchange represented that NASD Regulation will implement written surveillance procedures for ETFs based on either a Fixed Income Index or Combination Index.[51] In approving this proposal, the Commission has relied on the Exchange's representation that its surveillance procedures are adequate to properly monitor the trading of ETFs listed pursuant to this proposal. This approval order is conditioned on the continuing accuracy of that representation.

Acceleration

The Commission finds good cause to approve the proposal, as amended, prior to the thirtieth day after the proposal was published for comment in the **Federal Register**. The Commission believes that accelerating approval of the proposed rule change will expedite the listing and trading of additional ETFs based on Fixed Income and Combination Indexes by the Exchange, subject to consistent and reasonable standards. The Commission also notes that Nasdaq's proposed generic listing standards are substantially similar to the Amex Rules that were approved by the Commission. Thus, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[52] to grant accelerated approval of the proposed rule change.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–

[47] *See* note 16 *supra.*

[48] *See* note 17 *supra.*

[49] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[50] Nasdaq may also exercise discretion to halt trading in a series of Portfolio Depository Receipts or Index Fund Shares based on a consideration of the following factors: (A) trading in underlying securities comprising the index applicable to that series has been halted in the primary market(s), (B) the extent to which trading has ceased in securities underlying the index, or (C) the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market. *See* Nasdaq Rule 4120(a)(9).

[51] *See* proposed Nasdaq Rules 4420(i)(6)(C) and 4420(j)(6)(C).

[52] 15 U.S.C. 78s(b)(2).

2007–027), as amended, is hereby approved on an accelerated basis.[53]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[54]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–10556 Filed 5–31–07; 8:45 am]

BILLING CODE 8010–01–P

[53] 15 U.S.C. 78s(b)(2).

[54] 17 CFR 200.30–3(a)(12).

SELECTIVE SERVICE SYSTEM

Computer Matching Between the Selective Service System and the Department of Education

AGENCY: Selective Service System.

ACTION: Notice.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, the following information is provided:

1. Name of Participating Agencies

The Selective Service System (SSS) and the Department of Education (ED).

2. Purpose of the Match

The purpose of this matching program is to ensure that the requirements of Section 12(f) of the Military Selective Service System Act [50 U.S.C. App. 462 (f)] are met. This program has been in effect since December 6, 1985.

3. Authority for Conducting the Matching

Computerized access to the Selective Service Registrant Registration Records (SSS 10) enables ED to confirm the registration status of applicants for assistance under Title IV of the Higher Education Act of 1965 (HEA), as amended (20 U.S.C. 1070 et. seg.). Section 12(f) of the Military Selective Service Act, as amended [50 U.S.C. App. 462(f)], denies eligibility for any form of assistance or benefit under Title IV of the HEA to any person required to present himself for and submit to registration under Section 3 of the Military Selective Service System Act [50 U.S.C. App. 453] who fails to do so in accordance with that section and any rules and regulations issued under that section. In addition, Section 12(f)(2) of the Military Selective Service System Act specifies that any person required to present himself for and submit to registration under Section 3 of the Military Selective Service System Act must file a statement with the institution of higher education where the person intends to attend or is attending that he is in compliance with the Military Selective Service System Act. Furthermore, Section 12(f)(3) of the Military Selective Service System Act authorizes the Secretary of Education, in agreement with the Director of the Selective Service, to prescribe methods for verifying the statements of compliance filed by students.

Section 484(n) of the HEA [20 U.S.C. 1091(n)], requires the Secretary to conduct data base matches with SSS, using common demographic data elements, to enforce the Selective Service registration provisions of the Military Selective Service Act [50 U.S.C. App. 462(f)], and further states that appropriate confirmation of a person shall fulfill the requirement to file a separate statement of compliance.

4. Categories of Records and Individuals Covered

1. Federal Student Aid Application File (18–11–01).

Individuals covered are men born after December 31, 1959, but at least 18 years old by June 30 of the applicable award year.

2. Selective Service Registration Records (SSS 10).

5. Inclusive Dates of the Matching Program

Commence on July 1, 2007 or 40 days after copies of the matching agreement are transmitted simultaneously to the Committee on Government Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget, whichever is later, and remain in effect for eighteen months unless earlier terminated or modified by agreement of the parties.

6. Address for Receipt of Public Comments or Inquires

Mr. Gastón Naranjo, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Dated: May 24, 2007.

William A. Chatfield,

Director.

[FR Doc. E7–10528 Filed 5–31–07; 8:45 am]

BILLING CODE 8015–01–P

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement—Mountain Reservoirs Land Management Plan, Tennessee, North Carolina, and Georgia

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) will prepare an environmental impact statement (EIS) addressing the impacts of various alternatives for managing project lands on nine TVA reservoirs in southeastern Tennessee, southwest North Carolina, and northwest Georgia. Public comment is invited concerning both the scope of the EIS and environmental issues that should be addressed as a part of this EIS.

DATES: Comments on the scope of the EIS should be received on or before June 30, 2007.

ADDRESSES: Written comments should be sent to Kenneth P. Parr, Environmental Stewardship and Policy, Tennessee Valley Authority, 1101 Market Street, LP 5U–C, Chattanooga, Tennessee 37402–2801. Comments may be e-mailed to *kpparr@tva.gov* or submitted by fax at (423) 751–3230.

FOR FURTHER INFORMATION CONTACT: Laura M. Duncan, Tennessee Valley Authority, 1101 Market St. PSC 1E–C, Chattanooga, Tennessee 37402–2801. Telephone (423) 876–6706. E-mail may be sent to *Mountain_Reservoirs@tva.gov*.

SUPPLEMENTARY INFORMATION:

Background

This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1503), TVA's procedures for implementing the National Environmental Policy Act (NEPA), and Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR part 800).

The Mountain Reservoirs Land Management Plan (Plan) will address lands on the following reservoirs: Ocoee 1 (Parksville), Ocoee 2, and Ocoee 3 in Polk County, Tennessee; Apalachia in Polk County, Tennessee and Cherokee County, North Carolina; Hiwassee in Cherokee County, North Carolina; Fontana in Swain and Graham Counties, North Carolina; Chatuge in Clay County, North Carolina and Towns County, Georgia; Blue Ridge in Fannin County, Georgia; and Nottely in Union County, Georgia. These reservoirs were completed between 1911 and 1944. All of these reservoirs are operated for

power production and recreation, and several of them also provide flood control and other benefits. The length of the reservoir pools range from 0 miles for the run-of-river Ocoee 2 to 29 miles for Fontana.

TVA originally acquired a total of 104,375 acres of land above normal summer pool for the nine reservoirs and their associated hydroelectric generating facilities. Over the years, TVA has transferred to other public agencies, primarily the National Park Service and the U.S. Forest Service, or sold to various public and private entities the majority of this land. TVA presently owns a total of 6,274 acres of land on these reservoirs that is the subject of this Plan.

TVA manages its public lands for conservation, recreation, and economic development. The Plan will allocate lands to various categories of uses, which will then be used to guide the types of activities that will be considered on each parcel of land. This allocation will take into account past land use allocations, current land uses, public needs, the presence of sensitive environmental resources, and TVA policies. By providing a clear statement of how TVA intends to manage public lands and by identifying land for specific uses, TVA hopes to provide a blueprint for the management of its mountain reservoir lands. Plans are submitted to the TVA Board of Directors for approval and adopted as guidelines for management of TVA public land consistent with the agency's responsibilities under the 1933 TVA Act.

Potential Alternatives

The EIS will analyze a range of alternative approaches to land allocation. The No Action alternative would continue to rely on the Forecast System adopted by TVA in 1965 and subsequently updated for all of the subject reservoirs except Fontana, which has never been planned. Planned uses under the Forecast System are Dam Reservation, Powerhouse Reservation, Public Recreation, Agricultural Research, Industry, Construction and Maintenance, Reservoir Operations, and Commercial Recreation.

One or more Action Alternatives are anticipated depending on the results of the public scoping. Under any Action Alternative, TVA contemplates allocating lands into the following zones: Non-TVA Shoreland/Flowage Easement, TVA Project Operations, Sensitive Resource Management, Natural Resource Conservation, Industrial, Recreation, and Shoreline Access. If there are multiple Action Alternatives, they would likely differ in the amount of land they allocate to these zones.

Under all alternatives, TVA anticipates that lands currently committed to a specific use would be allocated to that current use; however, changes that support TVA goals and objectives can be considered. Committed lands include those with existing long term easements, leases, licenses, and contracts; lands with outstanding land rights; and lands that are necessary for TVA project operations. The committed lands total 5,194 acres or 83 percent of the 6,274 acres being planned. The TVA dam reservations and generating facilities make up about 47 percent of the committed lands. Uncommitted lands total 1,080 acres. The uncommitted lands are on Chatuge, Nottely, Hiwassee, and Blue Ridge Reservoirs.

This EIS will tier from TVA's Final EIS, Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley (November 1998). That EIS evaluated alternative policies for managing residential shoreline development on TVA reservoirs. Residential shoreline occurs on Chatuge, Hiwassee, Blue Ridge, Fontana and Nottely Reservoirs, and the Plan will not affect the policies for its management.

Proposed Issues To Be Addressed

The EIS will contain descriptions of the existing environmental and socioeconomic resources within the area that would be affected by the Plan. TVA's evaluation of potential impacts to these resources will include, but not necessarily be limited to, the potential impacts on water quality, water supply, aquatic and terrestrial ecology, endangered and threatened species, wetlands, floodplains, recreation, aesthetics and visual resources, land use, historic and archaeological resources, and socioeconomic resources.

Scoping Process

Scoping, which is integral to the process for implementing the NEPA, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. TVA's NEPA procedures require that the scoping process commence soon after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope and for identifying the significant issues related to a proposed action. The range of alternatives and the issues to be addressed in the draft EIS will be determined, in part, from written comments submitted by mail or e-mail, and comments presented orally or in writing at any public meetings. The preliminary identification of reasonable alternatives and environmental issues in this notice is not meant to be exhaustive or final.

Additional information on the planning process is available on the TVA Web site at *http://www.tva.com/environment/reports/mtnres/*. This material includes a questionnaire that scoping participants are requested to complete in order to assist TVA in the planning process.

The participation of affected Federal, State, and local agencies and Indian tribes, as well as other interested persons, is invited. Pursuant to the regulations of the Advisory Council on Historic Preservation implementing Section 106 of the NHPA, TVA also solicits comments on the potential of the proposed Plan to affect historic properties. This notice also provides an opportunity under Executive Orders 11990 and 11988 for early public review of the potential for TVA's Plan to affect wetlands and floodplains, respectively.

Comments on the scope of this EIS should be submitted no later than the date given under the **DATES** section of this notice. Any comments received, including names and addresses, will become part of the administrative record and will be available for public inspection.

TVA will hold a public scoping meeting on June 21, 2007. The open-house style meeting will be held at the Blairsville Campus of the North Georgia Technical College, 434 Meeks Avenue, Blairsville, Georgia.

Upon consideration of the scoping comments, TVA will develop alternatives and identify environmental issues to be addressed in the EIS. These will be described in a report that will be available to the public. Following analysis of the environmental consequences of each alternative, TVA will prepare a draft EIS for public review and comment. Notice of availability of the draft EIS will be published by the Environmental Protection Agency in the **Federal Register**. TVA will solicit comments on the draft EIS in writing and at public meetings to be held in the project area. TVA expects to release the draft EIS in the winter of 2008 and the final EIS in the summer of 2008.

Dated: May 25, 2007.

Bridgette K. Ellis,

Senior Vice President, Office of Environment and Research.

[FR Doc. E7–10637 Filed 5–31–07; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 23, 2007, vol. 72, no. 52, page 13855. Title 49 U.S.C. 44703(h) mandates that all U.S. air carriers operating under 14 CFR parts 121 or 135, and all U.S. air operators under 14 CFR part 125, and certain others, request and receive certain training, safety, and testing records before extending a firm offer of employment to an individual who is applying to their company as a pilot.

DATES: Please submit comments by July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilot Records Improvement Act of 1966.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0607.

Forms(s): 8060–10, 8060–10A, 8060–11, 8060–11A, 8060–12, 8060–13.

Affected Public: An estimated 18,263 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 2.5 hours per response.

Estimated Annual Burden Hours: An estimated 45,655 hours annually.

Abstract: Title 49 U.S.C. 44703(h) mandates that all U.S. air carriers operating under 14 CFR parts 121 or 135, and all U.S. air operators under 14 CFR part 125, and certain others, request and receive certain training, safety, and testing records before extending a firm offer of employment to an individual who is applying to their company as a pilot. These records are to be requested from the FAA, from an employer(s) from the previous 5-year period that used the applicant as a pilot, and from the National Driver Registry.

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 Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on May 25, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 07–2717 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Approval From the Office of Management and Budget of a New Information Collection Activity, Request for Comments; New England Region Aviation Expo

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a new information collection. The information is being used to properly identify airmen to allow the agency to verify their foreign license being used to qualify for a US certificate.

DATES: Please submit comments by July 31, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA).

Title: Verification of Authenticity of Foreign License, Rating, and Medical Certification.

Type of Request: New collection.

OMB Control Number: 2120–XXXX.

Forms(s): 8060–71.

Affected Public: A total of 5400 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 10 minutes per response.

Estimated Annual Burden Hours: An estimated 900 hours annually.

Abstract: The information is being used to properly identify airmen to allow the agency to verify their foreign license being used to qualify for a U.S. certificate. The respondents are holders of foreign licenses wishing to obtain a U.S. certificate.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, Strategy and Investment Analysis Division, AIO–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 25, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 07–2723 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–28297]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 31, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2007–28297 by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Petty, (202) 366–6654, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Planning and Research Program Administration.

OMB Control No.: 2125–0039.

Background: Under the provisions of Title 23, United States Code, Section 505, 2 percent of Federal-aid highway funds in certain categories that are apportioned to the States are set aside to be used only for State Planning and Research (SPR). At least 25 percent of the SPR funds apportioned annually must be used for research, development, and technology transfer activities. In accordance with government-wide grant management procedures, a grant application must be submitted for these funds. In addition, recipients must submit periodic progress and financial reports. In lieu of Standard Form 424, Application for Federal Assistance, the FHWA uses a work program as the grant application. This includes a scope of work and budget for activities to be undertaken with FHWA planning and research funds during the next 1 or 2 year period. The information contained in the work program includes task descriptions, assignments of responsibility for conducting the work effort, and estimated costs for the tasks. This information is necessary to determine how FHWA planning and research funds will be utilized by the State Transportation Departments and if the proposed work is eligible for Federal participation. The content and frequency of submission of progress and financial reports specified in 23 CFR part 420 are specified in OMB Circular A–102 and the companion common grant management regulations.

Respondents: 52 State Transportation Departments, including the District of Columbia and Puerto Rico.

Frequency: Annual.

Estimated Average Annual Burden per Response: 560 hours per respondent.

Estimated Total Annual Burden Hours: 29,120 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: May 22, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–10612 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mohave County, AZ

AGENCY: Federal Highway Administration (FHWA).

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed State Route 95 Realignment in Mohave County, Arizona.

FOR FURTHER INFORMATION CONTACT: Kenneth Davis, Senior Engineering Manager for Operations, Federal Highway Administration, Arizona Division Office, 400 E. Van Buren Street, Suite 410, Phoenix, Arizona 85004–0674, Telephone: (602) 379–3645, Fax: (602) 379–3608, E-mail: *Kenneth.davis@fhwa.dot.gov*; or

Robert Hollis, Division Administrator, Federal Highway Administration, Arizona Division Office, 400 E. Van Buren Street, Suite 410, Phoenix, AZ 85004–0674, Telephone: (602) 379–3725, FAX: (602) 379–3608, E-mail: *Robert.hollis@fhwa.dot.gov*.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arizona Department of Transportation (ADOT), Mohave County, and the City of Bullhead City will prepare a National Environmental Policy Act (NEPA) environmental impact statement (EIS) on a proposal to realign State Route 95 in Mohave County, Arizona. The proposed highway improvement will involve the relocation of the existing route on a new alignment east of the current highway beginning approximately two miles south of Interstate 40 and extending north to State Route 68 for a distance of approximately 42 miles. An analysis of the potential environmental impacts of the development of access roads connecting the new highway alignment with the existing roadways to west will also be studied as part of this EIS. The reconstruction of State Route 95 is considered necessary to provide for an access controlled highway to facilitate regional traffic flow and reduce traffic congestion.

Alternatives under consideration include (1) Taking no action and (2) consideration of at least two different alignments for potential relocation and development of the highway as a limited access facility located east of the existing State Route 95 highway primarily on public lands managed by the Bureau of Land Management (BLM). The BLM has accepted the role of Cooperating Agency for the study and will work closely with ADOT and FHWA to ensure NEPA evaluation includes analyses necessary for the BLM to utilize the FHWA EIS as a basis for decision to amend the BLM Kingman Resource Management Plan to allow for the highway to traverse public lands managed by BLM.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Formal NEPA agency and public scoping meetings, a series of public information meetings, and a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, 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. 315; U.S.C. 771.123.

Dated: May 23, 2007.

Kenneth H. Davis,

Senior Engineering Manager for Operations, Federal Highway Administration, Arizona Division Office, Phoenix, Arizona.

[FR Doc. 07–2727 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 42]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of the Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the next meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The RSAC meeting topics include opening remarks from the FRA Deputy Administrator, and a presentation on the hazardous materials rulemaking. Panel discussions on the legislative agenda and railroad bridges are tentatively scheduled. Status reports will be given on the Medical Standards, Passenger Safety, Roadway Worker Safety, Continuous Welded Rail—Track Standards, and Locomotive Safety Standards working groups. The Committee will be asked to vote on recommendations on railroad operating rules, passenger train emergency systems, and railroad worker safety provisions. This agenda is subject to change.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m., and conclude at 4 p.m., on Tuesday, June 26, 2007.

ADDRESSES: The meeting of the RSAC will be held at the National Housing Center, 1201 15th Street, NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-serve basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Patricia Butera, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590, (202) 493–6212 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The meeting is scheduled to begin at 9:30 a.m., and conclude at 4 p.m., on Tuesday, June 26, 2007. The meeting of the RSAC will be held at the National Housing Center, 1201 15th Street, NW., Washington, DC 20005.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The RSAC is composed of 54 voting representatives from 31 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities.

See the RSAC Web site for details on pending tasks at: *http://rsac.fra.dot.gov/.* Please refer to the notice published in the **Federal Register** on March 11, 1996, 61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on May 24, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–10566 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on March 14, 2007 (72 FR 11930).

Comments: Comments should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Type of Request: Extension of a currently approved collection.

Form Number: This collection of information uses no standard forms.

DATES: Comments must be submitted on or before July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Michael Kido, National Highway Traffic Safety Administration, Office of the Chief Counsel (NCC–111), (202) 366–5263, 400 Seventh Street, SW., Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Criminal Penalty Safe Harbor Provision.

OMB Control Number: 2127–0609.

Frequency: We believe that there will be very few criminal prosecutions under 49 U.S.C. 30170, given its elements. Accordingly, it is not likely to be a substantial motivating force for a submission of a corrected report in response to an agency request for information. See Summary of the Collection of Information below. Based on our experience to date, we estimate that no more than 1 person per year would be subject to this collection of information, and we do not anticipate receiving more than one report a year from any particular person.

Affected Public: This collection of information would apply to any person who seeks a ''safe harbor'' from potential criminal liability under 49 U.S.C. 30170. Thus, the collection of information could apply to the manufacturers, any officers or employees thereof, and other persons who respond or have a duty to respond to an information provision requirement pursuant to 49 U.S.C. 30166 or a regulation, requirement, request or order issued thereunder.

Abstract: NHTSA has published a final rule related to ''reasonable time'' and sufficient manner of ''correction,'' as they apply to the safe harbor from criminal penalties, as required by Section 5 of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106–414), which was enacted on November 1, 2000. 65 FR 38380 (July 24, 2001).

Estimated Annual Burden: Using the above estimate of 1 affected person a year, with an estimated two hours of preparation to collect and provide the information, at an assumed rate of $26.70 an hour, the annual, estimated cost of collecting and preparing the information necessary for 1 complete ''safe harbor'' corrections is $53.40. Adding in a postage cost of $0.41 (1 report at a cost of 41 cents to mail each one), we estimate that it will cost $53.81 a year for persons to prepare and submit the information necessary to satisfy the safe harbor provision of 49 U.S.C. 30170.

Since nothing in this rule would require those persons who submit reports pursuant to this rule to keep copies of any records or reports submitted to us, the cost imposed to keep records would be zero hours and zero costs.

Number of Respondents: We estimate that there will be no more than 1 per year.

Summary of the Collection of Information: Any person seeking protection from criminal liability under 49 U.S.C. 30170 related to an improper report or failure to report pursuant to 49 U.S.C. 30166, or a regulation, requirement, request or order issued thereunder, is and will be required to report the following information to NHTSA: (1) Each previous improper item of information or document and each failure to report that was required under 49 U.S.C. 30166, or a regulation, requirement, request or order issued thereunder, (2) the specific predicate under which each improper or omitted report should have been provided, and (3) the complete and correct reports, including all information that was improperly submitted or that should have been submitted and all relevant documents that were not previously submitted to NHTSA or, if the person cannot provide this, then a full detailed description of that information or of the content of those documents and the reason why the individual cannot provide them to NHTSA.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on May 25, 2007.

Anthony M. Cooke,

Chief Counsel.

[FR Doc. E7–10603 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT Docket No. NHTSA–2007–27204]

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: This notice solicits public comment on continuation of the requirements for the collection of information on brake hose manufacturers. Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information associated with 49 CFR Part 571, Section 106, Brake Hoses.

DATES: Comments must be submitted on or before July 2, 2007.

ADDRESSES: Comments must refer to the docket notice number, NHTSA–2007–27204, and the OMB control number, 2127–0052, and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budge, Att'n Desk Officer for NHTSA, 725 17th St. NW., Washington DC 20503. It is requested, but not required, that 2 copies of the comments be provided.

Commenters may also, but are not required, to submit their comments to the DOT docket if they want their comments to appear in the DOT docket as well. Comments must refer to the docket notice number, NHTSA–2007–27204, and the OMB control number, 2127–0052, and be submitted to Docket Management, Room W12–140, West Building Ground Floor, 1200 New Jersey Avenue, SE, Washington, DC 20590. The telephone number for the Docket Management System is (800) 647–5527. It is requested, but not required, that

two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m., except for Federal holidays. Alternatively, you may submit your comments electronically by logging on to the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help and Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, refer to the docket number of this document.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for information collection may be obtained from Mr. Jeff Woods at the National Highway Traffic Safety Administration (NHTSA), Office of Crash Avoidance Standards, 202–366–6206. By mail: NVS–122, West Building, 1200 New Jersey Ave., SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Brake Hose Manufacturing Identification, Federal Motor Vehicle Safety Standard (FMVSS) No. 106.

OMB Control Number: 2127–0052.

Type of Request: Request for public comment on a previously approved collection of information.

Abstract: Each manufacturer of brake hoses is required to register their manufacturing identification marks with NHTSA, in accordance with requirements in FMVSS No. 106, Brake Hoses. Manufacturer markings are typically put on motor vehicle brake hoses so that the manufacturer can be identified if a safety problem occurs with brake hoses installed on vehicles. Brake hose manufacturers register approximately 20 new identification marks each year, by submitting a request letter sent via U.S. mail, facsimile, or e-mail.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden: 30 hours and $3,000.

Comments Are Invited On

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.
- Whether the Department's estimate for the burden of the proposed information collection is accurate.
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication. The agency published a **Federal Register** notice informing the public of its intent to renew this information collection on February 14, 2007 (72 FR 7113). No comments were received in response to that notice.

Issued on: May 29, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–10604 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35030]

US Rail Partners, Ltd.—Continuance in Control Exemption—Eastern Washington Gateway Railroad Company

US Rail Partners, Ltd. (USRP), a noncarrier holding company, has filed a verified notice of exemption to continue in control of Eastern Washington Gateway Railroad Company (EWGR), upon EWGR's becoming a Class III rail carrier.

The earliest this transaction may be consummated is the June 15, 2007 effective date of the exemption (30 days after the exemption was filed).[1]

This transaction is related to STB Finance Docket No. 35029, *Eastern Washington Gateway Railroad Company—Lease and Operation Exemption—Washington State Department of Transportation,* wherein EWGR seeks to lease and operate approximately 107.8 miles of railroad, known as the CW Branch, that are in the process of being acquired by the Washington State Department of Transportation from Palouse River and Coulee City Railroad, Inc.

USRP currently controls through stock ownership one Class III rail carrier, Blackwell Northern Gateway Railroad Company (BNGR). BNGR operates approximately 35 miles of rail line between Wellington, KS, and Blackwell, OK.

USRP states that: (i) The railroads will not connect with each other or any railroads within its corporate family, (ii) the transaction is not a part of a series of anticipated transactions that would connect any of these railroads with one another or any other railroad, and (iii) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than June 8, 2007, unless the Board grants the joint petition of EWGR and USRP to make their exemptions effective sooner, in which case the due date for stays will be established in the Board's decision acting on the joint petition.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35030, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on William C. Sippel, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: May 24, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10628 Filed 5–31–07; 8:45 am]

BILLING CODE 4915–01–P

[1] On May 18, 2007, USRP and EWGR filed a joint petition requesting that the Board partially revoke the class exemptions as necessary to allow the exemptions in this proceeding and in STB Finance Docket No. 35029 to become effective on June 4, 2007, instead of on June 15, 2007. That request will be addressed in a separate Board decision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35029]

Eastern Washington Gateway Railroad Company—Lease and Operation Exemption—Washington State Department of Transportation

Eastern Washington Gateway Railroad Company (EWGR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease and to operate approximately 107.8 miles of rail line that are in the

process of being acquired by the Washington State Department of Transportation (WSDOT) from Palouse River and Coulee City Railroad, Inc. (PCC).[1] The line to be leased and operated, known as the CW Branch, extends from a connection with BNSF Railway Company at milepost 1.0 near Cheney, WA, to the end of track at milepost 108.8, in Coulee City, WA.

This transaction is related to STB Finance Docket No. 35030, *U.S. Rail Partners, Ltd.—Continuance in Control Exemption—Eastern Washington Gateway Railroad Company,* wherein U.S. Rail Partners, Ltd. (USRP), seeks to continue in control of EWGR upon its becoming a Class III rail carrier.

EWGR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

The earliest this transaction may be consummated is the June 15, 2007 effective date of the exemption (30 days after the exemption was filed).[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than June 8, 2007, unless the Board grants the joint petition of EWGR and USRP to make their exemptions effective sooner, in which case the due date for stays will be established in the Board's decision acting on the joint petition.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35029, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on William C. Sippel, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: May 24, 2007.

[1] A related notice of exemption was filed on May 21, 2007 in STB Finance Docket No. 35024, *Washington State Department of Transportation—Acquisition Exemption—Palouse River and Coulee City Railroad, Inc.,* wherein WSDOT seeks to acquire the line involved in this proceeding and other lines from PCC.

[2] On May 18, 2007, EWGR and USRP filed a joint petition requesting that the Board partially revoke the class exemptions as necessary to allow the exemptions in this proceeding and in STB Finance Docket No. 35030 to become effective on June 4, 2007, instead of on June 15. That request will be addressed in a separate Board decision.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10636 Filed 5–31–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35028]

Washington & Idaho Railway, Inc.—Lease and Operation Exemption—Washington State Department of Transportation

Washington & Idaho Railway, Inc. (WIR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease and to operate approximately 86.9 miles of railroad that are in the process of being acquired by the Washington State Department of Transportation (WSDOT) from Palouse River and Coulee City Railroad, Inc. (PCC).[1] The lines, known as the P&L Branch, to be leased and operated by WIR are as follows: (1) The WIM line between milepost 0.0 at Palouse, and milepost 3.85 at the Washington-Idaho State line, and (2) the P&L line between milepost 1.0 at Marshall, and milepost 75.9 at Pullman and continuing to milepost 84.05 at the Washington-Idaho State line,[2] located in Whitman and Spokane Counties, WA.[3] WIR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

The earliest this transaction may be consummated is June 10, 2007, the effective date of the exemption (30 days after the exemption was filed).[4]

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than June 4, 2007, unless the Board grants WSDOT's petition to make the exemption effective sooner, in which case the due date for stays will be established in the Board's decision acting on WSDOT's petition.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35028, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Charles H. Montange, 426 NW., 162nd Street, Seattle, WA 98177.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: May 24, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10601 Filed 5–31–07; 8:45 am]

BILLING CODE 4915–01–P

[1] A related notice of exemption was filed on May 21, 2007 in STB Finance Docket No. 35024, *Washington State Department of Transportation—Acquisition Exemption—Palouse River and Coulee City Railroad, Inc.,* wherein WSDOT seeks to acquire the lines involved in this proceeding and other lines from PCC.

[2] The segment between mileposts 75.9 and 84.05 is described in the notice in STB Finance Docket No. 35024 as part of another PCC branch. The authority to be granted here is only permissive in nature, however, and it is up to the parties to resolve this inconsistency.

[3] WIR states that it currently operates over these lines as a contract carrier for PCC.

[4] On May 21, 2007, WSDOT filed a petition requesting that the Board partially revoke the class exemption as necessary to allow the exemption in this proceeding to become effective on June 1, 2007, rather than on June 10. That request will be addressed in a separate Board decision.

DEPARTMENT OF TRANSPORTATION

[STB Finance Docket No. 35024]

Washington State Department of Transportation—Acquisition Exemption—Palouse River and Coulee City Railroad, Inc.

The Washington State Department of Transportation (WSDOT), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 [1] to acquire from Palouse River and Coulee City Railroad, Inc. (PCC), certain physical assets, operating rights, and underlying rights-of-way of eight rail lines (the Lines), totaling approximately 296 miles, in the State of Washington. The Lines are sub-divided into three branches: (1) The CW Branch, between milepost 1.0 at Cheney and milepost 108.81 at Coulee City; (2) the P&L Branch, consisting of (a) the WIM line between milepost 0.0 at Palouse and milepost 3.85 at the Washington-Idaho State line, and (b) the P&L line between milepost 1.0 at Marshall and milepost 75.9 at Pullman; and (3) the PV–Hooper Branch, consisting of (a) the Hooper Jct.–Winona line between milepost 26.6 at Hooper Junction and milepost 52.3 at Winona, (b) the

[1] This notice was initially submitted on May 10, 2007, but not docketed until May 21, 2007, when the appropriate filing fee was submitted. Because the notice could not be processed until the Board received the filing fee, May 21 is the official filing date.

Thornton-Winona line between milepost 0.0 at Winona and milepost 31.7 at Thornton, (c) the Winona-Endicott line between milepost 52.3 at Winona and milepost 57.9 at Endicott, (d) the Endicott-Colfax line between milepost 57.9 at Endicott and milepost 77.7 at Colfax, and (e) the Colfax-Moscow line (i) between milepost 0.0 at Colfax and milepost 18.7 at Pullman, and (ii) between milepost 75.9 at Pullman and milepost 84.05 at the Washington-Idaho State line.

WSDOT states that it is in the process of formalizing a Purchase and Sale Agreement with PCC, pursuant to which PCC will: (1) Convey to WSDOT certain track and track structures and the rights-of-way underlying the involved Lines; (2) continue to operate the CW and P&L Branches through May 31, 2007; and (3) continue to operate the PV–Hooper Branch under its existing 15-year lease with WSDOT.[2] WSDOT will lease the P&L and CW Branches to third party operators under contracts awarded by public bid.[3] WSDOT will not operate the lines, but will retain the residual common carrier obligation should the operators prove unable to perform. WSDOT is acquiring the Lines in order to preserve freight rail service for the public in Eastern Washington.

WSDOT certifies that the projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III railroad and will not exceed $5 million.

The earliest this transaction may be consummated is June 20, 2007, the effective date of the exemption (30 days after the exemption was filed).[4]

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than June 13, 2007, unless the Board grants WSDOT's petition to make the exemption effective sooner, in which case the due date for stays will be established in the Board's decision acting on WSDOT's petition.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35024, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Mark S. Lyon, 7141 Cleanwater Drive, SW, Tumwater, WA 98501–6503.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: May 24, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10574 Filed 5–31–07; 8:45 am]

BILLING CODE 4915–01–P

[2] WSDOT recites that PCC will also retain an ''exclusive freight rail easement'' to provide service under the lease. However, because WSDOT recites that it will acquire the common carrier obligation for the PV–Hooper Branch, PCC's interests after this transaction cannot constitute an easement interest and apparently will be in the form of a leasehold only. While the notice filed by WSDOT is somewhat ambiguous, the fact that it asserts it will obtain a common carrier obligation and the fact that it has invoked Board authority to acquire ownership of the Lines indicates that it is acquiring the right to operate over the Lines, and intends to execute leases with other carriers, including PCC, to satisfy WSDOT's common carrier obligation.

[3] Related notices of exemption have been filed in: (1) STB Finance Docket No. 35028, *Washington & Idaho Railway, Inc.—Lease and Operation Exemption—Washington State Department of Transportation*, wherein Washington & Idaho Railway, Inc., seeks to operate over the P&L Branch; and (2) STB Finance Docket No. 35029, *Eastern Washington Gateway Railroad Company—Lease and Operation Exemption—Washington State Department of Transportation*, wherein Eastern Washington Gateway Railroad Company seeks to operate over the CW Branch.

[4] On May 21, 2007, WSDOT filed a petition requesting that the Board partially revoke the class exemption as necessary to allow the exemption in this proceeding to become effective on June 1, 2007, rather than on June 20. That request will be addressed in a separate Board decision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–156 (Sub-No. 26X)]

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company—Abandonment Exemption—in Albany County, NY

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H) has filed a notice of exemption[1] under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 1.98 +/− miles of rail line between mileposts A 6.95 +/− (in Colonie) and A 7.13 +/− and mileposts T 0.0 +/− and T 1.81 +/− (in Green Island), in Albany County, NY.[2] The line traverses United States Postal Service Zip Codes 12183 and 12189.

D&H has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be and has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 3, 2007, unless stayed pending reconsideration.[3] Petitions to stay that do not involve environmental issues,[4] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[5] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 11, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 21, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to D&H's representative: W. Karl Hansen,

[1] D&H filed a supplement to its notice of exemption on May 17, 2007.

[2] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Surface Transportation Board (Board) at least 50 days before the abandonment or discontinuance is to be consummated. D&H initially indicated in its notice of exemption a proposed consummation date of June 29, 2007, but because the verified notice was filed on May 14, 2007, consummation may not take place prior to July 3, 2007. D&H has been informed by a Board staff member that consummation may not take place until July 3, 2007.

[3] On May 17, 2007, R. Freedom & Son, Inc., filed a notice of intent to file an OFA to purchase the line. The Board will address the request and any other requests that may be timely filed in a separate decision.

[4] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[5] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

D&H has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 8, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), D&H shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by D&H's filing of a notice of consummation by June 1, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: May 23, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–10298 Filed 5–31–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 25, 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 July 2, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0170.

Type of Review: Extension.

Title: Corporation Application for Quick Refund of Overpayment of Estimated Tax.

Form: 4466.

Description: Form 4466 is used by a corporation to file for an adjustment (quick refund) of overpayment of estimated income tax for the tax year. This information is used to process the claim, so the refund can be issued.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 76,433 hours.

OMB Number: 1545–0823.

Type of Review: Extension.

Title: Indian Tribal Governments Treated As States For Certain Purposes.

Description: The regulations provide that if the governing body of a tribe, or its subdivision, is not designated as an Indian tribal government or subdivision thereof for purpose of sections 7701(a)(40) and 7871, it may apply for a ruling from the IRS.

Respondents: State, local, or tribal governments.

Estimated Total Burden Hours: 25 hours.

OMB Number: 1545–1270.

Type of Review: Extension.

Title: PS–66–93 (Final) Gasohol; Compressed Natural Gas; PS–120–90 (Final) Gasoline Excise Tax.

Form: 8038, 8038–G, and 8038–GC.

Description: PS–66–93 Buyers of compressed natural gas for a non taxable use must give a certificate. Persons who pay a ''first tax'' on gasoline must file a report. PS–120–90 Gasoline refiners, traders, terminal operators, chemical companies and gasohol blenders must notify each other of their registration status and/or intended use of product before transactions may be made tax-free.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 366 hours.

OMB Number: 1545–1354.

Type of Review: Extension.

Title: Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).

Form: 8833.

Description: Form 8833 is used by taxpayers that are required by section 6114 to disclose a treaty-based return position to disclose that position. The form may also be used to make the treaty-based position disclosure required by regulations section 301.7701(b)-7(b) for ''dual resident'' taxpayers.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 25,640 hours.

OMB Number: 1545–1068.

Type of Review: Extension.

Title: INTL–362–88 (Final) Definition of a Controlled Foreign Corporation, Foreign Base Company Income, and Foreign Personal Holding Company Income of a Controlled Foreign Corporation

Description: The election and recordkeeping requirements are necessary to exclude certain high-taxed or active business income from subpart F income or to include certain income in the appropriate category of subpart F income. The recordkeeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.

Respondents: Businesses or other for-profit institutions

Estimated Total Burden Hours: 50,417 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. E7–10592 Filed 5–31–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax Counseling for the Elderly (TCE) Program Availability of Application Packages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of Application Packages for the 2007 Tax Counseling for the Elderly (TCE) Program.

DATES: Application Packages are available from the IRS at this time. The deadline for submitting an application package to the IRS for the 2007 Tax Counseling for the Elderly (TCE) Program is August 1, 2006.

ADDRESSES: Application Packages may be requested by contacting: Internal Revenue Service, 5000 Ellin Road, Lanham, MD 20706, *Attention:* Program Manager, Tax Counseling for the Elderly Program, SE:W:CAR:SPEC:FO:OA, Building C–4, Room 168. Applications can also be submitted electronically through the IRS E-grants System by logging on to *http://www.egrants.irs.gov*.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Tyler, SE:W:CAR:SPEC:FO:OA, Building C–4, Room 168, Internal Revenue Service, 5000 Ellin Road, Lanham, MD 20706. The non-toll-free telephone number is (202) 283–0189.

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly (TCE) Program is contained in Section 163 of the Revenue Act of 1978, Public Law 95–600, (92 Stat. 12810), November 6, 1978. Regulations were published in the **Federal Register** at 44 FR 72113 on December 13, 1979. Section 163 gives the IRS authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Because applications are being solicited before the FY 2007 budget has been approved, cooperative agreements will be entered into subject to the appropriation of funds. Once funded, sponsoring agencies and organizations will receive a grant from the IRS for administrative expenses and to reimburse volunteers for expenses incurred in training and in providing tax return assistance. The Tax Counseling for the Elderly (TCE) Program is referenced in the Catalog of Federal Domestic Assistance in Section 21.006.

Dated: May 9, 2007.

Elizabeth Blair,

Chief, Oversight & Analysis.

[FR Doc. E7–10173 Filed 5–31–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee Internal Revenue Service (IRS),

AGENCY: Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 19, 2007, at 1 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, June 19, 2007, at 1 p.m., Eastern Time via a telephone conference call. You can submit written comments to the Panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, P.O Box 3205, Milwaukee, WI 53201–3205, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Barbara Toy at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: May 24, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–10530 Filed 5–31–07; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 72, No. 105

Friday, June 1, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

EXPORT-IMPORT BANK

Economic Impact Policy

Correction

In notice document E7–9803 appearing on page 28694 in the issue of Tuesday, May 22, 2007, make the following correction:

In the first column, in the last paragraph, in the seventh sentence, ''*xeconomic.impact@exim.gov*'' should read ''*economic.impact@exim.gov*''.

[FR Doc. Z7–9803 Filed 5–31–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
June 1, 2007

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Incidental Take During Specified Activities; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018–AU41

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of proposed incidental harassment authorization; request for comments.

SUMMARY: The Fish and Wildlife Service (Service) proposes regulations that would authorize the nonlethal, incidental, unintentional take of small numbers of Pacific walruses (walruses) and polar bears during year-round oil and gas industry (Industry) exploration activities in the Chukchi Sea and adjacent western coast of Alaska. We are proposing that this rule be effective for 5 years from date of issuance. We propose a finding that the total expected takings of walruses and polar bears during oil and gas industry exploration activities will have a negligible impact on these species and will not have an unmitigable adverse impact on the availability of these species for subsistence use by Alaska Natives. The regulations that we propose to issue include permissible methods of nonlethal taking, measures to ensure the least practicable adverse impact on the species and the availability of these species for subsistence uses, and requirements for monitoring and reporting. If the proposed regulations are issued, we can issue Letters of Authorization to conduct activities under the provisions of these regulations when requested by citizens of the United States. We are seeking public comments on this proposed rule.

In addition, the Service proposes to issue authorizations to take small numbers of marine mammals by harassment incidental to conducting exploration activities during the 2007 open-water season for oil and gas operators (Incidental Harassment Authorization). These activities will be carried out from approximately July 1 through November 30, 2007. The authorizations we propose to issue will also include permissible methods of nonlethal taking, measures to ensure the least practicable adverse impact on the species and the availability of these species for subsistence uses, and requirements for monitoring and reporting. We are seeking public comments on this proposal.

DATES: Comments on this proposed rule, the proposed issuance of incidental harassment authorization, and the draft Environmental Assessment, must be received by July 2, 2007. Comments on the information collection requirements must be submitted on or before July 31, 2007.

ADDRESSES: You may submit comments by any of the following methods for the proposed rule, identified by RIN 1018–AU41, or for the incidental harassment authorization:

- *Mail:* Craig Perham, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503.
- *Fax:* 907–786–3816.
- *Hand Delivery/Courier:* Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.
- *E-mail: R7_MMM_Comment@fws.gov*. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''*Attn:* RIN 1018–AU41'' in the subject line and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at U.S. Fish and Wildlife Service, Office of Marine Mammals Management, 907–786–3810 or 1–800–362–5148.

Comments on the proposed rule, identified by RIN 1018–AU41, may also be submitted by the following method:

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

Please indicate to which action, RIN 1018–AU41 or incidental harassment authorization, your comments apply.

FOR FURTHER INFORMATION CONTACT: Craig Perham, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503, telephone 907–786–3810 or 1–800–362–5148, or e-mail *R7_MMM_Comment@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(5)(A)) gives the Secretary of the Interior (Secretary) through the Director of the Service (we) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals, in response to requests by U.S. citizens (you) [as defined in 50 CFR 18.27(c)] engaged in a specified activity (other than commercial fishing) in a specified geographic region. According to the MMPA, we shall allow this incidental taking if (1) we make a finding that the total of such taking for the 5-year regulatory period will have no more than a negligible impact on these species and will not have an unmitigable adverse impact on the availability of these species for taking for subsistence use by Alaska Natives, and (2) we issue regulations that set forth (i) permissible methods of taking, (ii) means of effecting the least practicable adverse impact on the species and their habitat and on the availability of the species for subsistence uses, and (iii) requirements for monitoring and reporting. If regulations allowing such incidental taking are issued, we can issue Letters of Authorization (LOA) to conduct activities under the provisions of these regulations when requested by citizens of the United States.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Harassment, as defined by the MMPA, for activities other than military readiness activities or scientific research conducted by or on behalf of the federal government, means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild'' (the MMPA calls this Level A harassment) ''or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering'' (the MMPA calls this Level B harassment).

The terms ''small numbers,'' ''negligible impact,'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27 (i.e., regulations governing small takes of marine mammals incidental to specified activities) as follows. ''Small numbers'' is defined as ''a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.'' ''Negligible impact'' is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

''Unmitigable adverse impact'' means ''an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing

subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.''

Industry conducts activities such as oil and gas exploration in marine mammal habitat that could result in the taking of marine mammals. Although Industry is under no legal requirement to obtain incidental take authorization, since 1991, Industry has requested, and we have issued regulations for, incidental take authorization for conducting activities in areas of walrus and polar bear habitat. Incidental take regulations for walruses and polar bears in the Chukchi Sea were issued previously for the period 1991–1996 (56 FR 27443; June 14, 1991). In the Beaufort Sea, incidental take regulations have been issued previously from 1993 to present: November 16, 1993 (58 FR 60402); August 17, 1995 (60 FR 42805); January 28, 1999 (64 FR 4328); February 3, 2000 (65 FR 5275); March 30, 2000 (65 FR 16828); November 28, 2003 (68 FR 66744); and August 2, 2006 (71 FR 43926).

Summary of Current Request

On August 5, 2005, the Alaska Oil and Gas Association (AOGA), on behalf of its members, (Agrium Kenai Nitrogen Operations, Alyeska Pipeline Service Company, Anadarko Petroleum Corporation, BP Exploration (Alaska) Inc., Chevron, Eni Petroleum, ExxonMobil Production Company, Flint Hills Resources, Alaska, Forest Oil Corporation, Marathon Oil Company, Petro-Canada (Alaska) Inc., Petro Star Inc., Pioneer Natural Resources Alaska, Inc., Shell Exploration & Production Company, Tesoro Alaska Company, and XTO Energy, Inc.) requested that the Service promulgate regulations to allow the nonlethal, incidental take of small numbers of walruses and polar bears in the Chukchi Sea for a period of 5 years. The Service requested additional information from AOGA regarding the nature, scope, and location of proposed activities for its analysis of potential impacts on walruses, polar bears, and subsistence harvests of these resources. On November 22, 2006, Shell Offshore Inc. (SOI) provided an addendum to the AOGA petition describing SOI's projected activities for 2007–2012.

On January 2, 2007, AOGA, on behalf of its members, also provided an addendum to its original petition referencing a Draft Environmental Impact Statement prepared by the MMS for the Chukchi Sea Planning Area: Oil and Gas Lease Sale 193 and Seismic Surveying Activities in the Chukchi Sea (Chukchi Sea DEIS). The Chukchi Sea DEIS includes estimates of all reasonably foreseeable oil and gas activities associated with proposed Outer Continental Shelf (OCS) lease sales in the Chukchi Sea Planning Area. The AOGA petition requested that the Service consider activities described in the Chukchi Sea DEIS for the period 2007–2012. On January 2, 2007, ConocoPhillips Alaska, Inc. (CPAI), also provided an addendum to the original AOGA petition describing CPAI's projected activities from 2007–2012. The petition and addendums are available at: (Alaska.fws.gov/fisheries/mmm/itr.htm). The Chukchi Sea DEIS, referenced in the AOGA petition, is available at: *http://www.mms.gov/alaska* (OCS EIS/EA MMS 2006–060).

The combined requests are for regulations to allow the incidental, nonlethal take of small numbers of walruses and polar bears in association with oil and gas activities in the Chukchi Sea and adjacent coastline projected out to the year 2012. The information provided by the petitioners indicates that projected oil and gas activities over this timeframe will be limited to offshore and onshore exploration activities. Development and production activities were not considered in the requests. The petitioners have also specifically requested that these regulations be issued for nonlethal take. Industry has indicated that, through implementation of the mitigation measures, it is confident a lethal take will not occur.

Prior to issuing regulations at 50 CFR part 18, subpart I in response to this request, we must evaluate the level of industrial activities, their associated potential impacts to walruses and polar bears, and their effects on the availability of these species for subsistence use. All projected exploration activities described by SOI, CPAI, and AOGA (on behalf of its members) in their petitions, as well as projections of reasonably foreseeable activities for the period 2007–2012 described in the Chukchi Sea DEIS were considered in our analysis. The activities and geographic region specified in the requests, and considered in these regulations are described in the ensuing sections titled ''Description of Geographic Region'' and ''Description of Activities.''

This proposed rule also serves as the proposed incidental harassment authorization (IHA) under section 101(a)(5)(D) of the MMPA. If this proposed rule is finalized, incidental take of small numbers of polar bears and walrus resulting from oil and gas exploration activities in the Chukchi Sea will be authorized under LOAs issued pursuant to section 101(a)(5)(A) of the MMPA. However, operators are proposing to begin oil and gas exploration activities in July of 2007, which will likely be before the Service makes a final determination under the section 101(a)(5)(A) regulatory process. Therefore, this proposed rule also serves as the proposed IHA that, if finalized, will authorize the incidental take by harassment of small numbers of walruses and polar bears from oil and gas exploration activities in the Chukchi Sea during the 2007 exploration season.

The proposed rule can serve as both the proposed rule under section 101(a)(5)(A) and the proposed IHA under section 101(a)(5)(D) because the standards are the same and the procedures are compatible. Incidental take authorization is available under both provisions if the Service finds that the anticipated take will have a negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. Both types of authorization would include permissible methods of taking and other means of effecting the least practicable impact on the species or stock and its habitat and on the availability of the species or stock for taking for subsistence uses, any measures necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses, and requirements for monitoring and reporting of any taking that does occur.

The differences between the two provisions are procedural. A final IHA would be issued without further notice in the **Federal Register**, following consideration of all comments received during the public comment period, if the Service finds that the anticipated level of take meets the statutory standards. An IHA can only be issued for up to one year, compared to the five-year period of the regulatory process. Also, an IHA can only be issued if the Service finds that no lethal take is likely to occur as a result of the anticipated oil and gas exploration activities. Here the Service would be issuing an IHA for the 2007 exploration season. If a final rule is published in the **Federal Register** finding that the anticipated take during the full five-year period meets the statutory standards, Letters of Authorization will replace the one-year IHA that will be issued to operators if the Service makes final determinations that the take that is anticipated to result from the 2007 activities meets the statutory standards.

The Description of Activities section of the proposed rule describes the oil and gas exploration activities that will occur during the 2007 season, as well as during the consecutive years of the regulatory period. The Description of Geographic Region section describes the geographic area in which exploration activities will be conducted in 2007, as well as during the other years of the regulatory period. The Mitigation Measures for Oil and Gas Exploration Activities section describes the mitigating measures and monitoring and reporting requirements that will be required in 2007 as conditions of the IHA. The potential Effects of Oil and Gas Industry Activities on Pacific Walruses and Polar Bears section, the Potential Effects of Oil and Gas Industry Activities on Subsistence Uses of Pacific Walruses and Polar Bears section, and the Summary of Take Estimated for Pacific Walruses and Polar Bears section analyze the type and level of take of polar bears and walrus that is anticipated to occur during the 2007 exploration season, as well as during the other years of the regulatory period. The public comment period announced with this proposed rule also serves as the public comment period for the proposed IHA. If the Service makes a final determination that the anticipated level of take meets the standards under section 101(a)(5)(D) of the MMPA, it will issue an IHA with all required conditions to oil and gas operators for the 2007 exploration season no later than 45 days after the close of the comment period.

Description of Regulations

The proposed regulations are limited to the nonlethal, incidental take of small numbers of walruses and polar bears associated with oil and gas exploration activities (geophysical seismic surveys, exploratory drilling, and associated support activities) in the Chukchi Sea and adjacent coast of Alaska and would be effective for a period of up to 5 years from the date of issuance. The geographic region, as outlined in the ''Description of Geographic Region,'' and the type of industrial activities, as outlined in the ''Description of Activities'' section were assessed in these regulations. No development or production activities are anticipated over this timeframe, or considered in the proposed regulations.

The total estimated level of activity covered by these regulations, as outlined in the ''Description of Activities'' section, was based on all projected exploration activities described by SOI, CPAI, and AOGA (on behalf of its members) in their petitions, as well as projections of reasonably foreseeable activities for the period 2007–2012 described in the Chukchi Sea DEIS referenced by the petitioners. If the level of activity is more than anticipated, such as additional support vessels or aircraft, more drilling units, or more miles of geophysical surveys, the Service would reevaluate its findings to determine if they continue to be appropriate.

It is important to note that these regulations would not authorize, or ''permit,'' the actual activities associated with oil and gas exploration in the Chukchi Sea. Rather, they would authorize the nonlethal incidental, unintentional take of small numbers of walruses and polar bears associated with those activities based on standards set forth in the MMPA. The petition does not request promulgation of regulations for the incidental taking from development or production activities in the Chukchi Sea. The MMS, the U.S. Army Corps of Engineers, and the Bureau of Land Management (BLM) are responsible for permitting activities associated with oil and gas activities in Federal waters and on Federal lands. The State of Alaska is responsible for permitting activities on State lands and in State waters.

The regulations that we propose to issue include permissible methods of nonlethal taking, measures to ensure the least practicable adverse impact on the species and the availability of these species for subsistence uses, and requirements for monitoring and reporting. If we issue final nonlethal incidental take regulations, persons seeking taking authorization for particular projects must apply for an LOA to cover nonlethal take associated with specified exploration activities pursuant to the regulations. Each group or individual conducting an oil and gas industry-related activity within the area covered by these regulations may request an LOA.

A separate LOA will be required for each geophysical survey or seismic activity and each exploratory drilling operation. Applications for LOAs must be received at least 90 days before the activity is to begin. Applicants for LOAs must submit an Operations Plan for the activity, a polar bear interaction plan, and a site-specific marine mammal monitoring and mitigation plan to monitor the effects of authorized activities on walruses and polar bears. A report on all exploration and monitoring activities must be submitted to the Service within 90 days after the completed activity. Details of monitoring and reporting requirements are further described in ''Potential Effects of Oil and Gas Industry Activities on Pacific Walruses and Polar Bears.''

Depending upon the nature, timing, and location of a proposed activity, applicants may also be required to develop a Plan of Cooperation (POC) with potentially affected subsistence communities to minimize interactions with subsistence users. The POC is further described in ''Potential Effects of Oil and Gas Industry Activities on Subsistence Uses of Pacific Walruses and Polar Bears.''

Each request for an LOA will be evaluated based upon the specific activity and the specific location, and each authorization will identify allowable methods or conditions specific to that activity and location. For example, we will consider seasonal or location-specific restrictions to limit interactions between exploration activities and walrus aggregations, or interference with subsistence hunting activities. Individual LOAs will include monitoring and reporting requirements specific to each activity, as well as any measures necessary for mitigating impacts to these species and the subsistence use of these species. The granting of each LOA will be based on a determination that the total level of taking by all applicants in any one year is consistent with the estimated level used to make a finding of negligible impact and a finding of no unmitigable adverse impacts on the availability of the species or the stock for subsistence uses. Notice of issuance of LOAs will be published in the **Federal Register**. More information on applying for and receiving an LOA can be found at 50 CFR 18.27(f).

Description of Geographic Region

These regulations would allow Industry to incidentally take small numbers of Pacific walruses and polar bears within the same area, hereafter referred to as the Chukchi Sea Region (Figure 1). The geographic area covered by the request is the continental shelf of the Arctic Ocean adjacent to western Alaska. This area includes the waters (State of Alaska and OCS waters) and seabed of the Chukchi Sea, which encompasses all waters north and west of Point Hope (68°20′20″ N, −166 °50′40 W, BGN 1947) to the U.S.-Russia Convention Line of 1867, west of a north-south line through Point Barrow (71°23′29″ N, −156 °28′30 W, BGN 1944), and up to 200 miles north of Point Barrow. The region also includes the terrestrial coastal land 25 miles inland between the western boundary of the south National Petroleum Reserve—Alaska (NPR–A) near Icy Cape

(70°20′00″, −148°12′00) and the north-south line from Point Barrow. The geographic region encompasses an area of approximately 5,850 square miles. This terrestrial region encompasses a portion of the Northwest and South Planning Areas of the NPR–A. The north-south line at Point Barrow is the western border of the geographic region in the Beaufort Sea incidental take regulations (71 FR 43926; August 2, 2006).

Description of Activities

This section reviews the types and scale of oil and gas activities projected to occur in the Chukchi Sea Region over the specified time period (2007–2012). This information is based upon information provided by the petitioners and referenced in the Chukchi Sea DEIS. The Service has used these estimated levels of activity as a basis for its findings. If requests for LOAs exceed the highest estimated level of activity, the Service would reevaluate its findings to determine if they continue to be appropriate before further LOAs are issued. Specific locations where oil and gas activity may occur over the proposed regulatory period are largely speculative, but are within the geographic region identified and analyzed in these regulations. They will be determined, in part, on the outcome of future Federal and State oil and gas lease sales. The specific dates and durations of the individual operations and their geographic locations will be provided to the Service in detail when requests for LOAs are submitted.

Oil and gas activities anticipated and considered in our analysis of proposed incidental take regulations include: (1) Marine-streamer 3D and 2D seismic surveys; (2) high-resolution site-clearance surveys; (3) offshore exploration drilling; and (4) onshore seismic exploration and drilling.

Marine-Streamer 3D and 2D Seismic Surveys

Marine seismic surveys are conducted to locate geological structures potentially capable of containing petroleum accumulations. Air guns are the typical acoustic (sound) source for 2-dimensional and 3-dimensional (2D and 3D) seismic surveys. An outgoing sound signal is created by venting high-pressure air from the air guns into the water to produce an air-filled cavity (bubble) that expands and contracts. The size of individual air guns can range from tens to several hundred cubic inches (in^3). A group of air guns is usually deployed in an array to produce a downward-focused sound signal. Air gun array volumes for both 2D and 3D seismic surveys are expected to range from 1,800–6,000 in^3. The air guns are fired at short, regular intervals, so the arrays emit pulsed rather than continuous sound. While most of the energy is focused downward and the short duration of each pulse limits the total energy into the water column, the sound can propagate horizontally for several kilometers.

A 3D source array typically consists of two to three sub-arrays of six to nine air guns each, and is about 12.5–18 meters (m) long and 16–36 m wide. The size of the source-array can vary during the seismic survey to optimize the resolution of the geophysical data collected at any particular site. Vessels usually tow up to three source arrays, depending on the survey-design specifications. Most 3D operations use a single source vessel; however, in a few instances, more than one source vessel may be used. The sound-source level (zero-to-peak) associated with typical 3D seismic surveys ranges between 233 and 240 decibels at 1 meter (re 1 μPa at 1 m).

The vessels conducting 3D surveys are generally 70–90 m long. Surveys are typically acquired at a vessel speed of approximately 4.5 knots (k) (8.3 km/hour). Source arrays are activated approximately every 10–15 seconds, depending on vessel speed. The timing between outgoing sound signals can vary for different surveys to achieve the desired ''shot point'' spacing to meet the geological objectives of the survey; typical spacing is either 25 or 37.5 m. The receiving arrays could include multiple (4–16) streamer-receiver cables towed behind the source array. Streamer cables contain numerous hydrophone elements at fixed distances within each cable. Each streamer can be 3–8 km long with an overall array width of up to 1,500 m between outermost streamer cables. Biodegradable liquid paraffin is used to fill the streamer and provide buoyancy. Solid/gel streamer cables also are used. The wide extent of this towed equipment limits both the turning speed and the area a vessel covers with a single pass over a geologic target. It is, therefore, common practice to acquire data using an offset racetrack pattern. Adjacent transit lines for a survey generally are spaced several hundred meters apart and are parallel to each other across the survey area. Seismic surveys are conducted day and night when ocean conditions are favorable, and one survey effort may continue for weeks or months, depending on the size of the survey. Data-acquisition is affected by the arrays towed by the survey vessel and weather conditions. Typically, data are only collected between 25 and 30 percent of the time (or 6–8 hours a day) because of equipment or weather problems. In addition to downtime due to weather, sea conditions, turning between lines, and equipment maintenance, surveys could be suspended to avoid interactions with biological resources. The MMS estimates that individual surveys could last between 20–30 days (with downtime) to cover a 200 square mile (mi^2) area.

Marine-streamer 2D surveys use similar geophysical-survey techniques as 3D surveys, but both the mode of operation and general vessel type used are different. The 2D surveys provide a less-detailed subsurface image because the survey lines are spaced farther apart, but they cover wider areas to image geologic structure on more of a regional basis. Large prospects are easily identified on 2D seismic data, but detailed images of the prospective areas within a large prospect can only be seen using 3D data. The 2D seismic-survey vessels generally are smaller than 3D-survey vessels, although larger 3D-survey vessels are also capable of conducting 2D surveys. The 2D source array typically consists of three or more sub-arrays of six to eight air gun sources each. The sound-source level (zero-to-peak) associated with 2D marine seismic surveys are the same as 3D marine seismic surveys (233–240 dB re 1 μPa at 1 m). Typically, a single hydrophone streamer cable approximately 8–12 km long is towed behind the survey vessel. The 2D surveys acquire data along single track lines that are spread more widely apart (usually several miles) than are track lines for 3D surveys (usually several hundred meters).

Both 3D and 2D marine-streamer surveys require a largely ice-free environment to allow effective operation and maneuvering of the air gun arrays and long streamers. In the Chukchi Sea Region, the timing and areas of the surveys will be dictated by ice conditions. The data-acquisition season in the Chukchi Sea could start sometime in July and end sometime in early November. Even during the short summer season, there are periodic incursions of sea ice, so there is no guarantee that any given location will be ice free throughout the survey.

Marine seismic-exploration work is expected to occur in the Chukchi Sea Region in the summer of 2007 in anticipation of OCS lease sale 193. This work is likely to include 3D seismic surveys, but will not include exploration drilling. Approximately 100,000 line-miles of 2D seismic surveys already have been collected in the Chukchi Sea program area, so the

MMS assumes that additional geophysical surveys will be primarily 3D surveys focusing on specific leasing targets. The 3D surveys are likely to continue during the early phase of exploration when wells are drilled; however, the number of surveys is expected to decrease over time as data is collected over the prime prospects and these prospects are tested by drilling.

Based upon information provided by the petitioners, and estimates prepared by the MMS in the Chukchi Sea DEIS, the Service estimates that, in any given year during the specified timeframe (2007–2012), up to four seismic survey vessels could be operating simultaneously in the Chukchi Sea Region during the open water season. Each seismic vessel is expected to collect between 3,200–14,500 linear kilometers of seismic survey data. Seismic surveys are expected to occur in open water conditions between July 1 and November 30 each year. We estimate that each seismic survey vessel will be accompanied or serviced by 1–3 support vessels. Helicopters may also be used, when available, for vessel support and crew changes.

High-Resolution Site-Clearance Surveys

Based on mapping of the subsurface structures using 2D and 3D seismic data, several well locations may be proposed. Prior to drilling deep test wells, high-resolution site clearance seismic surveys and geotechnical studies will be necessary to examine the proposed exploration drilling locations for geologic hazards, archeological features, and biological populations. Site clearance and studies required for exploration will be conducted during the open water season before a drill rig is mobilized to the site. A typical operation consists of a vessel towing an acoustic source (air gun) about 25 m behind the ship and a 600-m streamer cable with a tail buoy. The source array usually is a single array composed of one or more air guns. A 2D high-resolution site-clearance survey usually has a single air gun, while a 3D high-resolution site survey usually tows an array of air guns. The ships travel at 3–3.5 knots (5.6–6.5 km/hour), and the source is activated every 7–8 seconds (or about every 12.5 m). All vessel operations are designed to be ultra-quiet, as the higher frequencies used in high-resolution work are easily masked by the vessel noise. Typical surveys cover one OCS block at a time. MMS regulations require information be gathered on a 300 by 900 m grid, which amounts to about 129 line kilometers of data per lease block. If there is a high probability of archeological resources, the north–south lines are 50 m apart and the 900 m remains the same. Including line turns, the time to survey a lease block is approximately 36 hours. Air gun volumes for high-resolution surveys typically are 90–150 in^3, and the output of a 90-in^3 air gun ranges from 229–233 dB high-resolution re 1 μPa at 1m. Air gun pressures typically are 2,000 psi (pounds per square inch), although they can be used at 3,000 psi for higher signal strength to collect data from deep in the subsurface.

Based upon information provided by the petitioners, and estimates prepared by the MMS in the Chukchi Sea DEIS, we estimate that during the specified timeframe (2007–2012), as many as six high-resolution site surveys may be carried out in any given year.

Offshore Drilling Operations

Considering water depth and the remoteness of this area, drilling operations are most likely to employ drill-ships with ice-breaker support vessels. Water depths greater than 100 feet and possible pack-ice incursions during the open-water season will preclude the use of bottom-founded platforms as exploration drilling rigs. Using drill-ships allows the operator to temporarily move off the drill-site if sea or ice conditions require it, and the suspended well is controlled by blowout-prevention equipment installed on wellheads on the seabed. Drilling operations are expected to range between 30 and 90 days at different well sites, depending on the depth to the target formation, difficulties during drilling, and logging/testing operations. Drill-ships operate only during the open-water season, and drifting ice can prevent their operation.

A drill-ship is secured over the drill-site by deploying anchors on as many as ten to twelve mooring lines. The drill pipe is encased in a riser that compensates for the vertical wave motion. The blowout preventer (BOP) is typically located at the seabed in a hole dug below the ice-scour depth. BOP placement is an important safety feature enabling the drill-ship to shut down operations and get underway rapidly without exposing the well. One or more ice management vessels (icebreakers) generally support drill-ships to ensure ice does not encroach on operations. A barge and tug typically accompany the vessels to provide a standby safety vessel, oil spill response capabilities, and refueling support. Most supplies (including fuel) necessary to complete drilling activities are stored on the drill-ship and support vessels. Helicopter servicing of drill-ships can occur as frequently as 1–2 times/day. The abandonment phase is initiated if exploratory wells are not successful. In a typical situation, wells are permanently plugged (with cement) and wellhead equipment removed. The seafloor site is restored to some practicable, pre-exploration condition. Post-abandonment surveys are conducted to confirm that no debris remains following abandonment or those materials remain at the lease tract. The casings for delineation wells are either cut mechanically or with explosives during the process of well abandonment. The MMS estimates that exploration wells will average 8,000 ft, will use approximately 475 tons (ton = 2,000 pounds) of dry mud, and produce 600 tons of dry rock cuttings. Considering the cost of synthetic drilling fluids now commonly used, the MMS assumes that most of the drilling mud will be reconditioned and reused. All of the rock cuttings will be discharged at the exploration site.

Considering the relatively short open-water season in the Chukchi Sea (July–November), the MMS estimates that up to four wells could be started by one rig each drilling season. However, it is more likely that only one to two wells could be drilled, tested, and abandoned by one drill ship in any given season, leaving work on the other wells to the next summer season. A total of 5 exploration wells have been drilled on the Chukchi shelf, and the MMS estimates that 7–14 additional wells will be needed to discover and delineate a commercial field.

Based upon information provided by the petitioners, and estimates prepared by the MMS in the Chukchi Sea DEIS, we estimate that as many as five drill-ships could be operating in the Chukchi Sea Region in any given year during the specified timeframe (2007–2012). Each drill-ship is expected to drill up to four exploratory or delineation wells per season. Each drill-ship is likely to be supported by 1–2 ice breakers, a barge and tug, 1–2 helicopter flights per day, and 1–2 supply ships per week. The operating season is expected to be limited to the open-water season July 1-November 30.

Onshore Seismic Exploration and Drilling

The CPAI petition also describes conducting onshore seismic exploration and drilling over the next five years, including geotechnical site investigations, vibroseis, construction of ice pads, roads, and islands, and exploratory drilling.

Geotechnical site investigations include shallow cores and soil borings

to investigate soil conditions and stratigraphy. Geotechnical properties at select points may be integrated with seismic data to develop a regional model for predicting soil conditions in areas of interest.

Vibroseis seismic operations are conducted both onshore and on nearshore ice using large trucks with vibrators that systematically put variable frequency energy into the earth. A minimum of 1.2 m (4 ft) of sea ice is required to support heavy vehicles used to transport equipment offshore for exploration activities. These ice conditions generally exist from 1 January until 31 May. The exploration techniques are most commonly used on landfast ice, but they can be used in areas of stable offshore pack ice. Several vehicles are normally associated with a typical vibroseis operation. One or two vehicles with survey crews move ahead of the operation and mark the source receiver points. Occasionally, bulldozers are needed to build snow ramps on the steep terrain or to smooth offshore rough ice within the site.

A typical wintertime exploration seismic crew consists of 40–140 personnel. Roughly 75 percent of the personnel routinely work on the active seismic crew, with approximately 50 percent of those working in vehicles and the remainder outside laying and retrieving geophones and cables.

With the vibroseis technique, activity on the surveyed seismic line begins with the placement of sensors. All sensors are connected to the recording vehicle by multi-pair cable sections. The vibrators move to the beginning of the line, and recording begins. The vibrators move along a source line, which is at some angle to the sensor line. The vibrators begin vibrating in synchrony via a simultaneous radio signal to all vehicles. In a typical survey, each vibrator will vibrate four times at each location. The entire formation of vibrators subsequently moves forward to the next energy input point (67 m (220 ft) in most applications) and repeats the process. In a typical 16- to 18-hour day, a survey will complete 6 to 16 linear km (4–10 mi) in a 2D seismic operation and 24 to 64 linear km (15–40 mi) in a 3D seismic operation. CPAI anticipates conducting between one and five vibroseis seismic programs onshore within the northwest NPR–A over the next 5 years.

CPAI also anticipates developing vertical seismic profiles (VSPs) to calibrate seismic and well data. VSP operations are usually staffed by less than eight people. Four or five of the operators remain in the vehicles (vibrators) within 1.6 to 3.2 km (1–2 mi) of the rig, while the others are located at the rig.

CPAI proposes to drill up to three onshore exploration wells on private lands south of Barrow near the North Slope Boroughs Walakpa gas field in the winter of 2007. It is estimated that another 3 to 5 wells could be drilled in this area within the next 5 years. In support of these activities, CPA estimates that the following associated infrastructure would be required: 20–100 miles of ice roads; 20–300 miles of rolligon trails; 1 to 2 airfields of approximately 5,000 feet in size; storage of rigs and/or support equipment in Barrow; and barging of equipment to and from Barrow from existing facilities.

On Federal lands, CPAI estimates drilling 3 to 6 onshore wells within the next 5 years. Drilling will likely include both well testing and VSPs. Three onshore wells are proposed for 2007. Drilling operations will require an estimated 20 to 100 miles of ice roads, 20 to 300 miles of rolligon trails, 1 to 4 airfields approximately 5,000 ft in length on lakes or tundra, rig storage on gravel, possibly at new sites in the Northwest NPR–A, 1 to 5 camps, and 1 to 3 rigs operating in a given year.

Mitigation Measures for Oil and Gas Exploration Activities in the Chukchi Sea

Measures to mitigate potential effects of oil and gas exploration activities on marine mammal resources and subsistence use of those resources have been identified and developed through previous MMS lease sale National Environmental Policy Act (NEPA) review and analysis processes. The Chukchi Sea DEIS (*http://www.mms.gov/alaska/ref/EIS%20EA/draft_arctic_peis/draft_peis.htm*) identifies several existing measures designed to mitigate potential effects of oil and gas exploration activities on marine mammal resources and subsistence use of those resources (II.B.3.; II–B.5–24). All plans for OCS exploration activities will go through an MMS review and approval to ensure compliance with established laws and regulations. Operational compliance is enforced through the MMS on-site inspection program. The following MMS lease sale stipulations and mitigation measures will be applied to all exploration activities in the Chukchi Lease Sale Planning Area and the geographic region of the incidental take regulations. The Service has incorporated these MMS Lease sale mitigation measures into their analysis of impacts to Pacific walrus and polar bears in the Chukchi Sea.

MMS lease sale stipulations that will help minimize Industry impacts to Pacific walruses and polar bears include:

Pre-Booming Requirements for Fuel Transfers

Fuel transfers of 100 barrels or more will require pre-booming of fuel barges. A fuel barge must be surrounded by an oil-spill-containment boom during the entire transfer operation to help reduce any adverse effects from a fuel spill. Pre-booming requirements are intended to lower the potential effects to water quality, lower trophic-level organisms, marine mammals, subsistence resources and hunting, and sociocultural systems by providing additional protection from potential fuel spills.

By containing any spill within the boom area, this stipulation will reduce the risk of fuel spills contacting walruses and polar bears, and the risk that harvested animals may become tainted from a potential spill.

Site-Specific Monitoring Program for Marine Mammal Subsistence Resources

A lessee proposing to conduct exploration operations within traditional subsistence use areas will be required to conduct a site-specific monitoring program designed to assess when walruses and polar bears are present in the vicinity of lease operations and the extent of behavioral effects on these marine mammals due to their operations. This stipulation applies specifically to the communities of Barrow, Wainwright, Point Lay, and Point Hope.

Site-specific monitoring programs will provide information about the seasonal distributions of walruses and polar bears. The information can be used to evaluate the threat of harm to the species and provides immediate information about their activities, and their response to specific events. This stipulation is expected to reduce the potential effects of exploration activities on walruses, polar bears, and the subsistence use of these resources. This stipulation also contributes incremental and important information to ongoing walrus and polar bear research and monitoring efforts.

Conflict Avoidance Mechanisms To Protect Subsistence-Harvesting Activities

Through consultation with potentially affected communities, the lessee shall make every reasonable effort to assure that their proposed activities are compatible with marine mammal subsistence hunting activities and will not result in unreasonable interference

with subsistence harvests. In the event that no agreement is reached between the parties, the lessee, the appropriate management agencies and co-management organizations, and any communities that could be directly affected by the proposed activity may request that the MMS assemble a group consisting of representatives from the parties specifically to address the conflict and attempt to resolve the issues before the MMS makes a final determination on the adequacy of the measures taken to prevent unreasonable conflicts with subsistence harvests.

This lease stipulation will help reduce potential conflicts between subsistence hunters and proposed oil and gas exploration activities. This stipulation will help reduce noise and disturbance conflicts from oil and gas operations during specific periods, such as peak hunting seasons. It requires that the lessee meet with local communities and subsistence groups to resolve potential conflicts. The consultations required by this stipulation ensure that the lessee, including contractors, consult and coordinate both the timing and sighting of events with subsistence users. This stipulation has proven to be effective in the Beaufort Sea Planning Area in mitigating offshore exploration activities through the development of annual agreements between the Alaska Eskimo Whaling Commission and participating oil companies.

Measures To Mitigate Seismic-Surveying Effects

The measures summarized below are based on the protective measures in MMS' most recent marine seismic survey exploration permits and the recently completed *Programmatic Environmental Assessment of Arctic Ocean Outer Continental Shelf Seismic Surveys—2006* (*http://www.mms.gov/alaska/ref/pea_be.htm*). As stated in the MMS Programmatic Environmental Assessment, these protective measures would be incorporated in all MMS-permitted seismic activities.

1. Spacing of Seismic Surveys—Operators must maintain a minimum spacing of 15 miles between the seismic-source vessels for separate simultaneous operations.

2. Exclusion Zone—A 180/190-decibel (dB) isopleth-exclusion zone (also called a safety zone) from the seismic-survey-sound source shall be free of marine mammals, including walruses and polar bears, before the survey can begin and must remain free of mammals during the survey. The purpose of the exclusion zone is to protect marine mammals from Level A harassment. The 180-dB (Level A harassment injury) applies to cetaceans and walruses, and the 190-dB (Level A harassment-injury) applies to pinnipeds other than walruses and polar bears.

3. Monitoring of the Exclusion Zone—Trained marine mammal observers (MMOs) shall monitor the area around the survey for the presence of marine mammals to maintain a marine mammal-free exclusion zone and monitor for avoidance or take behaviors. Visual observers monitor the exclusion zone to ensure that marine mammals do not enter the exclusion zone for at least 30 minutes prior to ramp up, during the conduct of the survey, or before resuming seismic survey work after a shut down.

Shut Down—The survey shall be suspended until the exclusion/safety zone is free of marine mammals. All observers shall have the authority to, and shall instruct the vessel operators to immediately stop or de-energize the airgun array whenever a marine mammal is seen within the zone. If the airgun array is completely shut-down for any reason during nighttime or poor sighting conditions, it shall not be re-energized until daylight or whenever sighting conditions allow for the zone to be effectively monitored from the source vessel and/or through other passive acoustic, aerial, or vessel-based monitoring.

Ramp Up—Ramp up is the gradual introduction of sound from airguns to deter marine mammals from potentially damaging sound intensities and from approaching the specified zone. This technique involves the gradual increase (usually 5–6 dB per 5-minute increment) in emitted sound levels, beginning with firing a single airgun and gradually adding airguns over a period of at least 20–40 minutes, until the desired operating level of the full array is obtained. Ramp-up procedures may begin after observers ensure the absence of marine mammals for at least 30 minutes. Ramp up procedures shall not be initiated at night or when monitoring the zone is not possible. A single airgun operating at a minimum source level can be maintained for routine activities, such as making a turn between line transects, for maintenance needs or during periods of impaired visibility (e.g., darkness, fog, high sea states), and does not require a 30-minute clearance of the zone before the airgun array is again ramped up to full output.

Field Verification—Before conducting the survey, the operator shall verify the radii of the exclusion/safety zones within real-time conditions in the field. This provides for more accurate radii rather than relying on modeling techniques before entering the field. Field-verification techniques must use valid techniques for determining propagation loss. When moving a seismic-survey operation into a new area, the operator shall verify the new radii of the zones by applying a sound-propagation series.

4. Monitoring of the Seismic-Survey Area—Aerial-monitoring surveys or an equivalent monitoring program acceptable to the Service will be required through the LOA authorization process. Field verification of the effectiveness of any monitoring techniques may be required by the Service.

5. Reporting Requirements—Reporting requirements provide regulatory agencies with specific information on the monitoring techniques to be implemented and how any observed impacts to marine mammals will be recorded. In addition, operators must report immediately any shutdowns due to a marine mammal entering the exclusion zones and provide the regulating agencies with information on the frequency of occurrence and the types and behaviors of marine mammals (if possible to ascertain) entering the exclusion zones.

6. Temporal/Spatial/Operational Restrictions—Seismic-survey and associated support vessels shall observe a 0.5-mile (~800-meter) safety radius around walruses hauled-out onto land or ice. Aircraft shall be required to maintain a 1,000-foot minimum altitude within 0.5 miles of hauled-out walruses.

7. Seismic-survey operators shall notify MMS in the event of any loss of cable, streamer, or other equipment that could pose a danger to marine mammals.

These seismic mitigation measures will help reduce the potential for Level A Harassment of walruses and polar bears during seismic operations. The spatial separation of seismic operations will also reduce potential cumulative effects of simultaneous operations. The monitoring and reporting requirements will provide location-specific information about the seasonal distributions of walruses and polar bears. The additional information can be used to evaluate the future threat of harm to the species and also provides immediate information about their activities, and their response to specific events.

Biological Information

Pacific Walruses

1. Stock Definition and Range

Pacific walrus (*Odobenus rosmarus divergens*) are represented by a single stock of animals that inhabit the shallow

continental shelf waters of the Bering and Chukchi seas. The population ranges across the international boundaries of the United States and Russia, and both nations share common interests with respect to the conservation and management of this species.

Several decades of intense commercial exploitation in the late 1800s and early 1900s left the population severely depleted. The population is believed to have increased substantially in size and range during the 1960s–1980s due to hunting restrictions enacted in the United States and Russia that reduced the size of the commercial harvest and provided protection to female walruses and calves. Information concerning population size and trend after 1985 is less certain. An aerial survey flown in 1990 produced a population estimate of 201,039 animals; however, large confidence intervals associated with that estimate precluded any conclusions concerning population trend. The current size and trend of the Pacific walrus population are unknown. Projected ecosystem changes across the Arctic further underscore the need for detailed population studies from which sound management decisions can be made.

The distribution of Pacific walruses varies markedly with the seasons. During the late winter breeding season, walruses are found in areas of the Bering Sea where open leads, polynas, or areas of broken pack-ice occur. Significant winter concentrations are normally found in the Gulf of Anadyr, the St. Lawrence Island Polyna, and in an area south of Nunivak Island. In the spring and early summer, most of the population follows the retreating pack-ice northward into the Chukchi Sea; however, several thousand animals, primarily adult males, remain in the Bering Sea, utilizing coastal haulouts during the ice-free season. During the summer months, walruses are widely distributed across the shallow continental shelf waters of the Chukchi Sea. Significant summer concentrations are normally found in the unconsolidated pack-ice west of Point Barrow, and along the northern coastline of Chukotka in the vicinity of Wrangel Island. As the ice edge advances southward in the fall, walruses reverse their migration and re-group on the Bering Sea pack-ice.

2. Habitat

Walruses rely on floating pack-ice as a substrate for resting and giving birth. Walruses generally require ice thicknesses of 50 centimeters (cm) or more to support their weight. Although walruses can break through ice up to 20 cm thick, they usually occupy areas with natural openings and are not found in areas of extensive, unbroken ice. Thus, their concentrations in winter tend to be in areas of divergent ice flow or along the margins of persistent polynas. Concentrations in summer tend to be in areas of unconsolidated pack-ice, usually within 100 km of the leading edge of the ice pack. When suitable pack-ice is not available, walruses haul out to rest on land. Isolated sites, such as barrier islands, points, and headlands, are most frequently occupied. Social factors, learned behavior, and proximity to their prey base are also thought to influence the location of haulout sites. Traditional walrus haulout sites in the eastern Chukchi Sea include Cape Thompson, Cape Lisburne, and Icy Cape. In recent years, the Cape Lisburne haulout site has seen regular use in late summer. Numerous haulouts also exist along the northern coastline of Chukotka, and on Wrangel and Herald islands, which are considered important hauling grounds in September, especially in years when the pack-ice retreats far to the north.

Although capable of diving to deeper depths, walruses are for the most part found in shallow waters of 100 m or less, possibly because of higher productivity of their benthic foods in shallower water. They feed almost exclusively on benthic invertebrates although Native hunters have also reported incidences of walruses preying on seals. Prey densities are thought to vary across the continental shelf according to sediment type and structure. Preferred feeding areas are typically composed of sediments of soft, fine sands. The juxtaposition of ice over appropriate depths for feeding is especially important for females with dependent calves that are not capable of deep diving or long exposure in the water. The mobility of the pack ice is thought to help prevent walruses from overexploiting their prey resource. Foraging trips may last for several days, during which time they dive to the bottom nearly continuously. Most foraging dives to the bottom last between 5 and 10 minutes, with a relatively short (1–2 minute) surface interval. The intensive tilling of the sea floor by foraging walruses is thought to have significant influence on the ecology of the Bering and Chukchi Seas. Foraging activity recycles large quantities of nutrients from the sea floor back into the water column, provides food for scavenger organisms, and contributes greatly to the diversity of the benthic community.

3. Life History

Walruses are long-lived animals with low rates of reproduction. Females reach sexual maturity at 4–9 years of age. Males become fertile at 5–7 years of age; however, they are usually unable to compete for mates until they reach full physical maturity at 15–16 years of age. Breeding occurs between January and March in the pack-ice of the Bering Sea. Calves are usually born in late April or May the following year during the northward migration from the Bering Sea to the Chukchi Sea. Calving areas in the Chukchi Sea extend from the Bering Strait to latitude 70 °N. Calves are capable of entering the water shortly after birth, but tend to haulout frequently, until their swimming ability and blubber layer are well developed. Newborn calves are tended closely. They accompany their mother from birth and are usually not weaned for 2 years or more. Cows brood neonates to aid in their thermoregulation, and carry them on their back or under their flipper while in the water. Females with newborns often join together to form large ''nursery herds''. Summer distribution of females and young walruses is closely tied to the movements of the pack-ice relative to feeding areas. Females give birth to one calf every two or more years. This reproductive rate is much lower than other pinniped species; however, some walruses live to age 35–40, and remain reproductively active until relatively late in life.

Walruses are extremely social and gregarious animals. They tend to travel in groups and haul-out onto ice or land in groups. Walruses spend approximately one-third of their time hauled out onto land or ice. Hauled-out walruses tend to lie in close physical contact with each other. Youngsters often lie on top of the adults. The size of the hauled-out groups can range from a few animals up to several thousand individuals.

4. Mortality

Polar bears (*Ursus maritimus*) are known to prey on walrus calves, and killer whales (*Orcinus orca*) have been known to take all age classes of animals. Predation levels are thought to be highest near terrestrial haulout sites where large aggregations of walruses can be found; however, few observations exist for off-shore environs.

Pacific walruses have been hunted by coastal Natives in Alaska and Chukotka for thousands of years. Exploitation of the Pacific walrus population by

Europeans has also occurred in varying degrees since first contact. Presently, walrus hunting in Alaska and Chukotka is restricted to meet the subsistence needs of aboriginal peoples. The combined harvest of the United States and Russia averages approximately 5,500 walruses per year. This mortality estimate includes corrections for under-reported harvest and struck and lost animals.

Intraspecific trauma is also a known source of injury and mortality. Disturbance events can cause walruses to stampede into the water and have been known to result in injuries and mortalities. The risk of stampede-related injuries increases with the number of animals hauled out. Calves and young animals at the perimeter of these herds are particularly vulnerable to trampling injuries.

5. Distributions and Abundance of Pacific Walruses in the Chukchi Sea

Walruses are seasonably abundant in the Chukchi Sea. Their distribution is thought to be influenced primarily by the extent of the seasonal pack-ice, although habitat use patterns are poorly known. In May and June, most of the Pacific walrus population migrates through the Bering Strait into the Chukchi Sea. Walruses tend to migrate into the Chukchi Sea along lead systems that develop along the northwest coast of Alaska. Walruses are expected to be closely associated with the southern edge of the seasonal pack-ice during the open water season. By July, large groups of walruses, up to several thousand animals, can be found along the edge of the pack ice between Icy Cape and Point Barrow. During August, the edge of the pack-ice generally retreats northward to about 71 °N, but in light ice years, the ice edge can retreat beyond 76 °N. The sea ice normally reaches its minimum (northern) extent in September. It is unclear how walruses respond in years when the sea ice retreats beyond the relatively shallow continental shelf waters. At least some animals are thought to migrate west towards Chukotka, while others have been observed hauling out along the shoreline between Point Barrow and Cape Lisburne. The pack-ice rapidly advances southward in October, and most animals are thought to have returned to the Bering Sea by early November.

A recent abundance estimate for the number of walruses present in the Chukchi Sea during the proposed operating season is lacking. Previous aerial surveys of the region carried out in the 1980s resulted in abundance estimates ranging from 62,177–101,213. A 1990 aerial survey reported 16,489 walruses distributed in the Chukchi Sea pack-ice between Wrangel Island and Point Barrow; however, the sea-ice was distributed well beyond the continental shelf at the time of the survey. These abundance estimates are all considered conservative because no corrections were made for walruses in water (not visible) at the time of the surveys.

Polar Bears

1. Alaska Stock Definition and Range

Polar bears occur throughout the Arctic. The world population estimate of polar bears ranges from 20,000–25,000 individuals. In Alaska, they have been observed as far south in the eastern Bering Sea as St. Matthew Island and the Pribilof Islands. However, they are most commonly found within 180 miles of the Alaskan coast of the Chukchi and Beaufort Seas, from the Bering Strait to the Canadian border. Two stocks occur in Alaska: (1) The Chukchi-Bering Seas stock (CS); and (2) the Southern Beaufort Sea stock (SBS). A summary of the Chukchi and Southern Beaufort Sea polar bear stocks are described below. A detailed description of the Chukchi Sea and Southern Beaufort Sea polar bear stocks can be found in the ''Range-Wide Status Review of the Polar Bear (*Ursus Maritimus*)'' (*http://alaska.fws.gov/fisheries/mmm/polarbear/issues.htm*).

A. Chukchi/Bering Sea Stock (CS)

The CS is defined as polar bears inhabiting the area as far west as the eastern portion of the Eastern Siberian Sea, as far east as Point Barrow, and extending into the Bering Sea, with its southern boundary determined by the extent of annual ice. Based upon these telemetry studies, the western boundary of the population was set near Chaunskaya Bay in northeastern Russia. The eastern boundary was set at Icy Cape, Alaska, which also is the previous western boundary of the SBS. This eastern boundary constitutes a large overlap zone with bears in the SBS population. The CS population is estimated to comprise 2,000 animals based on extrapolation of aerial den surveys; however, these estimates have wide ranges (ca. 2,000–5,000) and are considered to be of little value for management. Reliable estimates of population size based upon mark and recapture are not available for this region. The status of the CS population, which was believed to have increased after the level of harvest was reduced in 1972, is now thought to be uncertain or declining. Measuring the population size remains a research challenge and recent reports of substantial levels of illegal harvest in Russia are cause for concern. Legal harvesting activities are currently restricted to Inuit in western Alaska. In Alaska, average annual harvest levels declined by approximately 50 percent between the 1980s and the 1990s and have remained at low levels in recent years. There are several factors potentially affecting the harvest level in western Alaska. The factor of greatest direct relevance is the substantial illegal harvest in Chukotka. In addition, other factors such as climatic change and its effects on pack ice distribution, as well as changing demographics and hunting effort in native communities could influence the declining take. Recent measures undertaken by regional authorities in Chukotka may have reduced the illegal hunt. The unknown rate of illegal take makes the stable designation uncertain and tentative.

B. Southern Beaufort Sea (SBS)

The SBS polar bear population is shared between Canada and Alaska. Radio-telemetry data, combined with earlier tag returns from harvested bears, suggested that the SBS region comprised a single population with a western boundary near Icy Cape, Alaska, and an eastern boundary near Pearce Point, Northwest Territories, Canada. Early estimates suggested the size of the SBS population was approximately 1,800 polar bears, although uneven sampling was known to compromise the accuracy of that estimate. A preliminary population analysis of the SBS stock was completed in June 2006 through joint research coordinated between the United States and Canada. That analysis indicated the population of the region between Icy Cape and Pearce Point is now approximately 1,500 polar bears (95 percent confidence intervals approximately 1,000–2,000). Further analyses are likely to tighten the confidence intervals, but not likely to change the point estimate appreciably. Although the confidence intervals of the current population estimate overlap the previous population estimate of 1,800, other statistical and ecological evidence (e.g., high recapture rates encountered in the field) suggest that the current population is actually smaller than has been estimated for this area in the past. Although the new SBS population estimate is preliminary, we believe it should be used for current status assessments.

Recent analyses of radio-telemetry data of spatio-temporal use patterns of bears of the SBS stock using new spatial modelling techniques suggest realignment of the boundaries of the Southern Beaufort Sea area. We now

know that nearly all bears in the central coastal region of the Beaufort Sea are from the SBS population, and that proportional representation of SBS bears decreases to both the west and east. For example, only 50 percent of the bears occurring in Barrow, Alaska, and Tuktoyaktuk, Northwest Territories, are SBS bears, with the remainder being from the CS and northern Beaufort Sea populations, respectively. The recent radio-telemetry data indicate that bears from the SBS population seldom reach Pearce Point, which is currently on the eastern management boundary for the SBS population. Conversely, SBS bears can also be found in the western regions of their range in the Chukchi Sea (i.e., Wainwright and Point Lay) in lower proportions than the central portion of their range.

Management and conservation concerns for polar bears include: climate change, which continues to increase both the expanse and duration of open water in summer and fall; human activities within the near-shore environment, including hydrocarbon development and production; atmospheric and oceanic transport of contaminants into the Arctic; and the potential for inadvertent over-harvest, should polar bear stocks become nutritionally-stressed or decline due to some combination of the aforementioned threats.

On January 9, 2007 (72 FR 1064), the Service proposed to list the polar bear as a threatened species under the U.S. Endangered Species Act of 1973, as amended, based on a comprehensive scientific review to assess the current status and future of the species. The Service will gather more information, undertake additional analyses, and assess the reliability of relevant scientific models before making a final decision whether to list the species. More information can be found at: *http://www.fws.gov/* and *http://www.fws.gov/home/feature/2006/010907FRproposedrule.pdf.*

2. Habitat

Polar bears of the Chukchi Sea are subject to the movements and coverage of the pack-ice. The most extensive north-south movements of polar bears are associated with the spring and fall ice movement. For example, during the 2006 ice-covered season, six bears radio-collared in the Beaufort Sea were located in the Chukchi and Bering Seas as far south as 59° latitude. Summer movements tend to be less dramatic due to the reduction of ice habitat. Summer distribution is somewhat dependent upon the location of the ice front; however, polar bears are accomplished swimmers and are often seen on floes separated from the main pack-ice. Therefore, bears can appear at any time in what can be called ''open water.'' The summer ice pack can be quite disjunct and segments can be driven by wind great distances carrying polar bears with them. Bears from both stocks overlap in their distribution around Point Barrow and can move into surrounding areas depending on ice conditions.

Polar bears spend most of their time in near-shore, shallow waters over the productive continental shelf associated with the shear zone and the active ice adjacent to the shear zone. Sea ice and food availability are two important factors affecting the distribution of polar bears. In the near-shore environment, Beaufort Sea polar bears are generally widely distributed in low numbers across the Beaufort Sea area; however, polar bears have been observed congregating on the barrier islands in the fall and winter, resting, moving, and feeding on available food. Polar bears will occasionally feed on bowhead whale (*Balaena mysticetus*) carcasses at Point Barrow, Cross, and Barter islands, areas where bowhead whales are harvested for subsistence purposes. An increased trend by polar bears to use coastal habitats in the fall during open-water and freeze-up conditions has been noted since 1992.

3. Denning and Reproduction

Although insufficient data exist to accurately quantify polar bear denning along the Alaskan Chukchi Sea coast, dens in the area are less concentrated than for other areas in the Arctic. The majority of denning of Chukchi Sea polar bears occurs on Wrangel Island, Herald Island, and certain locations on the northern Chukotka coast. Females without dependent cubs breed in the spring. Females can initiate breeding at 5 to 6 years of age. Females with cubs do not mate. Pregnant females enter maternity dens by late November, and the young are usually born in late December or early January. Only pregnant females den for an extended period during the winter; other polar bears may excavate temporary dens to escape harsh winter winds. An average of two cubs are usually born, and after giving birth, the female and her cubs remain in the den where the cubs are nurtured until they can walk. Reproductive potential (intrinsic rate of increase) is low. The average reproductive interval for a polar bear is 3 to 4 years, and a female polar bear can produce about 8 to 10 cubs in her lifetime; in healthy populations, 50 to 60 percent of the cubs will survive. Female bears can be quite sensitive to disturbances during this denning period.

In late March or early April, the female and cubs emerge from the den. If the mother moves young cubs from the den before they can walk or withstand the cold, mortality to the cubs may increase. Therefore, it is thought that successful denning, birthing, and rearing activities require a relatively undisturbed environment. Radio and satellite telemetry studies elsewhere indicate that denning can occur in multi-year pack-ice and on land.

Both fur and fat are important to polar bears for insulation in air and water. Cubs-of-the-year must accumulate a sufficient layer of fat in order to maintain their body temperature when immersed in water. It is unknown to what extent young cubs can withstand exposure in water before they are threatened by hypothermia. Polar bears groom their fur to maintain its insulative value.

4. Prey

Ringed seals (*Phoca hispida*) are the primary prey of polar bears in most areas. Bearded seals (*Erignathus barbatus*) and walrus calves are hunted occasionally. Polar bears opportunistically scavenge marine mammal carcasses, and there are reports of polar bears killing beluga whales (*Delphinapterus leucas*) trapped in the ice. Polar bears are also known to eat nonfood items including styrofoam, plastic, antifreeze, and hydraulic and lubricating fluids.

Polar bears hunt seals along leads and other areas of open water or by waiting at a breathing hole, or by breaking through the roof of a seal's lair. Lairs are excavated in snow drifts on top of the ice. Bears also stalk seals in the spring when they haul out on the ice in warm weather. The relationship between ice type and bear distribution is as yet unknown, but it is suspected to be related to seal availability.

5. Mortality

Polar bears are long-lived (up to 30 years) and have no natural predators, and they do not appear to be prone to death by diseases or parasites. Cannibalism by adult males on cubs and occasionally on other bears is known to occur. The most significant source of mortality is man. Before the MMPA was passed in 1972, polar bears were taken by sport hunters and residents. Between 1925 and 1972, the mean reported kill was 186 bears per year. Seventy-five percent of these were males, as cubs and females with cubs were protected. Since 1972, only Alaska Natives from coastal Alaskan villages have been allowed to

hunt polar bears in the United States for their subsistence uses or for handicraft and clothing items for sale. The Native hunt occurs without restrictions on sex, age, or number provided that the population is not determined to be depleted. From 1980 to 2005, the total annual harvest for Alaska averaged 101 bears: 64 percent from the Chukchi Sea and 36 percent from the Beaufort Sea. Other sources of mortality related to human activities include bears killed during research activities, euthanasia of sick or injured bears, and defense of life kills by non-Natives.

6. Distributions and Abundance of Polar Bears in the Chukchi Sea

Polar bears are seasonably abundant in the Chukchi Sea and Lease Sale Area 193 and their distribution is influenced by the movement of the seasonal pack ice. Polar bears in the Chukchi and Bering Seas move south with the advancing ice during fall and winter and move north in advance of the receding ice in late spring and early summer. The distance between the northern and southern extremes of the seasonal pack ice is approximately 800 miles. In May and June, polar bears are likely to be encountered in the Lease Sale Area 193 as they move northward from the northern Bering Sea through the Bering Strait into the southern Chukchi Sea. During the fall/early winter period, polar bears are likely to be encountered in the Lease Sale Area 193 during their southward migration in late October and November. Furthermore, bears from the Southern Beaufort Sea population can be encountered in the Chukchi Sea as they travel with the pack ice in search of food. Polar bears are dependent upon the sea ice for foraging and the most productive areas seem to be near the ice edge, leads, or polynas where the ocean depth is minimal. In addition, polar bears could be present along the shoreline in this area as they will opportunistically scavenge on marine mammal carcasses washed up along the shoreline.

Subsistence Use and Harvest Patterns of Pacific Walruses and Polar Bears

Walruses and polar bears have been traditionally harvested by Alaska Natives for subsistence purposes. The harvest of these species plays an important role in the culture and economy of many coastal communities in Alaska and Chukotka. Walrus meat is consumed by humans and dogs, and the ivory is used to manufacture traditional arts and crafts. Polar bears are primarily hunted for their fur, which is used to manufacture cold weather gear; however, their meat is also occasionally consumed. The communities most likely to be impacted by the proposed activities are Point Hope, Point Lay, Wainwright, and Barrow.

An exemption under section 101(b) of the MMPA allows Alaska Natives who reside in Alaska and dwell on the coast of the North Pacific Ocean or the Arctic Ocean to take walruses and polar bears if such taking is for subsistence purposes or occurs for purposes of creating and selling authentic native articles of handicrafts and clothing, as long as the take is not done in a wasteful manner. Under the terms of the MMPA, there are no restrictions on the number, season, or ages of walruses or polar bears that can be harvested in Alaska. A more restrictive Native to Native agreement between the Inupiat from Alaska and the Inuvialuit in Canada was created for the Southern Beaufort Sea stock of polar bears in 1988. Polar bears harvested from the communities of Barrow and Wainwright are currently considered part of the Southern Beaufort Sea stock and thus are subject to the terms of the Inuvialuit-Inupiat Polar Bear Management Agreement (Agreement). The Agreement establishes quotas and recommendations concerning protection of denning females, family groups, and methods of take. Quotas are based on estimates of population size and age-specific estimates of survival and recruitment. The polar bears harvested by the communities of Point Hope and Point Lay are thought to come primarily from the Chukchi/Bering sea stock. Neither Point Hope nor Point Lay hunters are parties to the Agreement.

The Service collects information on the subsistence harvest of walruses and polar bears in Alaska through the Marking, Tagging and Reporting Program (MTRP). The program is administered through a network of MTRP ''taggers'' employed in subsistence hunting communities. The marking and tagging rule requires that hunters report harvested walruses and polar bears to MTRP taggers within 30 days of kill. Taggers also certify (tag) specified parts (ivory tusks for walruses, hide and skull for polar bears) to help control illegal take and trade. It is unknown what proportion of the total U.S. walrus harvest is reported through the MTRP, although some estimates are as low as 30 percent. Polar bear harvests reported by the MTRP are believed to be as high as 80 percent of the actual subsistence harvest.

Harvest levels of polar bears and walruses in these communities vary considerably between years, presumably in response to differences in animal distributions and ice conditions. Descriptive information on subsistence harvests of walruses and polar bears in each community is presented below.

Point Hope

Between 1990 and 2005, the average annual walrus harvest recorded through the MTRP at Point Hope was 5.6 (± 5.8, SD) animals per year. Point Hope hunters typically begin their walrus hunt in late May and June as walruses migrate into the Chukchi Sea. The sea ice is usually well off shore of Point Hope by July and does not bring animals back into the range of hunters until late August and September. Most (70.8 percent) of the reported walrus harvest at Point Hope occurred in the months of June and September. Most of the walruses recorded through the MTRP at Point Hope were taken within five miles of the coast, or near coastal haulout sites at Cape Lisburne and Cape Thompson.

Between 1990 and 2005, the average reported polar bear harvest at Point Hope was 12.1 ± 4.1 animals per year. Polar bear harvests typically occur from January to April. Most of the polar bears reported through the MTRP program were harvested within 10 miles of the community; however, residents also reported taking polar bears as far away as Cape Thompson and Cape Lisburne.

Point Lay

Point Lay hunters reported an average of 4.4 ± 3.4 walruses per year between 1990 and 2005. Based on MTRP data, walrus hunting in Point Lay peaks in June-July with 84.4 percent of all walruses being harvested during these months. Historically, harvests have occurred primarily within 40 miles north and south along the coast from Point Lay and approximately 30 miles offshore.

Between 1990 and 2005, the average reported polar bear harvest at Point Lay was 2.2 ± 1.8 animals per year. The only information on harvest locations comes from the MTRP database; all reported harvest occurred within 25 miles of Point Lay.

Wainwright

Wainwright hunters have consistently harvested more walruses than any other subsistence community on the North Slope. Between 1990 and 2005, the average reported walrus harvest in Wainwright was 50.8 ± 30.0 animals per year. A discrepancy between MTRP data and other sources of harvest information is noted. Walruses are thought to represent approximately 40 percent of the communities' annual subsistence diet of marine mammals. Wainwright residents hunt walruses from June

through August as the ice retreats northward. Walruses are plentiful in the pack-ice near the village this time of year. Most (85.2 percent) of the harvest occurs in June and July. Most walrus hunting is thought to occur within 20 miles of the community, in all directions.

Between 1990 and 2005, the average reported polar bear harvest at Wainwright was 6.8 ± 4.0 animals per year. Polar bears are harvested throughout much of the year, with peak harvests reported in May and December. Polar bear are often harvested coincidentally with beluga and bowhead whale harvests. MTRP data indicates that most hunting occurs within 10 miles of the community.

Barrow

Barrow is the northernmost community within the geographical region being considered. Most (88.6 percent) walrus hunting occurs in June and July when the land-fast ice breaks up and hunters can access the walruses by boat as they migrate north on the retreating pack-ice. Walrus hunters from Barrow sometimes range up to 60 miles from shore; however, most harvests reported through the MTRP have occurred within 30 miles of the community. Between 1990 and 2005, the average reported walrus harvest in Barrow was 26.0 ± 15.2 animals per year.

Between 1990 and 2005, the average reported polar bear harvest at Barrow was 20.9 (+8.0 animals per year). The number of polar bears harvested in Barrow is thought to be influenced by ice conditions and the number of people out on the ice. Most (74 percent) of all polar bear harvests reported by Barrow residents occurred in February and March. Although relatively few people are thought to hunt specifically for polar bears, those that do hunt primarily between October and March. Hunting areas for polar bears overlap strongly with areas of bowhead subsistence hunting; particularly the area from Point Barrow South to Walakpa where walrus and whale carcasses are known to concentrate polar bears.

Potential Effects of Oil and Gas Industry Activities on Pacific Walruses and Polar Bears

Pacific Walruses

1. Disturbance

Proposed oil and gas exploration activities in the Chukchi Sea Region include the operation of seismic survey vessels, drill-ships, icebreakers, supply boats, fixed-winged aircrafts, and helicopters. Operating this equipment near walruses could result in disturbances. Potential effects of disturbances on walruses include insufficient rest, increased stress and energy expenditure, interference with feeding, masking of communication, and impaired thermoregulation of calves spending too much time in the water. Prolonged or repeated disturbances could displace individuals or herds from preferred feeding or resting areas. Disturbance events frequently cause walrus groups to abandon land or ice haulouts. Severe disturbance events occasionally result in trampling injuries or cow-calf separations, both of which are potentially fatal. Calves and young animals at the perimeter of the herds appear particularly vulnerable to trampling injuries. Under certain ice conditions, noise generated from exploration activities could potentially obstruct migratory pathways and interfere with the free movements of animals.

The response of walruses to disturbance stimuli is highly variable. Anecdotal observations by walrus hunters and researchers suggest that males tend to be more tolerant of disturbances than females and individuals tend to be more tolerant than groups. Females with dependent calves are considered least tolerant of disturbances. Hearing sensitivity is assumed to be within the 13 Hz and 1,200 Hz range of their own vocalizations. Walrus hunters and researchers have noted that walruses tend to react to the presence of humans and machines at greater distances from upwind approaches than from downwind approaches, suggesting that odor is also a stimulus for a flight response. The visual acuity of walruses is thought to be less than for other species of pinnipeds.

Seismic operations are expected to add significant levels of noise into the marine environment. There are relatively few data available to evaluate the potential response of walruses to seismic operations. Although the hearing sensitivity of walruses is poorly known, source levels associated with Marine 3D and 2D seismic surveys are thought to be high enough to cause temporary hearing loss in other pinniped species. Therefore, walruses within the 180-decibel (dB re 1 μPa) safety radius for seismic activities could potentially suffer shifts in hearing thresholds and temporary hearing loss.

The reaction of walruses to vessel traffic appears to be dependent upon vessel type, distance, speed, and previous exposure to disturbances. Underwater noise from vessel traffic in the Chukchi Sea could ''mask'' ordinary communication between individuals. Ice management operations are expected to have the greatest potential for disturbances since these operations typically require vessels to accelerate, reverse direction, and turn rapidly, activities that maximize propeller cavitations and resulting noise levels. Previous monitoring efforts suggest that icebreaking activities can displace some walrus groups up to several kilometers away; however, most groups of hauled out walruses showed little reaction beyond 1/2 mile. Environmental variables such as wind speed and direction are also thought to contribute to variability in detection and response.

Reactions of walruses to aircraft are thought to vary with aircraft type, range, flight pattern, and environmental conditions as well as the age, sex, and group size of exposed individuals. Fixed-winged aircraft appear less likely to elicit a response than helicopter over-flights. Walruses are particularly sensitive to changes in engine noise and are more likely to stampede when planes turn or fly low overhead. Researchers conducting aerial surveys for walruses in fixed-winged aircrafts over sea ice habitats have observed little reaction to aircrafts above 1,000 ft (305 m).

A lack of information concerning the distribution and abundance of walruses in the Chukchi Sea precludes a meaningful assessment of the numbers of animals likely to be impacted by proposed exploration activities. Based upon previous aerial survey efforts and exploration monitoring programs, walruses are expected to be closely associated with seasonal pack ice during the proposed operating season. Therefore, in evaluating potential impacts of exploration activities, broken pack ice may serve as a reasonable predictor of walrus abundance. Activities occurring in or near sea ice habitats are presumed to have the greatest potential for impacting walruses.

Geotechnical seismic surveys and high-resolution site clearance seismic surveys are expected to occur primarily in open water conditions, at a sufficient distance from the pack ice and large concentrations of walruses to avoid most disturbances. Based upon previous seismic monitoring programs, seismic surveys can be expected to interact with relatively small numbers of walruses swimming in open water. Industry will adopt standard seismic mitigation measures including the monitoring of a 180-dB ensonification exclusion zone, which will reduce the potential for air-gun pulses to injure walruses during seismic operations. Although the

hearing sensitivity of walruses is poorly known, walruses swimming in open water will likely be able to detect air-gun pulses well beyond the 180-dB safety radius. The most likely response of walruses in open water to acoustic and visual cues will be for animals to move away from the source of the disturbance. Because of the transitory nature of the proposed seismic surveys, impacts to walruses exposed to seismic survey operations are expected to be temporary in nature and have little or no effects on survival or recruitment. Marine mammal monitoring programs are expected to provide insight into the response of walruses to various seismic operations from which future mitigative conditions can be developed.

Although seismic surveys are expected to occur in areas of open water some distance from the pack ice, support vessels and/or aircraft supporting seismic operations (1 every 2 weeks) may encounter aggregations of walruses hauled out onto sea ice. The sight, sound, or smell of humans and machines could potentially displace these animals from ice haulouts. Because seismic operations are expected to move throughout the Chukchi Sea, impacts associated with support vessels and aircrafts are likely to be distributed in time and space. Therefore, noise and disturbance from aircraft and vessel traffic associated with seismic surveys are expected to have relatively localized, short-term effects. The potential for disturbance events resulting in injuries, mortalities, or mother-calf separations is of concern. The potential for injuries is expected to increase with the size of affected walrus aggregations. Mitigation measures designed to separate Industry activities from walrus aggregations are expected to reduce the potential for animal injuries, mortalities, and mother-calf separations. Restricting offshore exploration activities to the open-water season (July 1–November 30) is expected to reduce the number of potential interactions between walruses and industry operations occurring in or near sea ice habitats. Adaptive operational restrictions, including a 0.5-mile (800-m) operational exclusion zone for marine vessels, and a 1,000-ft altitude restriction for aircraft flying near walrus groups hauled-out onto sea ice, are expected to reduce the intensity of disturbance events and minimize the potential for injuries, mortalities, and mother-calf separations.

Drilling operations are expected to occur at several offshore locations. Although drilling activities are expected to occur primarily during open water conditions, the dynamic movements of sea ice could transport walruses within range of drilling operations. Drilling operations are expected to involve drill ships attended by icebreaking vessels to manage incursions of sea ice. Monitoring programs associated with exploratory drilling operations in the Chukchi Sea in 1990 noted that 25 percent of walrus groups encountered in the pack ice during icebreaking operations responded by diving into the water, with most reactions occurring within 1 km of the ship.

Drilling operations will also be supported by supply vessels (1–3 trips per week) and/or helicopters (1–3 trips per day) depending upon the distance from shore. Support missions could encounter aggregations of walruses on sea ice along their transportation route. Because drilling operations are expected to last from 30–90 days at a single location, walruses in the vicinity of drilling operations could be subjected to prolonged or repeated disturbances. The most likely response of walruses subjected to prolonged or repeated disturbances will be for them to abandon the area.

The distribution and abundance of walruses in the Chukchi Sea is poorly understood. Without knowledge of the relative importance of various habitat areas, or the likely locations of drilling operations, it is difficult to predict the number of animals likely to be impacted by drilling operations. Additional monitoring and mitigation measures will be required in the event that a prospective drill-site occurs in important habitat areas. The MMS permit stipulation identifying a 0.5-mile operational exclusion zone around groups of hauled-out walruses is expected to help mitigate disturbances to walruses near prospective drill sites. Mitigation measures specified in an LOA including requirements for ice-scouting, surveys for walruses and polar bears in the vicinity of active drilling operations and ice breaking activities, requirements for marine mammal observers onboard drill-ships and ice breakers, and operational restrictions near walrus and polar bear aggregations are expected to further reduce the potential for interactions between walruses and drilling operations.

2. Waste Discharge and Oil Spills

The potential exists for fuel and oil spills to occur from seismic and support vessels, fuel barges, and drilling operations. Little is known about the effects of fuel and oil on walruses; however, walruses may react to fuel and oil much like other pinniped species. Damage to the skin of pinnipeds can occur from contact with oil because some of the oil penetrates into the skin, causing inflammation and ulcers. Exposure to oil can quickly cause permanent eye damage. In studies conducted on other species of pinnipeds, pulmonary hemorrhage, inflammation, congestion, and nerve damage resulted after exposure to concentrated hydrocarbon fumes for a period of 24 hours. Walruses are extremely gregarious animals and normally associate in large groups; therefore, any contact with spilled oil or fuel could impact several individuals.

Exposure to oil could also impact benthic prey species. Bivalve mollusks, a favorite prey species of the walrus, are not effective at processing hydrocarbon compounds, resulting in highly concentrated accumulations and long-term retention of contamination within the organism. Exposure to oil may kill prey organisms or result in slower growth and productivity. Because walrus feed primarily on mollusks, they may be more vulnerable to a loss of this prey species than other pinnipeds that feed on a larger variety of prey.

Although fuel and oil spills has the potential to cause adverse impacts to walruses and prey species, operational spills associated with the proposed exploration activities are not considered a major threat. Operational spills would likely be of a relatively small volume, and occur in areas of open water where walrus densities are expected to be relatively low. MMS operating stipulations, including oil spill prevention and response plans, reduce both the risk and scale of potential spills. Any impacts associated with an operational spill are expected to be limited to a small number of animals.

A potentially more serious type of oil spill is the blowout, an uncontrolled release of oil or gas from an exploratory well. Blowout prevention technology and well control procedures have been designed to minimize the risk of a blowout. Blowout prevention technology will be required for all exploratory drilling operations in the Chukchi Sea, and the MMS considers the likelihood of a blowout occurring during exploratory drilling in the Chukchi Sea as negligible (MMS DEIS).

3. Results of Previous Monitoring Studies

Oil and gas related activities have been conducted in the Beaufort and Chukchi Seas since the late 1960's. Much more oil and gas related activity has occurred in the Beaufort Sea OCS than in the Chukchi Sea OCS. Many offshore activities required ice management (icebreaking), helicopter traffic, fixed-wing aircraft monitoring,

other support vessels and stand-by barges. Though no studies have examined the impacts of these activities on the Pacific walrus population, some information exists on encounter rates and behavioral responses of individual walruses to previous oil and gas related activities.

Pacific walruses do not normally range into the Beaufort Sea, although individuals and small groups are occasionally observed. From 1994 to 2004, Industry monitoring programs recorded a total of nine walrus sightings involving a total of 10 animals. Three of the reported sightings involved potential disturbances to walruses; two sightings were of individual animals hauled-out onto the armor of Northstar Island, and one sighting occurred at the McCovey prospect, where a walrus appeared to react to helicopter noise. Physical effects or impacts to individual walruses were not noted. Because of the small numbers of walruses encountered by past and present oil and gas activity in the Beaufort Sea, impacts to the Pacific walrus population appear to have been minimal.

Three pre-lease seismic surveys were carried out in the Chukchi Sea OCS planning area in 2006. Marine mammal observers onboard the seismic and support vessels recorded a total of 1,186 walrus sightings during their operations. Most of the walrus sightings were reported by seismic support vessels during ice-scouting missions. Three hundred and eighteen of the walruses sighted (27 percent) exhibited some form of behavioral response to the vessels, primarily dispersal or diving. Seismic vessels, operating in open water conditions, recorded a total of 33 walrus sightings. Marine mammal observers reported 19 incidents in which walruses were observed within a predetermined safety zone of ensonification, requiring the shutdown of airgun arrays to prevent potential injuries. Based upon the transitory nature of the survey vessels, and the monitoring reports that noted behavioral reactions of the animals to the passage of the vessels, our best assessment is that most of these interactions resulted in no more than temporary changes in animal behavior.

Aerial surveys and vessel-based observations of walruses were carried out in 1989 and 1990 to examine the responses of walruses to drilling operations at three Chukchi Sea drill prospects. Aerial surveys documented several thousand walruses in the vicinity of the drilling prospects; most of the animals (>90 percent) were closely associated with sea ice. Vessel-based observations indicated that walrus response to drilling operations was greatest during ice management activities. The 1990 survey effort noted that 25 percent of walrus groups encountered in the pack ice during icebreaking responded by diving into the water, with most reactions occurring within 1 km of the ship. The monitoring report, noting that: (1) Walrus distributions were closely linked with pack ice; (2) pack ice was near active drill prospects for relatively short time periods; and (3) ice passing near active prospects contained relatively few animals, concluded that effects of the drilling operations on walruses were limited in time, geographical scale, and proportion of the affected population.

4. Cumulative Effects

The following types of past, present, and reasonably foreseeable actions and factors have contributed to the environmental baseline conditions in the Chukchi Sea and could contribute to potential cumulative effects on the Pacific walrus population:

Commercial and Subsistence Harvest—Walruses have an intrinsically low rate of reproduction and, therefore, are limited in their capacity to respond to exploitation. In the late 19th century, American whalers intensively harvested walruses in the northern Bering and southern Chukchi seas. Between 1869 and 1879, catches averaged more than 10,000 per year, with many more animals struck and lost. The population was substantially depleted by the end of the century, and the industry collapsed in the early 1900s. Since 1930, the combined walrus harvests of the United States and Russia have ranged from 2,300–9,500 animals per year. Notable harvest peaks occurred during 1930–1960 (4,500–9,500 per year) and in the 1980's (5,000–9,000 per year). Commercial hunting continued in Russia until 1991 under a quota system of up to 3,000 animals per year. Since 1992, the harvest of Pacific walruses has been limited to the subsistence catch of coastal communities in Alaska and Chukotka. Harvest levels through the 1990s ranged from approximately 2,400–4,700 animals per year. Although recent harvest levels are lower than historic highs, the lack of information on population size or trend precludes an assessment of sustainable harvest rates.

Climate Change—Analysis of long-term environmental data sets indicate that substantial reductions in both the extent and thickness of the arctic sea-ice cover have occurred over the past 20–40 years, with record minimum extent in 2002 and again in 2005, and extreme minimal in 2003 and 2004. The Chukchi Sea DEIS provides a comprehensive literature review regarding potential impacts of diminishing sea ice on Arctic marine mammals (V.C.8.b.). Walruses rely on suitable sea ice as a substrate for resting between foraging bouts, calving, molting, isolation from predators, and protection from storm events. Reasonably foreseeable impacts to walruses as a result of diminishing sea ice cover include: Shifts in range and abundance; population declines in prey species; increased mortalities resulting from storm events; and premature separation of females and dependent calves. The juxtaposition of sea ice over shallow-shelf habitat suitable for benthic feeding is critical to walruses. Recent trends in the Chukchi Sea have resulted in seasonal sea-ice retreating off the continental shelf and over deep Arctic Ocean waters, presenting significant adaptive challenges to walruses in the region. Future studies investigating walrus distributions, population status and trends, and habitat use patterns in the Chukchi Sea are required to understand and respond to walrus conservation and management issues associated with changes in the sea ice environment.

Commercial Fishing and Marine Vessel Traffic—Based on available data, walruses rarely interact with commercial fishing and marine vessel traffic. Walruses are normally closely associated with sea ice, which limits their interactions with fishing vessels and barge traffic. However, as previously noted, the temporal and seasonal extent of the sea ice is projected to diminish in the future. There has been speculation recently that commercial shipping through the Northwest Passage is likely to increase in the coming decades. Commercial fishing opportunities may also expand should the sea ice continue to diminish. The result could be increased temporal and spatial overlap between fishing and shipping operations and walrus habitat use and increased interactions between walruses and marine vessels.

Past Offshore Oil and Gas Related Activities—Oil and gas related activities have been conducted in the Chukchi and Beaufort Seas since the late 1960's. Much more oil and gas related activity has occurred in the Beaufort Sea than in the Chukchi Sea OCS. Pacific walruses do not normally range into the Beaufort Sea, and documented interactions between oil and gas activities and walruses have been minimal (see Results of Previous Monitoring Studies). The Chukchi Sea OCS has previously experienced some oil and gas exploration activity, but no development or production. Because of the transitory nature of past oil and gas activities in any given region, we do not

expect that any of these encounters had lasting effects on individuals or groups (see Results of Previous Monitoring Studies).

Contribution of Proposed Activities to Cumulative Impacts—The proposed seismic surveys and exploratory drilling operations identified by the petitioners are likely to result in some incremental cumulative effects to walruses through the potential exclusion or avoidance of walruses from feeding or resting areas and disruption of important associated biological behaviors. However, relatively few walruses are likely to interact with exploration activities in open sea conditions where most of the proposed activities are expected to occur. Required mitigation measures are also expected to limit the severity of any behavioral responses. Therefore, we conclude that the proposed exploration activities, especially as mitigated through the regulatory process, are not expected to add significantly to the cumulative impacts on the Pacific walrus population from past, present, and future activities that are reasonably likely to occur within the 5-year period covered by the regulations if adopted.

5. Evaluation

Based on our review of the proposed activities; existing operating conditions and mitigation measures; information on the biology, ecology, and habitat use patterns of walruses in the Chukchi Sea; information on potential effects of oil and gas activities on walruses; and the results of previous monitoring efforts associated with Industry activity in the Beaufort and Chukchi Seas, we conclude that, while the incidental take (by harassment) of walruses is reasonably likely to or reasonably expected to occur as a result of the proposed activities, most anticipated takes will be limited to temporary, nonlethal disturbances impacting a relatively small proportion of the Pacific walrus population. It is unlikely that there will be any lethal take due to Industry activities.

We propose a finding that the total expected takings of walruses associated with the proposed activities will have a negligible impact on this species. This proposed finding is based on the supposition that most of the Pacific walrus population will be associated with sea ice during the operating season; that relatively few animals will be found in areas of open water where proposed activities will occur; and, that required mitigation measures will reduce the intensity of disturbance events to short-term behavioral responses. Site-specific monitoring programs and adaptive mitigation measures will be used to ensure that impacts associated with the proposed activities are not greater than anticipated. Additional mitigation measures described in the proposed rule will help reduce the level of Industry impacts to walruses during exploration activities through the promulgation of incidental take regulations and the issuance of LOAs with site-specific operating restrictions and monitoring requirements, which will provide an additional level of mitigation and protection for walruses.

Polar Bears

1. Disturbance

In the Chukchi Sea, polar bears will have a limited presence during the open-water season during Industry operations. It is assumed they generally move to the northwestern portion of the Chukchi Sea and distribute along the pack ice during this time, which is outside of the geographic region. This limits the chances of impacts on polar bears from Industry activities. Although polar bears have been documented in open-water, miles from the ice edge or ice floes, this has been a relatively rare occurrence.

A. Offshore Activities

In the open-water season, Industry activities will be generally limited to vessel-based exploration activities, such as seismic surveys and site clearance surveys. These activities avoid ice floes and the multi-year ice edge; however, they could contact a limited number of bears in open water.

Seismic exploration activities in the Chukchi Sea could affect polar bears in a number of ways. Seismic ships and icebreakers may be physical obstructions to polar bear movements, although these impacts are of short term and localized effect. Noise, sights, and smells produced by exploration activities could repel or attract bears, either disrupting their natural behavior or endangering them by threatening the safety of seismic personnel.

Little research has been conducted on the effects of noise on polar bears. Polar bears are curious and tend to investigate novel sights, smells, and possibly noises. Noise produced by seismic activities could elicit several different responses in polar bears. Noise may act as a deterrent to bears entering the area of operation, or the noise could potentially attract curious bears.

In general, little is known about the potential for seismic survey sounds to cause auditory impairment or other physical effects in polar bears. Available data suggest that such effects, if they occur at all, would be limited to short distances and probably to projects involving large airgun arrays. There is no evidence that airgun pulses can cause serious injury, or death, even in the case of large airgun arrays. Also, the planned monitoring and mitigation measures include shut-downs of the airguns, which will reduce any such effects that might otherwise occur. Polar bears normally swim with their heads above the surface, where underwater noises are weak or undetectable. Thus, it is doubtful that any single bear would be exposed to strong underwater seismic sounds long enough for significant disturbance to develop.

Polar bears are known to run from sources of noise and the sight of vessels or icebreakers, aircraft, and helicopters. The effects of fleeing from aircraft may be minimal if the event is short and the animal is otherwise unstressed. On a warm spring or summer day, a short run may be enough to overheat a well-insulated polar bear; however, fleeing from a working icebreaker may have minimal effects for a healthy animal on a cool day.

As already stated, it is assumed that polar bears spend the majority of their time on pack ice during the open-water season in the Chukchi Sea, which limits the chance of impacts from human and industry activities. In recent years, the Chukchi Sea pack ice has receded over the Continental Shelf during the open water season. Although this poses potential foraging ramifications, by its nature the exposed open water creates a barrier between the majority of the ice pack-bound bear population and human activity occurring in open water.

Researchers have observed that in some cases bears swim long distances during the open-water period seeking either ice or land. In 2005, researchers monitored one radio-collared individual as it swam through ice-free waters from Kotzebue north to the pack ice 350 miles away. The bear began swimming on June 16, 2005, rested twice in open water, presumably on icebergs and eventually reached the pack ice on July 2, 2005. Researchers suspected that the bear was not swimming constantly, but found solitary icebergs or remnants to haul-out on and rest. The movement is unusual, but highlights the ice-free environment that bears are being increasingly exposed to that requires increased energy demands.

In addition, swimming bears could become vulnerable to exhaustion and storm events with large waves because ice floes dissipate and become unavailable or unsuitable for use as haulouts or resting platforms. In the fall of 2004, four drowned polar bears were

observed in the Beaufort Sea during an MMS coastal aerial survey program.

Seismic activities avoid ice floes and the pack-ice edge; however, they may contact bears in open water. It is unlikely that seismic exploration activities would result in more than temporary behavioral disturbance to polar bears.

Vessel traffic could result in short-term behavioral disturbance to polar bears. If a ship is surrounded by ice, it is more likely that curious bears will approach. Any on-ice activities required by exploration activities create the opportunity for bear-human interactions. In relatively ice-free waters, polar bears are less likely to approach ships, although they could be encountered on ice floes. For example, during the late 1980s, at the Belcher exploration drilling site in the Beaufort Sea, in a period of little ice, a large floe threatened the drill rig at the site. After the floe was moved by an icebreaker, workers noticed a female bear with a cub-of-the-year and a lone adult swimming nearby. It was assumed these bears had been disturbed from the ice floe.

Ships and ice breakers may act as physical obstructions, altering or intercepting bear movements in the spring during the start-up period for exploration if they transit through a restricted lead system, such as the Chukchi Polyna. Polynas are important habitat for polar bears and other marine mammals, which makes them important hunting areas for polar bears. A similar situation could occur in the fall when the pack-ice begins to expand. Separation of polar bears, whether on land or ice or in water, and marine vessels by creating an operational exclusion zone would limit potential impact of marine vessels to polar bears.

Routine aircraft traffic should have little to no effect on polar bears; however, extensive or repeated over-flights of fixed-wing aircraft or helicopters could disturb polar bears. Behavioral reactions of polar bears are expected to be limited to short-term changes in behavior that would have no long-term impact on individuals and no impacts on the polar bear population.

Monitoring and mitigation measures required for open water, offshore activities will include, but will not be limited to (1) a 0.5-mile operational exclusion zone around polar bear(s) on land, ice or swimming; (2) MMOs on board all vessels; (3) requirements for ice-scouting, (4) surveys for polar bears in the vicinity of active operations and ice breaking activities; and (5) operational restrictions near polar bear aggregations. These mitigation measures are expected to further reduce the potential for interactions between polar bears and offshore operations.

B. Onshore Activities

Onshore activities will have the potential to interact with polar bears mainly during the fall and ice-covered season when bears come ashore to feed, den, or travel. Noise produced by Industry activities during the open-water and ice-covered seasons could potentially result in takes of polar bears at onshore activities. During the ice-covered season, denning female bears, as well as mobile, non-denning bears, could be exposed to oil and gas activities, such as seismic exploration or exploratory drilling facilities, and could potentially be affected in different ways.

Noise disturbance can originate from either stationary or mobile sources. Stationary sources include exploratory drilling operations and their associated facilities. Mobile sources include ice road construction and associated vehicle traffic, including: tracked vehicles and snowmobiles, aircraft traffic, and vibroseis programs.

Noise produced by stationary Industry activities could elicit several different responses in polar bears. The noise may act as a deterrent to bears entering the area, or the noise could potentially attract bears. Attracting bears to these facilities, especially exploration facilities in the coastal or nearshore environment, could result in human-bear encounters, which could result in unintentional harassment, lethal take, or intentional hazing (under separate authorization) of the bear.

During the ice-covered season, noise and vibration from exploratory drilling facilities could deter females from denning in the surrounding area, although polar bears have been known to den in close proximity to industrial activities without any perceived impacts. For example, in 1991, two maternity dens were located on the south shore of a barrier island within 2.8 km (1.7 mi) of a production facility. In addition, during the ice-covered season of 2001–2002, two known polar bear dens were located within approximately 0.4 km and 0.8 km (0.25 mi and 0.5 mi) of remediation activities on Flaxman Island in the Beaufort Sea without any observed impact to denning success or the polar bears.

In contrast, information exists indicating that polar bears may have abandoned dens in the past due to exposure to human disturbance. For example, in January 1985, a female polar bear may have abandoned her den due to rolligon traffic, which occurred between 250 and 500 meters from the den site. Researcher disturbance created by camp proximity and associated noise, which occurred during a den emergence study in 2002 on the North Slope, may have caused a female bear and her cub(s) to abandon their den and move to the ice sooner than necessary. The female was observed later without the cub(s). While such events may have occurred, information indicates they have been infrequent and isolated.

In addition, polar bears exposed to routine industrial noises may acclimate to those noises and show less vigilance than bears not exposed to such stimuli. This implication came from a study that occurred in conjunction with industrial activities performed on Flaxman Island in 2002 and a study of undisturbed dens in 2002 and 2003 (N = 8). Researchers assessed vigilant behavior with two potential measures of disturbance: proportion of time scanning their surroundings and the frequency of observable vigilant behaviors. Bears exposed to industrial activity spent less time scanning their surroundings than bears in undisturbed areas and engaged in vigilant behavior significantly less often.

As with offshore activities, routine aircraft traffic should have little to no effect on polar bears; however, extensive or repeated over-flights of fixed-wing aircraft for monitoring purposes or helicopters used for re-supply of Industry operations could disturb polar bears. Behavioral reactions of non-denning polar bears are expect to be limited to short-term changes in behavior and would have no long-term impact on individuals and no impacts on the polar bear population. In contrast, denning bears could abandon or depart their dens early in response to repeated noise such as that produced by extensive aircraft over-flights. Mitigation measures, such as minimum flight elevations over polar bears or areas of concern and flight restrictions around known polar bear dens, will be required, as appropriate, to reduce the likelihood that bears are disturbed by aircraft.

Noise and vibrations produced by vibroseis activities during the ice-covered season could potentially result in impacts on polar bears. During this time of year, denning female bears as well as mobile, non-denning bears could be exposed to and affected differently by potential impacts from seismic activities. The best available scientific information indicates that female polar bears entering dens, or females in dens with cubs, are more sensitive than other age and sex groups to noises. Standardized mitigation measures will be implemented to limit or minimize

disturbance impacts to denning females. These Industry mitigation measures are currently in place in the Beaufort Sea and are implemented when necessary through LOAs and will be implemented in the Chukchi Sea.

In the case of exploratory seismic or drilling activities occurring around a known bear den, each LOA will require Industry to have developed a polar bear interaction plan and will require Industry to maintain a 1-mile buffer between industry activities and known denning sites to limit disturbance to the bear. In addition, we may require Industry to avoid working in known denning habitat depending on the type of activity, the location of activity and the timing of the activity. To further reduce the potential for disturbance to denning females, we have conducted research, in cooperation with Industry, to enable us to accurately detect active polar bear dens through the use of Forward Looking Infrared (FLIR) imagery.

FLIR imagery, as a mitigation tool, is used in cooperation with coastal polar bear denning habitat maps and scent-trained dogs. Industry activity areas, such as coastal ice roads, are compared to polar bear denning habitat and transects are then created to survey the specific habitat within the industry area. FLIR heat signatures within a standardized den protocol are noted and further mitigation measures are placed around these locations. These measures include the 1-mile operational exclusion zone or increased monitoring of the site. FLIR surveys are more effective at detecting polar bear dens than visual observations. The effectiveness increases when FLIR surveys are combined with site-specific, scent-trained dog surveys.

Based on these evaluations, the use of FLIR technology, coupled with trained dogs, to locate or verify occupied polar bear dens, is a viable technique that helps to minimize impacts of oil and gas industry activities on denning polar bears. These techniques will continue to be required as conditions of LOAs when appropriate.

In addition, Industry has sponsored cooperative research evaluating transmission of noise and vibration through the ground, snow, ice, and air and the received levels of noise and vibration in polar bear dens. This information has been useful to refine site-specific mitigation measures and placement of facilities.

Furthermore, as part of the LOA application for seismic surveys during denning season, Industry provides us with the proposed seismic survey routes. To minimize the likelihood of disturbance to denning females, we evaluate these routes along with information about known polar bear dens, historic denning sites, and delineated denning habitat. Should a potential denning site be identified along the survey route, FLIR or polar bear scent-trained dogs, or both, will be used to determine whether the den is occupied, in which case a 1-mile buffer surrounding the den will be required.

There is the potential for Industry activities other than seismic, such as transport activities and ice road construction, to contact polar bear dens as well. Known polar bear dens around the oil and gas activities are monitored by the Service, when practicable. Only a small percentage of the total active den locations are known in any year. Industry routinely coordinates with the Service to determine the location of Industry's activities relative to known dens. General LOA provisions will be similar to those imposed on seismic activities and will require Industry operations to avoid known polar bear dens by 1 mile. There is the possibility that an unknown den may be encountered during Industry activities. Industry is required to contact the Service, if a previously unknown den is identified. Communication between Industry and the Service and the implementation of mitigation measures, such as the 1-mile operational exclusion area around known dens, would ensure that disturbance is minimized.

Human encounters can be dangerous for both the polar bear and the human. These can occur during an onshore vibroseis program or at a drilling facility. Whenever humans work in the habitat of the animal, there is a chance of an encounter, even though, historically, such encounters have been uncommon in association with Industry.

Encounters are more likely to occur during fall and winter periods when greater numbers of the bears are found in the coastal environment searching for food and possibly den sites later in the season. Potentially dangerous encounters are most likely to occur at coastal exploratory sites. In the Beaufort Sea, Industry has developed and uses devices to aid in detecting polar bears, including bear monitors, motion, and infrared detection systems. Industry also takes steps to actively prevent bears from accessing facilities using safety gates and fences. The types of detection and exclusion systems are implemented on a case-by-case basis with guidance from the Service and depend on the location and needs of the facility. Industry will implement these same mitigative measures in the Chukchi Sea region to minimize disturbance of polar bears.

Onshore drilling sites near the coastline could potentially attract polar bears. Polar bears use the coastline as a travel corridor. In the Beaufort Sea, the majority of polar bear observations have occurred along the coastline. Most bears were observed as passing through the area; however, nearshore facilities could potentially increase the rate of human-bear encounters, which could result in increased incident of harassment of bears. Employee training and company policies through interaction plans will be implemented to reduce and mitigate such encounters. Based on the history of effective application of interaction plans that has resulted in reduced interactions between polar bear and humans, no injuries or deaths to humans since the implementation of incidental take regulations, the Service concludes that interaction plans are an effective means of reducing Industry impacts to polar bears.

Depending upon the circumstances, bears can be either repelled from or attracted to sounds, smells, or sights associated with onshore Industry activities. In the past, such interactions have been mitigated through conditions on the LOA, which require the applicant to develop a polar bear interaction plan for each operation. These plans outline the steps the applicant will take, such as garbage disposal and snow management procedures, to minimize impacts to polar bears by reducing the attraction of Industry activities to polar bears. Interaction plans also outline the chain of command for responding to a polar bear sighting. In addition to interaction plans, Industry personnel participate in polar bear interaction training while on site.

Employee training programs are designed to educate field personnel about the dangers of bear encounters and to implement safety procedures in the event of a bear sighting. The result of these polar bear interaction plans and training allows personnel on site to detect bears and respond safely and appropriately. Often, personnel are instructed to leave an area where bears are seen. Many times polar bears are monitored until they move out of the area. Sometimes, this response involves deterring the bear from the site. If it is not possible to leave, in most cases bears can be displaced by using forms of deterrents, such as vehicles, vehicle horn, vehicle siren, vehicle lights, spot lights, or, if necessary, pyrotechnics (e.g., cracker shells). The purpose of these plans and training is to eliminate the potential for injury to personnel or lethal take of bears in defense of human

life. Since 1993, when the incidental take regulations became effective in the Beaufort Sea, there has been no known instance of a bear being killed or Industry personnel being injured by a bear as a result of Industry activities. The mitigation measures associated with the Beaufort Sea incidental take regulations have proven to minimize human-bear interactions and will be part of the requirements of future LOAs associated with the Chukchi Sea incidental take regulations.

C. Effect on Prey Species

Ringed seals are the primary prey of polar bears. Bearded seals are also a prey source. Industry will mainly have an effect on seals through the potential for contamination (oil spills) or industrial noise disturbance. Oil and gas activities in the Chukchi Sea are anticipated to have the same effects of contamination from oil discharges for seals as those described in the current Beaufort Sea incidental take regulations (71 FR 43926; August 2, 2006) in the section ''Potential Impacts of Waste Product Discharge and Oil Spills on Pacific Walruses and Polar Bears'' and the ''Pacific Walruses'' subsection of this document). Studies have shown that seals can be displaced from certain areas, such as pupping lairs or haulouts, and abandon breathing holes near Industry activity. However, these disturbances appear to have minor effects and are short term. In the Chukchi Sea, offshore operations have the highest potential to impact seals; however, due to the seasonal aspect (occurring only during the open-water season) of offshore operations, the Service anticipates minimal disturbance to ringed and bearded seals. In addition, the National Marine Fisheries Service, having jurisdiction over the conservation and management of ringed and bearded seals, is evaluating the potential impacts of oil and gas exploration activities in the Chukchi Sea and will identify appropriate mitigation measures for those species, if a negligible finding is appropriate. The Service does not expect prey availability to be significantly changed due to Industry activities. Mitigation measures for pinnipeds required by MMS and NMFS will reduce the impact of Industry activities on ringed and bearded seals.

2. Waste Discharge and Potential Oil Spills

Individual polar bears can potentially be affected by Industry activities through waste product discharge and oil spills. Spills are unintentional releases of oil or petroleum products. In accordance with the National Pollutant Discharge Elimination System Permit Program, all North Slope oil companies must submit an oil spill contingency plan with their projects. It is illegal to discharge oil into the environment, and a reporting system requires operators to report spills. According to MMS, on the Beaufort and Chukchi OCS, the oil industry has drilled 35 exploratory wells. During the time of this drilling, industry has had 35 small spills totaling 26.7 bbl or 1,120 gallons (gal). Of the 26.7 bbl spilled, approximately 24 bbl were recovered or cleaned up. Larger spills (>1,000 bbl) accounted for much of the annual volume. Six large spills occurred between 1985 and 2006 on the North Slope. These spills were terrestrial in nature and posed minimal harm to walruses and polar bears. Based on the history of effective application of oil spill plans, to date, no major exploratory offshore oil spills have occurred on the North Slope in either the Beaufort or Chukchi Seas.

Historical large spills associated with Alaskan oil and gas activities on the North Slope have been production-related, and have occurred at production facilities or pipeline connecting wells to the Trans-Alaska Pipeline System. MMS estimates the chance of a large (≥1,000 bbl) oil spill from exploratory activities in the Chukchi Sea to be low based on the types of spills recorded in the Beaufort Sea. For this rule, potential oil spills for exploration activities will likely occur with the marine vessels. From past experiences, MMS believes these will most likely be localized and relatively small. Spills in the offshore or onshore environments classified as small could occur during normal operations (e.g., transfer of fuel, handling of lubricants and liquid products, and general maintenance of equipment). Potential large spills in the Chukchi Sea region will likely be the result of drilling platforms. Drilling platforms have containment ability in case of a blowout, and the amount of release is expected to be minimal.

The possibility of oil and waste product spills from Industry activities in the Chukchi Sea and the subsequent impacts on polar bears is a concern; however, due to the type of Industry activity planned for the area, the potential for spills would be limited to the open-water season in the offshore. Hence, polar bears could encounter oil spills during the open-water and ice-covered seasons in offshore or onshore habitat. Although the majority of the Chukchi Sea polar bear population spends a large amount of their time offshore on the pack ice, some bears are likely to encounter oil from a spill regardless of the season and location.

Small spills of oil or waste products throughout the year by Industry activities on land could potentially impact small numbers of bears. The effects of fouling fur or ingesting oil or wastes, depending on the amount of oil or wastes involved, could be short term or result in death. For example, in April 1988, a dead polar bear was found on Leavitt Island, in the Beaufort Sea, approximately 9.3 km (5 nautical miles) northeast of Oliktok Point. The cause of death was determined to be poisoning by a mixture that included ethylene glycol and Rhodamine B dye; however, the source of the mixture was unknown.

During the ice-covered season, mobile, non-denning bears would have a higher probability of encountering oil or other Industry wastes in the onshore environment than non-mobile, denning females as terrestrial and ocean habitats are available. Current management practices by Industry, such as requiring the proper use, storage, and disposal of hazardous materials, minimize the potential occurrence of such incidents. In the event of an oil spill, it is also likely that polar bears would be intentionally hazed to keep them away from the area, further reducing the likelihood of impacting individuals or the population.

Oil exposure by polar bears could occur through the consumption of contaminated prey, and by grooming or nursing affecting motility, digestion, and absorption. Death could occur if a large amount of oil were ingested. Oiling can also cause thermoregulatory problems and damage to various systems, such as the respiratory and the central nervous systems, depending on the amount of exposure. Oil may also affect the prey base of polar bears where possible impacts from the loss of a food source could reduce recruitment or survival; however, because no production activities are planned for the Chukchi Sea during the duration of these proposed regulations, the Service does not expect prey availability to be significantly changed due to Industry activities. A detailed description of potential effects of exposure to oil by polar bears can be found in the Beaufort Sea Incidental Take Regulations (71 FR 43926; August 2, 2006).

3. Results of Previous Monitoring Studies

There is limited information regarding interactions between oil and gas activities and polar bears in the Chukchi Sea. In 1990, in conjunction with the Shell Western E&P, Inc. walrus monitoring program, 25 polar bears

were observed in the pack ice between June 29, and August 11, 1990. Seventeen bears were encountered by the *Robert LeMeur* during ice reconnaissance survey before drilling began at the prospects. During drilling operations, four bears occurred near (<9 km or 5 n mi) active prospects, and the remainder were considerably beyond (15–40 km or 8–22 n mi.). These bears responded to the drilling or icebreaking operations by approaching (2), watching (9), slowly moving away (7), or ignoring (5) the activities; response was not evaluated for two bears. The period of exposure to the operations was generally short because precautions were taken to minimize disturbances, including adjusting cruise courses away from bears. Similar precautions were followed in 1989 when 18 bears were sighted in the pack ice during the monitoring program. The results of the 1990 monitoring program concluded that (1) polar bear distributions were closely linked to the pack ice; (2) the pack ice was near the active prospects for a relatively brief time; and (3) the ice passing near active prospects contained relatively few animals.

In 2006, four polar bears were sighted during three oil and gas seismic surveys. All the bears were observed by seismic support vessels. Three of the four bears were observed walking on ice, and one animal was observed swimming. Two of the four reacted to the vessel. All four sightings occurred between September 2 and October 3, 2006.

Five polar bear observations (11 individuals) were recorded during the University of Texas at Austin's marine geophysical survey performed by the USCG Healy in 2006. This survey was located in the northern Chukchi Sea and Arctic Ocean. All bears were observed on the ice between July 21 and August 19. No polar bears were in the water where they could have received appreciable levels from operating airguns. The closest point of approach distances of bears from the USCG Healy ranged from 780 m to 2.5 km. One bear was observed approximately 575 m from a helicopter conducting ice reconnaissance. Four of the groups exhibited possible reactions to the helicopter or vessel, suggesting that disturbances from seismic operations can be short-term and limited to minor changes in behavior.

Documented impacts on polar bears by the oil and gas industry in the Beaufort Sea during the past 30 years appear minimal. Polar bears spend time on land, coming ashore to feed, den, or move to other areas. Recently, a change in distribution of polar bears brought about by changing climatic conditions has observed more bears than what has occurred historically on land. At times, fall storms deposit bears along the coastline where bears remain until the ice returns. For this reason, polar bears have mainly been encountered at or near most coastal and offshore production facilities, or along the roads and causeways that link these facilities to the mainland. During those periods, the likelihood of interactions between polar bears and Industry activities increases. Most bears are observed within a mile from the coastline. We expect that this use of habitat will occur along the Chukchi Sea coastline as well.

The majority of actual impacts on polar bears in the Beaufort Sea have resulted from direct human-bear encounters. Monitoring efforts by Industry required under Beaufort Sea regulations for the incidental take of polar bears documented various types of interactions between polar bears and Industry. A total of 269 LOAs have been issued for incidental (unintentional) take of polar bears in regard to oil and gas activities between 1993 to 2005: Approximately 76 percent were for exploration activities.

In 2004, the oil and gas industry reported 89 polar bear sightings involving 113 individual bears. Polar bears were more frequently sighted during the months of August to January. Seventy-four sightings were of single bears and 15 sightings consisted of family groups. Offshore oil facilities, Northstar and Endicott, accounted for 63 percent of all polar bear sightings, 42 percent and 21 percent, respectively; documenting Industry activities that occur on or near the Beaufort Sea coast have a greater possibility for encountering polar bears than Industry activities occurring inland. Fifty-nine percent (n = 53) of polar bear sightings consisted of observations of polar bears traveling through or resting near the monitored areas without a perceived reaction to human presence. Forty-one percent (n = 36) of polar bear sightings involved Level B harassment, where bears were deterred from industrial areas with no injury.

We expect the same trends we have seen in the Beaufort Sea to continue in the Chukchi Sea. A higher frequency of polar bears will be observed during the fall and early winter months; single bears will be seen more than family groups; offshore facilities will encounter more bears than onshore facilities; and a higher percentage of bears will be observed passing through Industry areas than the percentage of bears involved in deterrence activities.

Prior to issuance of regulations, lethal takes by Industry were rare. Since 1968, there have been two documented cases of lethal take of polar bears associated with oil and gas activities. In both instances, the lethal take was reported to be in defense of human life. In winter 1968–1969, an Industry employee shot and killed a polar bear. In 1990, a female polar bear was killed at a drill site on the west side of Camden Bay. In contrast, 33 polar bears were killed in the Canadian Northwest Territories from 1976 to 1986 due to encounters with Industry. Since the beginning of the incidental take program, which includes measures that minimize impacts to the species, no polar bears have been killed due to encounters associated with current Industry activities on the North Slope. For this reason, Industry has requested that these regulations cover only nonlethal, incidental take. We anticipate this trend to continue in the Chukchi Sea.

4. Cumulative Effects

The Polar Bear Status Review describes cumulative effects of oil and gas development on polar bears in Alaska. This document can be found at: *http://alaska.fws.gov/fisheries/mmm/polarbear/issues.htm*. The status review concentrated on oil and gas development in the Beaufort Sea because of the established presence of the Industry in the Beaufort Sea. The Service believes the conclusions of the status review will apply to Industry activities in the Chukchi Sea during the regulatory period as well.

In 2003, NRC published a description of cumulative effects oil and gas development would have on polar bears and seals in Alaska. They concluded that:

(1) ''Industrial activity in the marine waters of the Beaufort Sea has been limited and sporadic and likely has not caused serious cumulative effects to ringed seals or polar bears.'' Industry activity in the Chukchi Sea will be limited to exploration activities, such as seismic, drilling, and support vessels.

(2) ''Careful mitigation can help to reduce the effects of oil and gas development and their accumulation, especially if there is no major oil spill.'' The Service will be using mitigation measures similar to those established in the Beaufort Sea to limit impacts of polar bears in the Chukchi Sea. ''However, the effects of full-scale industrial development off the North Slope would accumulate through the displacement of polar bears and ringed seals from their habitats, increased mortality, and decreased reproductive success.'' Full-scale development of this nature will not occur during the

proposed regulatory period in the Chukchi Sea.

(3) ''A major Beaufort Sea oil spill would have major effects on polar bears and ringed seals.'' One of the concerns for future oil and gas development is for those activities that occur in the marine environment due to the chance for oil spills to impact polar bears or their habitats. No production activities are planned for the Chukchi Sea during the duration of these proposed regulations. Oil spills as a result of exploratory seismic activity could occur in the Chukchi Sea; however, the probability of a large spill is expected to be minimal.

(4) ''Climatic warming at predicted rates in the Beaufort and Chukchi sea regions is likely to have serious consequences for ringed seals and polar bears, and those effects will accumulate with the effects of oil and gas activities in the region.'' A detailed description of climate change and its potential effects on polar bears can be found at: *http://alaska.fws.gov/fisheries/mmm/polarbear/issues.htm* and *http://www.fws.gov/*. Climate change could alter polar bear habitat because seasonal changes, such as extended duration of open water, may preclude sea ice habitat use by restricting some bears to coastal areas. The reduction of sea ice extent, caused by climate change, may also affect the timing of polar bear seasonal movements between the coastal regions and the pack ice. If the sea ice continues to recede as predicted, it is hypothesized that polar bears may spend more time on land rather than on sea ice; similar to what has been recorded in the Hudson Bay. As with the Beaufort Sea, the challenge in the Chukchi Sea will be predicting changes in ice habitat, and coastal habitats in relation to changes in polar bear distribution and use of habitat.

Due to changes in sea ice conditions, the Service anticipates that there may be an increased use of terrestrial habitat in the fall period by polar bears on the western coast of Alaska and an increased use of terrestrial habitat by denning bears in the same area, which may expose bears to Industry activity. The mitigation measures will be effective in minimizing any additional effects attributed to seasonal shifts in distributions of walruses or denning polar bears during the five-year timeframe of the regulations. It is likely that, due to potential seasonal changes in abundance and distribution of polar bears during the fall, more frequent encounters may occur and that Industry may have to implement mitigation measures more often, for example, increasing polar bear deterrence events. In addition, if additional polar bear den locations are detected within industrial activity areas, spatial and temporal mitigation measures, including cessation of activities, may be instituted more frequently during the five-year period of the rule.

(5) ''Unless studies to address the potential accumulation of effects on North Slope polar bears or ringed seals are designed, funded, and conducted over long periods of time, it will be impossible to verify whether such effects occur, to measure them, or to explain their causes.'' Future studies in the Chukchi Sea will examine polar bear habitat use and distribution, reproduction, and survival relative to a changing sea ice environment.

The proposed seismic surveys and exploratory drilling operations identified by the petitioners are likely to result in some incremental cumulative effects to polar bears through the potential exclusion or avoidance of polar bears from feeding, resting, or denning areas and disruption of associated biological behaviors. However, the impact analysis of the likely range of effects and the likelihood of exposures resulting in individual behavioral effects supports a conclusion that the activities would result in no more than temporary disturbance effects and less than negligible effects on the population.

5. Evaluation

The Service anticipates that potential impacts of seismic noise, physical obstructions, human encounters, prey species, oil spills, and cumulative effects on polar bears would be limited to short-term changes in behavior that would have no long-term impact on individuals nor impacts to the polar bear population. Individual polar bears may be observed in the open water during offshore activities, but the majority of the population will be found on the pack ice during this time of year. It is unlikely that there will be any lethal take due to Industry activities.

Potential impacts will be mitigated through various requirements stipulated within LOAs. Mitigation measures that will be required for all projects include a polar bear interaction plan, and a record of communication with affected villages that may serve as the precursor to a Plan of Cooperation with the village to mitigate effects of the project on subsistence activities. Mitigation measures that will be used on a case-by-case basis include the use of trained marine mammal observers associated with offshore, marine activities, the use of den habitat maps (where appropriate), the use of FLIR or polar bear scent-trained dogs to determine the presence or absence of dens, timing of the activity to limit disturbance around dens, the 1-mile buffer surrounding known dens, and suggested work actions around known dens. The Service implements certain mitigation measures based on need and effectiveness for specific activities based largely on timing and location. For example, the Service will implement different mitigation measures for a 2-month-long onshore exploration project 20 miles inland, than for a drilling project on the coastline. Based on past monitoring information, bears are more prevalent in the coastal areas than 20 miles inland. Therefore, the monitoring and mitigation measures that the Service deems must be implemented to limit the disturbance to bears and the measures deemed necessary to limit human-bear interactions may differ.

Potential impacts of Industry waste products and oil spills suggest that individual bears could be impacted by this type of disturbance were it to occur. Depending on the amount of oil or wastes involved, the timing and location of a spill, impacts could be short-term, chronic, or lethal. In order for bear population reproduction or survival to be impacted, a large-volume oil spill would have to take place. The probability of a large oil spill occurring throughout the duration of these proposed regulations (5 years) is small to the point that a large oil spill is not expected to occur.

Mitigation measures imposed through MMS lease stipulations are designed to avoid Level A harassment (injury), reduce Level B harassment, reduce the potential for population-level significant adverse effects on polar bears, and avoid an unmitigable adverse impact on their availability for subsistence purposes. Additional mitigation measures described in the proposed rule will help reduce the level of Industry impacts to polar bears during the exploration activities through the promulgation of incidental take regulations and the issuance of LOAs with site-specific operating restrictions and monitoring requirements, which will provide mitigation and protection for polar bears. Therefore, we conclude that the proposed exploration activities, especially as mitigated through the regulatory process, are not expected to have more than negligible impacts on polar bears in the Chukchi Sea and will not have an unmitigable adverse impact on the availability of polar bears for subsistence uses.

Potential Effects of Oil and Gas Industry Activities on Subsistence Uses of Pacific Walruses and Polar Bears

Walruses and polar bear have cultural and subsistence significance to the Inupiat Eskimos inhabiting the north coast of Alaska. Four North Slope communities are considered within the potentially affected area: Point Hope, Point Lay, Wainwright, and Barrow. The open-water season for oil and gas exploration activities coincides with peak walrus hunting activities in these communities. The subsistence harvest of polar bears can occur year round in the Chukchi Sea, depending on ice conditions, with peaks usually occurring in spring and fall.

Noise and disturbances associated with oil and gas exploration activities have the potential to adversely impact subsistence harvests of walruses and polar bears by displacing animals beyond the hunting range of these communities. Disturbances associated with exploration activities could also heighten the sensitivity of animals to humans with potential impacts to hunting success. Little information is available to predict the effects of exploration activities on the subsistence harvest of walruses and polar bears. Hunting success varies considerably from year to year because of variable ice and weather conditions.

The MMS and the petitioners believe that exploration activities can be conducted in a manner that will not result in an adverse impact on subsistence hunting of marine mammals in the Chukchi Sea. Lease Sale Area 193 includes a 25-mile coastal deferral zone, *i.e.*, no lease sales will be offered within 25 miles of the coast, which is expected to reduce the impacts of exploration activities on subsistence hunting. Offshore seismic exploration will be restricted prior to July 1 to allow migrating marine mammals the opportunity to disperse from the coastal zone. It is noted that support vessels and aircrafts are expected to regularly transit the coastal deferral zone and have the potential to disturb marine mammals in coastal hunting areas. MMS Lease stipulations will require lessees to consult with the subsistence communities of Barrow, Wainwright, Point Lay, and Point Hope prior to submitting an Operational Plan to MMS for exploration activities. The intent of these consultations is to identify any potential conflicts between proposed exploration activities and subsistence hunting opportunities in the coastal communities. Where potential conflicts are identified, MMS may require additional mitigation measures as identified by NMFS and USFWS through MMPA authorizations.

In addition to the existing lease stipulations and mitigation measures described above, the Service would also develop additional mitigation measures through the proposed incidental take regulations. The following LOA stipulations, which will mitigate potential impacts to subsistence walrus and polar bear hunting from the proposed activities, would apply to incidental take authorizations:

1. Prior to receipt of an LOA, applicants will be required to contact and consult with the communities of Point Hope, Point Lay, Wainwright, and Barrow to identify any additional measures to be taken to minimize adverse impacts to subsistence hunters in these communities. A Plan of Cooperation (POC) will be developed if there is concern from community members that the proposed activities will impact subsistence uses of Pacific walruses or polar bears. The POC must address how applicants will work with the affected Native communities and what actions will be taken to avoid interference with subsistence hunting of walruses and polar bears. The Service will review the POC prior to issuance of the LOA to ensure that any potential adverse effects on the availability of the animals are minimized.

2. Take authorization will not be granted for activities occurring within a 40-mile radius of Barrow, Wainwright, Point Hope, or Point Lay, unless expressly authorized by these communities through consultations or through a POC. This condition is intended to limit potential interactions between industry activities and subsistence hunting in near-shore environments.

3. Offshore seismic exploration activities will be authorized only during the open-water season, which will not exceed the period of July 1 to November 30. This condition is intended to allow communities the opportunity to participate in subsistence hunts for polar bears without interference and to minimize impacts to walruses during the spring migration.

4. A 15-mile separation must be maintained between all active seismic surveys and/or exploratory drilling operations to mitigate cumulative impacts to resting, feeding, and migrating walruses.

Evaluation

Based on the best scientific information available and the results of harvest data, including affected villages, the number of animals harvested, the season of the harvests, and the location of hunting areas, we find that the effects of the proposed exploration activities in the Chukchi Sea region would not have an unmitigable adverse impact on the availability of walruses and polar bears for taking for subsistence uses during the period of the rule. In making this finding, we considered the following: (1) Historical data regarding the timing and location of harvests; (2) effectiveness of mitigation measures stipulated by MMS-issued operational permits; (3) Service regulations for obtaining an LOA at 50 CFR 18.118), which includes requirements for community consultations and POCs, as appropriate, between the applicants and affected Native communities; (4) effectiveness of mitigation measures stipulated by Service issued LOAs; and (5) anticipated effects of the applicants' proposed activities on the distribution and abundance of walruses and polar bears.

Summary of Take Estimates for Pacific Walruses and Polar Bears

Pacific Walruses

Based upon previous survey efforts in the region, we expect walrus densities to be relatively low in areas of open water where most of the proposed activities are expected to occur. Based upon our review of the proposed activities, previous monitoring studies, as well as existing and proposed mitigation measures, we conclude that, while incidental take of walruses is reasonably likely to or reasonably expected to occur as a result of the proposed activities, the anticipated takes will be limited to nonlethal disturbances, affecting a relatively small number of animals and that most disturbances will be relatively short-term in duration. Furthermore, we do not expect the anticipated level of take from the proposed activities to affect the rates of recruitment or survival of the Pacific walrus population.

Polar Bears

Industry exploration activities have the potential to incidentally take polar bears. These disturbances are expected to be nonlethal, short-term behavioral reactions resulting in displacement, and are not expected to have more than a minimal impact on individuals. Polar bears could be displaced from the immediate area of activity due to noise and vibrations. Alternatively, they could be attracted to sources of noise and vibrations out of curiosity, which could result in human-bear encounters. It is also possible that noise and human activity from stationary sources, such as a drill rig, could keep females from

denning in the vicinity of the source if activities occur in the late fall season when females initiate denning. Furthermore, there is a low chance of injury to a bear during a take and it is unlikely that lethal takes will occur. Contact with, or ingestion of, oil could also potentially affect polar bears. Small oil spills are likely to be cleaned up immediately and should have little chance of affecting polar bears. The probability of a large spill occurring is small and the impact of a large spill would depend on the distribution of the bears at the time of the spill, the location and size of the spill, and the success of clean-up measures. We do not expect the sum total of these disturbances to affect the rates of recruitment or survival of the Chukchi-Bering Sea polar bear population.

Conclusions

We conclude that any take reasonably likely to or reasonably expected to occur as a result of projected activities will have no more than a negligible impact on the Pacific walrus population or polar bears inhabiting the specified geographic region from the (Chukchi/Bering seas or Southern Beaufort Sea polar bear stocks) and will not have an unmitigable adverse impact on the availability of Pacific walruses and polar bears for subsistence uses. Based on the previous discussion, we propose the following findings regarding this action:

Impact on Species

The Service finds that any incidental take reasonably likely to result from the effects of oil and gas related exploration activities during the period of the rule, in the Chukchi Sea and adjacent western coast of Alaska will have no more than a negligible impact on polar bears and Pacific walruses in the Chukchi Sea Region. In making this finding, we considered the best scientific information available, such as: (1) The distribution of the species; (2) the biological characteristics of the species; (3) the nature of proposed oil and gas industry activities; (4) the potential effects of industry activities on the species; (5) the documented impacts of industry activities on the species; (6) mitigation measures that will minimize effects; and (7) other data provided by monitoring programs in the Beaufort Sea (1993–2006) and historically in the Chukchi Sea (1991–1996). We also considered the specific Congressional direction in balancing the potential for a significant impact with the likelihood of that event occurring. The specific Congressional direction that justifies balancing probabilities with impacts follows:

> If potential effects of a specified activity are conjectural or speculative, a finding of negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the Service will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determination will be made based on the best available scientific information [53 FR 8474, March 15, 1988; 132 Cong. Rec. S 16305 (October. 15, 1986)].

We reviewed the effects of the oil and gas industry activities on Pacific walruses and polar bears, which included impacts from noise, physical obstructions, human encounters, and small operational oil spills. Based on our review of these potential impacts, past LOA monitoring reports, and the biology and natural history of Pacific walruses and polar bears, we conclude that any incidental take reasonably likely to or reasonably expected to occur as a result of projected activities will have a negligible impact on Pacific walrus and polar bear populations. Furthermore, we do not expect these disturbances to affect the rates of recruitment or survival for the Pacific walrus and polar bear populations. These regulations do not authorize lethal take and we do not anticipate any lethal take will occur.

Our finding of ''negligible impact'' applies to oil and gas exploration activities. Generic conditions are attached to each LOA. These conditions minimize interference with normal breeding, feeding, and possible migration patterns to ensure that the effects to the species remain negligible. Generic conditions include: (1) These regulations do not authorize intentional taking of Pacific walruses or polar bears, or lethal incidental take; (2) For the protection of pregnant polar bears during denning activities (den selection, birthing, and maturation of cubs) in known and confirmed denning areas, Industry activities will be restricted in specific locations during specified times of the year; (3) Each activity covered by an LOA requires a site-specific plan of operation and a site-specific polar bear interaction plan. We may also add additional measures depending upon site-specific and species-specific concerns. For example, restrictions in denning areas will be applied on a case-by-case basis after assessing each LOA request and could require pre-activity surveys (e.g., aerial surveys, FLIR surveys, or polar bear scent-trained dogs) to determine the presence or absence of denning activity and, in known denning areas, may require enhanced monitoring or flight restrictions, such as minimum flight elevations, if necessary. Monitoring requirements and operating restrictions associated with offshore drilling operations will include requirements for ice-scouting, surveys for walruses and polar bears in the vicinity of active drilling operations, requirements for marine mammal observers onboard drill ships and ice breakers, and operational restrictions near polar bear and walrus aggregations. The Service expects no significant impact to these species as a result of these anticipated Industry activities.

We will analyze the required operation and polar bear interaction plans to ensure that the level of activity and possible take will be consistent with our finding that total incidental takes will have a negligible impact on Pacific walruses and polar bears and, where relevant, will not have an unmitigable adverse impact on the availability of these species for subsistence uses.

As we have stated, changes in the sea ice due to climate change could alter polar bear habitat. Extended duration of open water may preclude sea ice habitat use by restricting some bears to coastal areas. The reduction of sea ice extent, caused by climate change, may also affect the timing of polar bear seasonal movements between the coastal regions and the pack ice. If the sea ice continues to recede as predicted, it is hypothesized that polar bears may spend more time on land rather than on sea ice. As with the Beaufort Sea, the challenge in the Chukchi Sea will be predicting changes in ice habitat, barrier islands, and coastal habitats in relation to changes in polar bear distribution and use of habitat.

Climate change over time is a major concern to the Service, and we are currently involved in the collection of baseline data to help us understand how the effects of climate change will be manifested in bears inhabitating the Chukchi Sea region, such as the Chukchi/Bering Sea polar bear population (*http://alaska.fws.gov/fisheries/mmm/polarbear/issues.htm*). As we gain a better understanding of climate change effects on walruses and polar bears, we will incorporate the information in future actions. Ongoing studies include those led by the USGS Alaska Science Center, in cooperation with the Service, to examine polar bear habitat use, reproduction, and survival relative to a changing sea-ice

environment. Specific objectives of the project include: polar bear habitat availability and quality influenced by ongoing climate changes and the response by polar bears; the effects of polar bear responses to climate-induced changes to the sea-ice environment on body condition of adults, numbers and sizes of offspring, and survival of offspring to weaning (recruitment); and population age structure. The USGS Alaska Science Center is also proposing to investigate changes in walrus distributions and habitat use patterns in the Chukchi Sea in response to diminishing sea-ice cover over the Outer Continental Shelf.

Impact on Subsistence Take

Based on the best scientific information available and the results of harvest data, including affected villages, the number of animals harvested, the season of the harvests, and the location of hunting areas, we find that the effects of the proposed seismic activities in the Chukchi Sea region would not have an unmitigable adverse impact on the availability of walruses and polar bears for taking for subsistence uses during the period of the rule. In making this finding, we considered the following: (1) Historical data regarding the timing and location of harvests; (2) effectiveness of mitigation measures stipulated by Service regulations for obtaining an LOA at 50 CFR 18.118, which includes requirements for community consultations and Plans of Cooperation, as appropriate, between the applicants and affected Native communities; (3) by MMS-issued operational permits; and (4) anticipated 5-year effects of Industry proposed activities on subsistence hunting.

Applicants must use methods and conduct activities identified in their LOAs in a manner that minimizes to the greatest extent practicable adverse impacts on Pacific walruses and polar bears, their habitat, and on the availability of these marine mammals for subsistence uses. Prior to receipt of an LOA, applicants will be required to consult with the Eskimo Walrus Commission and the communities of Point Hope, Point Lay, Wainwright, and Barrow to discuss potential conflicts with subsistence walrus and polar bear hunting caused by the location, timing, and methods of proposed operations. Documentation of all consultations must be included in LOA applications. Documentation must include meeting minutes, a summary of any concerns identified by community members, and the applicant's responses to identified concerns. If community concerns suggest that the proposed activities could have an adverse impact on the subsistence uses of these species, conflict avoidance issues must be addressed through a POC.

Where prescribed, holders of LOAs will be required to have a POC on file with the Service and on-site. The POC must address how applicants will work with potentially affected Native communities and what actions will be taken to avoid interference with subsistence hunting opportunities for walruses and polar bears. The POC must include:

1. A description of the procedures by which the holder of the LOA will work and consult with potentially affected subsistence hunters.

2. A description of specific measures that have been, or will be taken to avoid or minimize interference with subsistence hunting of walruses and polar bears, and to ensure continued availability of the species for subsistence use.

The Service will review the POC to ensure any potential adverse effects on the availability of the animals are minimized. The Service will reject POCs if they do not provide adequate safeguards to ensure that marine mammals will remain available for subsistence use.

If there is evidence during the five-year period of the regulations that oil and gas activities are affecting the availability of walruses or polar bears for take for subsistence uses, we will reevaluate our findings regarding permissible limits of take and the measures required to ensure continued subsistence hunting opportunities.

Monitoring and Reporting

The purpose of monitoring requirements is to assess the effects of industrial activities on walruses and polar bears to ensure that take is consistent with that anticipated in the negligible-impact and subsistence use analyses, and to detect any unanticipated effects on the species. Holders of LOAs will be required to have an approved, site-specific marine mammal monitoring and mitigation plan on file with the Service and on site. Marine mammal monitoring and mitigation plans must be designed to enumerate the number of walruses and polar bears encountered during authorized activities, estimate the number of incidental takes which occurred during authorized activities, and evaluate the effectiveness of prescribed mitigation measures.

Monitoring activities are summarized and reported in a formal report each year. The applicant must submit an annual monitoring and reporting plan at least 90 days prior to the initiation of a proposed activity, and the applicant must submit a final monitoring report to us no later than 90 days after the completion of the activity. We base each year's monitoring objective on the previous year's monitoring results.

We require an approved plan for monitoring and reporting the effects of oil and gas industry exploration activities on walruses and polar bears prior to issuance of an LOA. We require approval of the monitoring results for continued authorization under the LOA.

Specific Stipulations for 2007 Shell Offshore Inc. IHA

For the 2007 open-water season, the IHA for Shell Offshore Inc. (SOI), which is the only applicant for an incidental harassment authorization under section 101(a)(5)(D) of the MMPA for the 2007 season, and whose activities are described in Shell's application at *http://alaska.fws.gov/fisheries/mmm/itr.htm*, would include all of the prohibitions listed in section 18.117 of this proposed rule and notice, as well as any additional prohibitions and restrictions identified through (1) a peer review of the marine mammal monitoring and mitigation plan as required under section 18.118(a) of this proposed rule and notice, and (2) a Plan of Cooperation developed through consultations with the communities of Point Hope, Point Lay, Wainwright, and Barrow as required under section 18.118(d) of this proposed rule and notice. All of the monitoring, mitigation, and reporting requirements in sections 18.118(a) through (h) of this proposed rule and notice would also be included in the 2007 IHA for SOI except for the mitigation measures listed under section 18.118(g)(4), (5), and (6), and reporting requirements listed under section 18.118(h)(4). The mitigation measures listed in section 18.118(g)(4) and (5) are not necessary because proposed activities are limited to open-water seismic exploration after July 1, with no possibility of encountering denning polar bears. The mitigation measure identified in section 18.118(g)(6) would not be required because no offshore drilling has being proposed. The reporting requirements identified in 18.118(g)(4) would not be required because no on-shore activity has been proposed.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the

scientific community, industry, or any other interested party concerning this proposed rule.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods, as listed above in **ADDRESSES**. If you submit comments by e-mail, please submit them as an ASCII file format and avoid the use of special characters and encryption. Please include ''*Attn:* [RIN 1018–AU41]'' and your name and return address in your e-mail message. Please note that this e-mail address will be closed out at the termination of the public comment period. 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 view, we cannot guarantee that we will be able to do so.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''Sec.'' and a numbered heading; for example, Sec. 18.113. When is this subpart effective?)

(5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule?

(6) What else could we do to make the rule easier to understand?

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 view, we cannot guarantee that we will be able to do so.

Required Determinations

NEPA Considerations

We have prepared a draft Environmental Assessment (EA) in conjunction with this proposed rulemaking. Subsequent to closure of the comment period for this proposed rule, we will decide whether this is a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969. For a copy of the draft Environmental Assessment, contact the individual identified above in the section **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act

In light of the Service's recent proposed rule to list polar bears as a threatened species under the Endangered Species Act (ESA) (72 FR 1064, January 9, 2007), additional regulatory requirements may be necessary for any agency actions affecting polar bears. Currently, since polar bears are proposed for listing but not actually listed, conferencing under section 7(a)(4) of the ESA is required if an agency action is ''likely to jeopardize the continued existence of any species proposed to be listed under section 4 [of the ESA] or result in the destruction or adverse modification of critical habitat proposed to be designated for such species.'' Because this proposed rule does not pose any likelihood of jeopardy, conferencing is not required.

Regulatory Planning and Review

This document has not been reviewed by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review). This rule, if adopted, will not have an effect of $100 million or more on the economy; will not adversely affect in a material way the economy, productivity, competition, jobs, environment, public health or safety, of State, local, or tribal governments or communities; will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; and does not raise novel legal or policy issues.

Expenses will be related to, but not necessarily limited to, the development of applications for regulations and LOAs, monitoring, recordkeeping, and reporting activities conducted during Industry oil and gas operations, development of polar bear interaction plans, and coordination with Alaska Natives to minimize effects of operations on subsistence hunting. Compliance with the rule is not expected to result in additional costs to Industry that it has not already been subjected to for the previous 6 years. Realistically, these costs are minimal in comparison to those related to actual oil and gas exploration operations. The actual costs to Industry to develop the petition for promulgation of regulations (originally developed in 2005) and LOA requests do not exceed $500,000 per year, short of the ''major rule'' threshold that would require preparation of a regulatory impact analysis. As is presently the case, profits would accrue to Industry; royalties and taxes would accrue to the Government; and the rule would have little or no impact on decisions by Industry to relinquish tracts and write off bonus payments.

Small Business Regulatory Enforcement Fairness Act

We have determined that this rule, if adopted, would not be a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule, if adopted, is also not likely to result in a major increase in costs or prices for consumers, individual industries, or government agencies or have significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

We have also determined that this rule, if adopted, will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Oil companies and their contractors conducting exploration, development, and production activities in Alaska have been identified as the only likely applicants under the regulations. Therefore, a Regulatory Flexibility Analysis is not required. In addition, these potential applicants have not been identified as small businesses and, therefore, a Small Entity Compliance Guide is not required. The analysis for this proposed rule is available from the individual identified above in the section **FOR FURTHER INFORMATION CONTACT**.

Takings Implications

This rule, if adopted, would not have takings implications under Executive Order 12630 because it authorizes the nonlethal, incidental, but not intentional, take of walruses and polar bears by oil and gas industry companies and thereby exempts these companies from civil and criminal liability as long as they operate in compliance with the terms of their LOAs. Therefore, a takings implications assessment is not required.

Federalism Effects

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132. The MMPA gives the Service the authority and responsibility to protect walruses and polar bears.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule, if adopted, would not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. This rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Secretarial Order 3225, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a Government-to-Government basis. We have evaluated possible effects on federally recognized Alaska Native tribes. Through the LOA process identified in the regulations, Industry presents a Plan of Cooperation with the Native Communities most likely to be affected and engages these communities in numerous informational meetings.

Civil Justice Reform

The Departmental Solicitor's Office has determined that these regulations do not unduly burden the judicial system and meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This proposed rule contains information collection requirements. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

OMB has approved our collection of information for incidental take of marine mammals during specified activities in the Beaufort Sea and assigned OMB Control No. 1018–0070, which expires October 31, 2007. We are revising this collection to include similar collections of information for incidental take of marine mammals in the Chukchi Sea. We are submitting a request to OMB to approve this revised collection for a 3-year term. We will use the information that we collect to evaluate applications for specific incidental take regulations from the oil and gas industry to determine whether such regulations, and subsequent LOAs, should be issued; the information is needed to establish the scope of specific incidental take regulations. The information is also required to evaluate impacts of activities on species or stocks of marine mammals and on their availability for subsistence uses by Alaska Natives. It will ensure that applicants considered all available means for minimizing the incidental take associated with a specific activity.

We estimate that up to 20 companies will request LOAs and submit monitoring reports annually for the Beaufort and Chukchi Seas regions covered by the specific regulations. We estimate that the total annual burden associated with the request will be 1,625 hours during years when applications for regulations are required and 1,025 hours when regulatory applications are not required. This represents an average annual estimated burden taken over a 3-year period, which includes the initial 300 hours required to complete the request for specific procedural regulations. We estimate that there will be an annual average of six on-site observation reports per LOA. For each LOA expected to be requested and issued subsequent to issuance of specific procedural regulations, we estimate that 33.5 hours per project will be invested (24 hours will be required to complete each request for an LOA, approximately 1.5 hours will be required for onsite observation reporting, and 8 hours will be required to complete each final monitoring report). The public burden associated with the 3-year period covered by this request for information collection authority is estimated at 3,675 hours.

Title: Marine Mammals: Incidental Take of Marine Mammals During Specified Activities Applications, 50 CFR 18, Subparts I and J.

OMB Number: 1018–0070.

Bureau form number: None.

Frequency of collection: Semiannual.

Description of respondents: Oil and gas industry companies.

Total Annual Responses: 202.

Total Annual Burden Hours: 1,625.

We invite interested members of the public and affected agencies to comment on these proposed information collection and recordkeeping activities. Comments are invited on: (1) Whether or not the collection of information is necessary for the proper performance of the functions of the Service, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden for this collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–6566 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or *hope_grey@fws.gov* (e-mail).

Energy Effects

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule would provide exceptions from the taking prohibitions of the MMPA for entities engaged in the exploration of oil and gas in the Chukchi Sea and adjacent western coast of Alaska. By providing certainty regarding compliance with the MMPA, this rule will have a positive effect on Industry and its activities. Although the rule requires Industry to take a number of actions, these actions have been undertaken by Industry for many years as part of similar past regulations. Therefore, this rule is not expected to significantly affect energy supplies, distribution, or use and does not constitute a significant energy action. No Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons set forth in the preamble, the Service proposes to amend part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below.

PART 18—MARINE MAMMALS

1. The authority citation of 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Amend part 18 by adding a new subpart I to read as follows:

Subpart I—Nonlethal Taking of Pacific Walruses and Polar Bears Incidental to Oil and Gas Exploration Activities in the Chukchi Sea and Adjacent Coast of Alaska

Sec.

18.111 What specified activities does this subpart cover?
18.112 In what specified geographic region does this subpart apply?
18.113 When is this subpart effective?
18.114 How do I obtain a Letter of Authorization?
18.115 What criteria does the Service use to evaluate Letter of Authorization requests?
18.116 What does a Letter of Authorization allow?
18.117 What activities are prohibited?
18.118 What are the monitoring, mitigation, and reporting requirements?
18.119 What are the information collection requirements?

§ 18.111 What specified activities does this subpart cover?

Regulations in this subpart apply to the nonlethal incidental, but not intentional, take of small numbers of Pacific walruses and polar bears by you (U.S. citizens as defined in § 18.27(c)) while engaged in oil and gas exploration activities in the Chukchi Sea and adjacent western coast of Alaska.

§ 18.112 In what specified geographic region does this subpart apply?

This subpart applies to the specified geographic region defined as the continental shelf of the Arctic Ocean adjacent to western Alaska. This area includes the waters (State of Alaska and Outer Continental Shelf waters) and seabed of the Chukchi Sea, which encompasses all waters north and west of Point Hope (68°20′20″ N, −166° 50′40″ W, BGN 1947) to the U.S.-Russia Convention Line of 1867, west of a north-south line through Point Barrow (71°23′29″ N, −156°28′30″ W, BGN 1944), and up to 200 miles north of Point Barrow. The region also includes the terrestrial coastal land 25 miles inland between the western boundary of the south National Petroleum Reserve—Alaska (NPR–A) near Icy Cape (70°20′00″, −148°12′00″) and the north-south line from Point Barrow. This terrestrial region encompasses a portion of the Northwest and South Planning Areas of the NPR–A. Figure 1 shows the area where this subpart applies.

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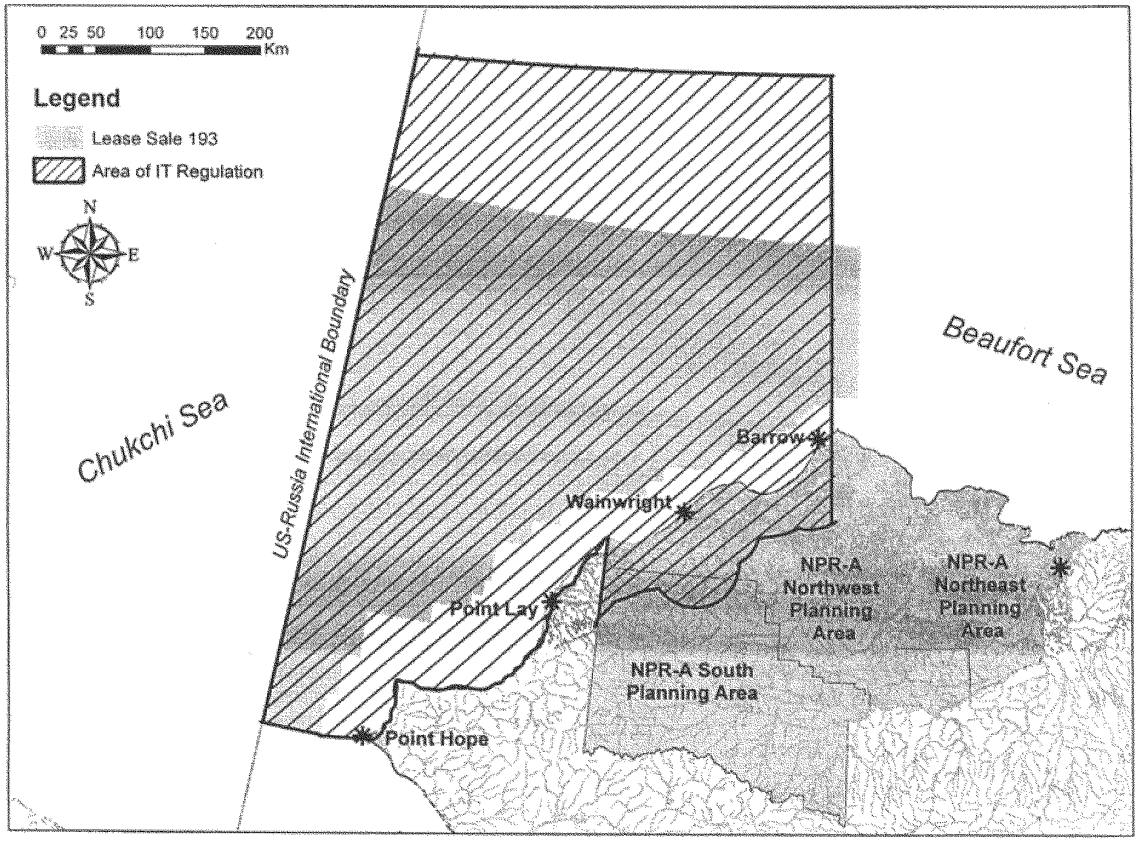

Figure 1: The geographic area of the Chukchi Sea and onshore coastal areas covered by the incidental take regulations.

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§ 18.113 When is this subpart effective?

Regulations in this subpart are effective from [*effective date of the final rule*] through [*date 5 years from the effective date of the final rule*] for year-round oil and gas exploration activities.

§ 18.114 How do I obtain a Letter of Authorization?

(a) You must be a U.S. citizen as defined in § 18.27(c).

(b) If you are conducting an oil and gas exploration activity in the specified geographic region described in § 18.112 that may cause the taking of Pacific walruses or polar bears and you want nonlethal incidental take authorization under this rule, you must apply for a Letter of Authorization for each exploration activity. You must submit the application for authorization to our Alaska Regional Director (see 50 CFR 2.2 for address) at least 90 days prior to the start of the proposed activity.

(c) Your application for a Letter of Authorization must include the following information:

(1) A description of the activity, the dates and duration of the activity, the specific location, and the estimated area affected by that activity, *i.e.*, a Plan of Operation.

(2) A site-specific plan to monitor the effects of the activity on the behavior of Pacific walruses and polar bears encountered during the ongoing activities, *i.e.*, marine mammal monitoring and mitigation plan. Your monitoring program must document the effects to these marine mammals and estimate the actual level and type of take. The monitoring requirements will vary depending on the activity, the location, and the time of year.

(3) A site-specific polar bear awareness and interaction plan, *i.e.*, polar bear interaction plan.

(4) A Plan of Cooperation to mitigate potential conflicts between the proposed activity and subsistence hunting, where relevant. This Plan of Cooperation must identify measures to minimize adverse effects on the availability of Pacific walruses and polar bears for subsistence uses if the activity takes place in or near a traditional subsistence hunting area. Some of these measures could include, but are not limited to, mitigation measures described in § 18.118.

§ 18.115 What criteria does the Service use to evaluate Letter of Authorization requests?

(a) We will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request exceeds that analyzed by us in making a finding of negligible impact on the species and a finding of no unmitigable adverse impact on the availability of the species for take for subsistence uses. If the level of activity is greater, we will reevaluate our

findings to determine if those findings continue to be appropriate based on the greater level of activity that you have requested. Depending on the results of the evaluation, we may grant the authorization, add further conditions, or deny the authorization.

(b) In accordance with § 18.27(f)(5), we will make decisions concerning withdrawals of Letters of Authorization, either on an individual or class basis, only after notice and opportunity for public comment.

(c) The requirement for notice and public comment in paragraph (b) of this section will not apply if we determine that an emergency exists that poses a significant risk to the well-being of species or stocks of Pacific walruses or polar bears.

§ 18.116 What does a Letter of Authorization allow?

(a) Your Letter of Authorization may allow the nonlethal incidental, but not intentional, take of Pacific walruses and polar bears when you are carrying out one or more of the following activities:

(1) Conducting geological and geophysical surveys and associated activities;

(2) Drilling exploratory wells and associated activities; or

(3) Conducting environmental monitoring activities associated with exploration activities to determine specific impacts of each activity.

(b) You must use methods and conduct activities identified in your Letter of Authorization in a manner that minimizes to the greatest extent practicable adverse impacts on Pacific walruses and polar bears, their habitat, and on the availability of these marine mammals for subsistence uses.

(c) Each Letter of Authorization will identify conditions or methods that are specific to the activity and location.

§ 18.117 What activities are prohibited?

(a) Intentional take and lethal incidental take of Pacific walruses or polar bears; and

(b) Any take that fails to comply with this part or with the terms and conditions of your Letter of Authorization.

§ 18.118 What are the monitoring, mitigation, and reporting requirements?

We require holders of Letters of Authorization to cooperate with us and other designated Federal, State, and local agencies to monitor the impacts of oil and gas exploration activities on Pacific walruses or polar bears.

(a) *Marine mammal monitoring and mitigation plan.* (1) Holders of Letters of Authorization will be required to have a Service-approved, site-specific marine mammal monitoring and mitigation plan on file with the Service and on site. Marine mammal monitoring and mitigation plans must enumerate the number of walruses and polar bears encountered during specified exploration activities, estimate the number of incidental takes that occurred during specified exploration activities, and evaluate the effectiveness of prescribed mitigation measures.

(2) Applicants must fund an independent peer review of proposed monitoring plans and draft reports of monitoring results. This peer review will consist of independent reviewers who have knowledge and experience in statistics, marine mammal behavior, and the type and extent of the proposed operations. The applicant will provide the results of these peer reviews to the Service for consideration in final approval of marine mammal monitoring and mitigation plans and final reports. The Service will distribute copies of marine mammal monitoring and mitigation plans and reports to appropriate resource management agencies and co-management organizations.

(b) *Marine mammal observer.* Holders of Letters of Authorization must designate a qualified individual or individuals to observe, record, and report on the effects of their activities on Pacific walruses or polar bears. The person or persons designated to observe and record the effects of exploration activities must be approved by the Service.

(c) *Polar bear interaction plan.* Holders of Letters of Authorization are required to have a polar bear interaction plan on file with the Service and on site, and polar bear awareness training will also be required of certain personnel. Polar bear interaction plans will include:

(1) The type of activity and where and when the activity will occur, *i.e.*, a plan of operation;

(2) A food and waste management plan;

(3) Personnel training materials and procedures;

(4) Site at-risk locations and situations;

(5) A snow management plan;

(6) Polar bear observation and reporting procedures; and

(7) Polar bear avoidance and encounter procedures.

(d) *Minimizing effects on subsistence uses.* Applicants must use methods and conduct activities identified in their Letter of Authorization in a manner that, to the greatest extent practicable, minimizes adverse impacts on Pacific walruses and polar bears, their habitat, and on the availability of these marine mammals for subsistence uses.

(1) Prior to receipt of a Letter of Authorization, applicants must consult with affected communities and appropriate marine mammal management groups to discuss potential conflicts with subsistence walrus and polar bear hunting caused by the location, timing, and methods of proposed operations. These communities and groups are the Eskimo Walrus Commission and the Alaska Nanuuq Commission and the communities of Point Hope, Point Lay, Wainwright, and Barrow.

(2) In the application for a Letter of Authorization, applicants must include documentation of all consultations. Documentation can include meeting minutes, a summary of any concerns identified by community members, and the applicant's responses to identified concerns.

(3) If community concerns suggest that the proposed activities may have an adverse impact on the subsistence uses of these species, the applicant must address conflict avoidance issues through a Plan of Cooperation as described in paragraph (e) of this section.

(e) *Plan of Cooperation.* Where prescribed, holders of Letters of Authorization will be required to have a Plan of Cooperation on file with the Service and on site. The Plan of Cooperation must address how applicants will work with potentially affected Native communities and what actions will be taken to avoid interference with subsistence hunting opportunities for walruses and polar bears beyond those stipulations in the incidental take regulations and individual Letters of Authorization.

(1) The Plan of Cooperation must include:

(i) A description of the procedures by which the holder of the Letter of Authorization will work and consult with potentially affected subsistence hunters; and

(ii) A description of specific measures that have been or will be taken to avoid or minimize interference with subsistence hunting of walruses and polar bears and to ensure continued availability of the species for subsistence use.

(2) The Service will review the Plan of Cooperation to ensure that any potential adverse effects on the availability of the animals are minimized. The Service will reject Plans of Cooperation if they do not provide adequate safeguards to ensure the least practicable adverse impact on the

availability of walruses and polar bears for subsistence use.

(f) *Required mitigation measures.* Mitigation measures that will be required for all projects include:

(1) A Service-approved marine mammal monitoring and mitigation plan as described in paragraph (a) of this section.

(2) A Service-approved polar bear interaction plan as described in paragraph (c) of this section.

(3) A record of communication with potentially affected villages to mitigate adverse effects of the project on subsistence activities. This record may be the precursor to a Plan of Cooperation as described in paragraph (e) of this section.

(4) For marine vessels, a ½-mile operational exclusion zone around any walruses or polar bears observed on land or ice.

(5) For aircraft, a 1,000-foot minimum altitude within ½ mile of hauled out Pacific walruses.

(6) Polar bear monitors under the marine mammal monitoring and mitigation plan if polar bears are known to frequent the area or known polar bear dens are present in the area. Monitors will act as an early detection system in regard to proximate bear activity to Industry facilities.

(g) *Possible additional mitigation measures.* Mitigation measures that we may require on a case-by-case basis as appropriate include:

(1) The use of marine mammal observers associated with all offshore exploration activities.

(i) Marine mammal observers must have completed a marine mammal observer training course approved by the Service. Operators may use observers trained by third parties, may send crew for training conducted by third parties, or may develop their own training program. To obtain Service approval, all training programs must:

(A) Furnish to the Service a course information packet that includes the name and qualifications (i.e., experience, training completed, and educational background) of the instructor(s), the course outline or syllabus, and course reference material;

(B) Furnish each trainee with a document verifying successful completion of the course; and

(C) Provide the Service with names, affiliations, and dates of course completion of trainees.

(ii) The training course must include the following elements:

(A) Overview of the Marine Mammal Protection Act as it relates to seismic acquisition and protection of marine mammals;

(B) Overview of seismic acquisition operations;

(C) Overview of mitigation measures and the marine mammal monitoring program; and

(D) Discussion of the role and responsibilities of the marine mammal observer, including:

(*1*) Regulatory requirements (why the observer is here and what that person does);

(*2*) Authority of the marine mammal observer to call for shut-down of seismic acquisition operations;

(*3*) Assigned duties;

(*4*) Reporting of violations and coercion;

(*5*) Identification of arctic marine mammal species, including various age and sex classes of Pacific walruses;

(*6*) Cues and search methods for locating marine mammals; and

(*7*) Data collection and reporting requirements.

(2) *Mitigation measures for offshore seismic exploration activities.* Such mitigation measures will include:

(i) *Spacing of activities.* Operators must maintain a minimum spacing of 15 miles between all seismic-source vessels and/or exploratory drilling operations to mitigate cumulative impacts to resting, feeding, and migrating walruses.

(ii) *Exclusion zone.* An exclusion zone at and below the sea surface within a radius defined by a 180-decibel (dB) isopleth (for walruses) and a 190-dB isopleth (for polar bears) from the center of the sound source must be free of walruses and polar bears before the survey can begin and must remain free of walruses and polar bears during the seismic survey.

(iii) *Monitoring of the exclusion zone.* Trained marine mammal observers will monitor the area around the survey for the presence of walruses and polar bears to maintain a marine mammal-free exclusion zone and monitor for avoidance or take behaviors.

(iv) *Ramp-up procedures.* For all seismic surveys, including airgun testing, use the following ramp-up procedures to allow marine mammals to depart the exclusion zone before seismic surveying begins:

(A) Visually monitor the exclusion zone and adjacent waters for the absence of polar bears and walruses for at least 30 minutes before initiating ramp-up procedures. If no polar bears or walruses are detected, you may initiate ramp-up procedures. Do not initiate ramp-up procedures at night or when you cannot visually monitor the exclusion zone for marine mammals.

(B) Initiate ramp-up procedures by firing a single airgun. The preferred airgun to begin with should be the smallest airgun, in terms of energy output (dB) and volume (in^3).

(C) Continue ramp-up by gradually activating additional airguns over a period of at least 20 minutes, but no longer than 40 minutes, until the desired operating level of the airgun array is obtained.

(D) Immediately shut down all airguns and cease seismic operations at any time a polar bear or walrus mammal is detected entering or within the exclusion zone. You may recommence seismic operations and ramp-up of airguns only when the exclusion zone has been visually inspected for at least 30 minutes to ensure the absence of walruses and polar bears.

(E) You may reduce the source level of the airgun array, using the same shot interval as the seismic survey, to maintain a minimum source level of 160 dB re 1 μPa-m (rms) for the duration of certain activities. By maintaining the minimum source level, you will not be required to conduct the 30-minute visual clearance of the exclusion zone before ramping back up to full output.

(*1*) Activities that are appropriate for maintaining the minimum source level include turns between transect lines, when a survey using the full array is being conducted immediately prior to the turn and will be resumed immediately after the turn, and unscheduled, unavoidable maintenance of the airgun array that requires the interruption of a survey to shut down the array. The survey should be resumed immediately after the repairs are completed.

(*2*) There may be other occasions when reducing the source level of the airgun array is appropriate, but use of the minimum source level to avoid the 30-minute visual clearance of the exclusion zone is only for events that occur during a survey using the full power array. The minimum sound source level is not to be used to allow a later ramp-up after dark or in conditions when ramp-up would not otherwise be allowed.

(v) *Field verification.* Before conducting the survey, the operator must verify the radii of the exclusion/safety zones within real-time conditions in the field. Field-verification techniques must use valid techniques for determining propagation loss. When moving a seismic-survey operation into a new area, the operator must verify the new radii of the zones by applying a sound-propagation series.

(3) *Limits on take authorization.* (i) We will not issue take authorization for seismic surveys or exploratory drilling activities within a 40-mile radius of Barrow, Wainwright, Point Hope, or

Point Lay, unless expressly authorized by the community through consultation or a Plan of Cooperation as described in paragraph (e) of this section.

(ii) We will limit authorization of offshore exploration activities to the open-water season, which will not exceed the period of July 1 to November 30.

(4) *Efforts to locate dens.* Industry must use Forward Looking Infrared (FLIR) imagery, polar bear scent-trained dogs, or both to determine presence or absence of maternal polar bear dens in areas of activity.

(5) *Efforts to minimize disturbance around dens.* Industry must restrict the timing of the activity to limit disturbance around polar bear dens. If known occupied dens are located within an operator's area of activity, we will require a 1-mile operational exclusion buffer around the den to limit disturbance or require that the operator conduct activities after the female bears emerge from their dens. We will review these requirements for extenuating circumstances on a case-by-case basis.

(6) Mitigation measures for offshore drilling operations. Such mitigation measures will include requirements for ice-scouting, surveys for walruses and polar bears in the vicinity of active drilling operations, marine mammal observers onboard drill-ships and ice breakers, and operational restrictions near walrus and polar bear aggregations.

(h) *Reporting requirements.* Reporting requirements for exploratory activities will include:

(1) *Offshore seismic monitoring reports.* In order to accommodate various vessels' bridge practices and preferences, vessel operators and observers may design data reporting forms in whatever format they deem convenient and appropriate. At a minimum, the following items must be recorded and included in reports to the Service:

(i) *Observer effort report.* The operator must prepare an observer effort report for each day during which seismic acquisition operations are conducted. On a weekly basis, provide the Service an observer effort report that includes:

(A) Vessel name.

(B) Observers' names and affiliations.

(C) Survey type (e.g., site, 2D, 3D).

(D) Minerals Management Service Permit Number (for ''off-lease seismic surveys'') or Outer Continental Shelf Lease Number (for ''on-lease seismic surveys'').

(E) Date.

(F) Time and latitude/longitude when daily visual survey began.

(G) Time and latitude/longitude when daily visual survey ended.

(H) Average environmental conditions while on visual survey, including:

(*1*) Wind speed and direction;

(*2*) Sea state (glassy, slight, choppy, rough or Beaufort scale);

(*3*) Swell (low, medium, high or swell height in meters);

(*4*) Overall visibility (poor, moderate, good); and

(*5*) Sea ice concentrations (None, Scattered flows <10%, >10%).

(ii) *Survey report.* The operator must prepare a survey report for each day during which seismic acquisition operations are conducted and the airguns are being discharged. On a weekly basis, provide the Service a survey report that includes:

(A) Vessel name.

(B) Survey type (e.g., site, 2D, 3D).

(C) Date and time.

(D) Time pre-ramp-up survey begins.

(E) Whether walruses or polar bears were seen during pre-ramp-up survey.

(F) Time ramp-up begins.

(G) Whether walruses or polar bears were seen during ramp-up.

(H) Time airgun array is operating at the desired intensity.

(I) Radius of 180- and 190-dB exclusion zones.

(J) Whether walruses or polar bears were seen during the survey.

(K) If walruses or polar bears were seen, whether any action taken (i.e., survey delayed, guns shut down).

(L) Reason that walruses or polar bears might not have been seen (e.g., swell, glare, fog).

(M) Time airgun array stops firing.

(2) *Walrus observation report.* The operator must prepare a walrus observation report for each walrus sighting made by marine mammal observers and submit these reports to the Service on a weekly basis. Information within the observation report will include, but is not limited to:

(A) Vessel/aircraft name.

(B) Survey type (e.g., 2D, 3D).

(C) Date and time.

(D) Water depth (in meters).

(E) Ice conditions (none, <10% concentration, >10% concentration).

(F) Watch status (Were you on watch or was this sighting made opportunistically by you or someone else?).

(G) Observer or person who made the sighting.

(H) Latitude/longitude of vessel.

(I) Bearing of vessel.

(J) Bearing and estimated range to animal(s) at first sighting.

(K) Species sighted.

(L) Estimated certainty of identification (whether the identification is certain, most likely, or a best guess).

(M) Total number of animals.

(N) Substrate (hauled out on ice, swimming in water, both).

(O) Estimated age and sex class of observed animals.

(P) General description of the animals.

(Q) Compass direction of the animal's travel.

(R) Direction of the animal's travel related to the vessel (drawing preferably).

(S) Behavior (as explicit and detailed as possible; note any observed changes in behavior).

(T) Whether airguns were firing.

(U) Closest distance (in meters) to animals from center of airgun or airgun array (whether firing or not).

(3) *Polar bear observation report.* The operator must report, within 24 hours, all observations of polar bears during any Industry operation. Information within the observation report will include, but is not limited to:

(i) Date of observation.

(ii) Time of observation.

(iii) Observer name.

(iv) Contact telephone number and e-mail address.

(v) Location, with latitude, longitude, and datum.

(vi) Weather conditions at the time of observation.

(vii) Visibility.

(viii) Number of bears: sex and age.

(ix) Estimated closest point of approach for bears from personnel and facilities.

(x) Possible attractants present.

(xi) Bear behavior.

(xii) A description of the encounter.

(xiii) Duration of the encounter.

(xiv) Agency contacts.

(4) *Watch logs.* Observers may incorporate activities within the coast of the geographic region into daily polar bear watch logs.

(5) *Notification of incident report.* The operator must report any violation of conditions of the Letter of Authorization, incidental lethal take, or observations of walruses or polar bears within the prescribed zone of ensonification within 24 hours.

(i) For vessel operations, the notification of incident report must include:

(A) Company conducting the seismic work.

(B) Vessel name.

(C) Name of the Marine Mammal Observer (MMO).

(D) MMO employer.

(E) Type of vessel (support or seismic).

(F) Whether airguns were firing, and if so, how many.

(G) Zone of ensonification used (in meters).

(H) Visibility distance (in kilometers).

(I) General weather.

(J) Whether ice was present, and if so, the estimated percent of ice cover.

(K) Date and time (Alaska standard time).

(L) GPS location (decimal degrees in WGS84).

(M) Distance when first observed from vessel (in meters) and behavior.

(N) Distance when last observed from vessel (in meters) and behavior.

(O) Minimum distance during encounter.

(P) Duration of encounter.

(Q) Whether the animal responded or reacted to the vessel.

(R) A description of the encounter.

(S) Whether shutdown occurred.

(T) Time elapsed before ramp up (in minutes).

(U) Number and composition of animals involved.

(ii) For fixed-winged aircraft and helicopter operations, the notification of incident report must include:

(A) Aircraft identification.

(B) Aircraft type.

(C) Name of pilot or observer.

(D) Altitude and direction of aircraft.

(E) Number and composition of animals involved.

(F) Minimum distance during encounter.

(G) Whether the animal responded or reacted to the aircraft.

(H) Date and time (Alaska standard time) of incident.

(I) GPS location (decimal degrees in WGS84).

(J) A description of the encounter.

(K) Whether ice was present, and if so, the estimated percent of ice cover.

(L) General weather.

(M) Visibility distance (in kilometers).

(6) *After-action monitoring report.* Holders of a Letter of Authorization must submit a report to our Alaska Regional Director (Attn: Marine Mammals Management Office) within 90 days after completion of activities. Reports must include, at a minimum, the following information:

(i) Dates, times, and types of activity.

(ii) Dates, times, and locations of activity as related to the monitoring activity.

(iii) Results of the monitoring activities, including an estimated level of take.

(iv) Dates and locations of all Pacific walrus and polar bear observations as related to the operation activity when the sighting occurred.

(v) A weekly summary of the hours and distance traveled during observation periods.

§ 18.119 What are the information collection requirements?

(a) The Office of Management and Budget has approved the collection of information contained in this subpart and assigned control number 1018–0070. You must respond to this information collection request to obtain a benefit pursuant to section 101(a)(5) of the Marine Mammal Protection Act. We will use the information to

(1) Evaluate the application and determine whether or not to issue specific Letters of Authorization and

(2) Monitor impacts of activities conducted under the Letters of Authorization.

(b) You should direct comments regarding the burden estimate or any other aspect of this requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Department of the Interior, Mail Stop 222 ARLSQ, 1849 C Street, NW., Washington, DC 20240.

Dated: May 25, 2007.

Todd Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–10509 Filed 5–31–07; 8:45 am]

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 2007

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

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