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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 1210

[Doc. No. AMS–FV–07–0038; FV–07–701]

Watermelon Research and Promotion Plan; Assessment Increase

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Watermelon Research and Promotion Plan (Plan) to increase the assessment rate on producers, handlers, and importers of watermelons from four cents to six cents per hundredweight. Domestic producers and handlers will pay three cents per hundredweight each and importers will pay six cents per hundredweight. The increase is provided for under the Plan which is authorized by the Watermelon Research and Promotion Act (Act). The National Watermelon Promotion Board (Board), which administers the Plan, recommended this action to sustain and expand their promotional, research, and communications programs.

DATES: *Effective Date:* January 1, 2008.

FOR FURTHER INFORMATION CONTACT: Daniel Manzoni, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 0634, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915; or fax: (202) 205–2800; or e-mail: *Daniel.Manzoni@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under the Watermelon Research and Promotion Plan [7 CFR part 1210]. This rule will increase the assessment rate by one cent per hundredweight for producers and handlers each, and by two cents per hundredweight for importers. The Plan is authorized under the Watermelon Research and Promotion Act [7 U.S.C. 4901–4916].

Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act allows producers, handlers, and importers subject to the Plan to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with the law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has considered the economic impact of this action on the small businesses and has prepared this final regulatory analysis. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than $6.5 million. Under these definitions, the majority of the producers, handlers, and importers that would be affected by this rule would be considered small entities. Producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt.

According to the National Watermelon Promotion Board (Board), there are approximately 1,301 producers, 442 first handlers, and 346 importers who are subject to the provisions of the Plan.

Under the current Plan, domestic producers of 10 acres or more and handlers of watermelon each pay a mandatory assessment rate of two cents per hundredweight, and importers of more than 150,000 pounds of watermelon per year pay an assessment of four cents per hundredweight. Assessments under the program are used by the Board to finance promotion, research, and educational programs designed to increase consumer demand for watermelons in the United States and international markets. The assessments at the current four cents per hundredweight generate about $1.5 million in annual revenues. The two cents per hundredweight assessment rate each for domestic watermelon producer and handler was established in April 1990. The four cents per hundredweight assessment rate on imported watermelons became effective when the Plan was amended in February 1995 to authorize the collection of assessments on importers. The Plan is administered by the Board under U.S. Department of Agriculture supervision.

According to the Board, additional revenue is required in order to sustain and expand the promotional, research, and communications programs. The Board approved the proposed assessment rate increase at its February 24, 2007, meeting. This increase is consistent with section 1647(f) of the Act that permits changes in the assessment rate through notice and comment procedures. Section 1210.341(b) of the Plan states that assessment rates shall be fixed by the Secretary in accordance with section 1647(f) of the Act. Section 1210.515(a) of the Plan states that an assessment of two cents per hundredweight shall be levied on all watermelons produced and on all watermelons first handled for

consumption as human food. It also states that an assessment of four cents per hundredweight shall be levied on watermelons imported into the U.S. for consumption as human food. Further, not more than one assessment on a producer, handler, or importer may be collected on any lot of watermelons.

The Board conducted an inflation analysis based on the current assessment rate of four cents per hundredweight starting from 1995. The analysis results show that, adjusted for inflation, the 1995 four cents per hundredweight total assessment is equivalent to three cents per hundredweight for the current program year. On an inflation adjusted basis, using 1995 as the base year, the watermelon industry's program to support research and promotion activities has lost 25 percent of its effective buying power. This erosion in buying power has had a significant impact on the industry's ability to compete for market share. The cost of media services, research programs, promotional opportunities, as well as general administrative costs and fees paid to USDA have continually risen. Assessments collected have not kept pace with these increasing costs. Movement and sales of watermelon continue to grow; however, that growth has not outpaced the negative effects of inflation.

With the increased assessment, the financial commitment of the U.S. watermelon industry for generic research and promotion activity will increase 50 percent in current dollars. For example, if we apply the assessment increase to the 2005–2006 crop year, in which collections totaled $1,583,983 on 3,959,957,500 pounds of watermelons, the increase in assessments collected would have been approximately $791,991. The Board plans to use the additional funds to expand promotional activities, and to increase the Board's reserve fund over a two-year period to provide for adequate cash flow. By changing the assessment rate to six cents per hundredweight, the Board stated that it will maintain its research and promotional activities, expand its programs, and sustain marketing activities in the future with rising cost expenditures.

The Board estimates the two cents per hundredweight increase in assessments would increase the cost to watermelon producers from $16.00 per truckload of watermelons to $24.00 per truckload of watermelons. At Freight on Board (FOB) prices of about $0.14 per pound of watermelons, this amounts to a total assessment of 0.00429 percent of the value of a truck load of watermelons. This is based on a 40,000 pound net weight of watermelons per truck load.

The Board considered three alternatives prior to the recommendation to increase the assessment rate. First, the Board engaged in several cost saving measures as an alternative to increasing the assessment rate which included moving to less expensive offices, changes in the staff health insurance program, change in independent auditors, and the elimination of one professional staff position. The results of the savings were over $120,000 which equals approximately 10 percent of the Board's revenue for the 2005–2006 crop year.

The second alternative considered by the Board was a prior attempt to increase additional revenue by expanding the handler base for watermelons. A referendum was conducted by AMS between December 2001 and January 2002. The proposed amendment to the Plan requested the watermelon industry to expand the program to cover all handlers of watermelons which would have included wholesalers, persons who arrange the sale or transfer of watermelon (such as brokers) and fresh cut processors. The amendment was not approved in referendum. Therefore, the Plan continues to cover domestic producers of 10 acres or more, first handlers, and importers of 150,000 pounds or more of watermelon annually.

The final alternative considered by the Board was the current assessment rate proposal. The Board discussed increasing the assessment rate by one cent per hundredweight for each producer of 10 acres or more, handler, and importer of 150,000 pounds or more of watermelon annually. The one cent increase was rejected by the Board on the basis that an increase of this size would only return the program to the 1995 adjusted funding level. In order to sustain and expand the promotional, research, and communication programs, the Board decided on the increased assessment rate of two cents per hundredweight for a total assessment rate of six cents per hundredweight (three cents per hundredweight paid by producers, three cents per hundredweight paid by handlers, and six cents per hundredweight paid by importers of watermelons).

This rule does not impose additional recordkeeping requirements on first handlers, producers, or importers of watermelons. Producers of fewer than 10 acres of watermelon and importers of less than 150,000 pounds of watermelon annually are exempt.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

In accordance with the Office of Management and Budget (OMB) regulation 5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the position of watermelons in the marketplace, and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 or more pounds of watermelons per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service and Border Protection.

This rule increases the assessment rate by one cent per hundredweight for producers and handlers each, and by two cents per hundredweight for importers. Currently, the assessment rate is two cents per hundredweight levied on watermelons produced and two cents per hundredweight on watermelons handled within the 50 States of the United States and four cents per hundredweight on imports of watermelon. In order to sustain and expand the promotion, research, and communications programs at present levels, the Board contends that additional revenue is required. The two cents per hundredweight assessment rate increase is estimated to generate $750,000–$800,000 in new revenue, depending upon production levels. For the 2005–2006 crop year, total production was 3,959,957,500 pounds of watermelons resulting in $1,583,983 in assessment collections. Based on assessments collected for that crop year, about 75 percent of this production total was from domestic assessments, with

the remainder from imports. The Board states that the assessment rate increase will enable it to expand media services, educational programs, research programs, and establish, maintain, and expand domestic and foreign markets for watermelons. Some of the additional revenue, the Board states, would be used to increase the reserve fund over a two-year period and to provide for adequate cash flow. Also, it is estimated that the Board will receive $2.3 million in total assessments with a six cents per hundredweight assessment rate on watermelons.

In addition, the Board, whose members represent all watermelon producing states as well as importers, voted for the assessment rate increase at its February 24, 2007, meeting which was open to the public like all other meetings. The vote to recommend the assessment increase was 22 in favor and 1 against of the Board members present at the meeting. In the case of the one dissenting vote, the producer member stated that he opposed the two cents per hundredweight increase; however, he would support an increase of one cent per hundredweight. The assessment rate of one cent per hundredweight was rejected by the Board on the basis that such an increase would only return the program to its 1995 inflation adjusted funding level. According to the Board, the one cent per hundredweight would not allow the program to expand its activities.

This rule amends the rules and regulations issued under the Plan. This rule increases the assessment rate by two cents per hundredweight. The rate will increase from four cents to six cents per hundredweight. Producers of 10 acres or more and handlers of watermelons will each pay three cents per hundredweight and importers of 150,000 pounds or more of watermelons annually will pay six cents per hundredweight. This increase is consistent with section 1647(f) of the Act that permits changes in the assessment rate through notice and comment procedures. Section 1210.341(b) of the Plan states that assessment rates shall be fixed by the Secretary in accordance with section 1647(f) of the Act. Further, not more than one assessment on a producer, handler, or importer may be collected on any lot of watermelons.

A proposed rule concerning this action was published in the **Federal Register** on May 8, 2007 (72 FR 26005). Copies of the rule were made available through the Internet by USDA and the Office of the **Federal Register**. In addition, AMS published a press release announcing the comment period. That rule provided a 60-day comment period which ended July 9, 2007. Forty comments were received by the deadline.

Summary of Comments

In response to the proposed rule, USDA received 40 comments regarding the proposed amendment to the Plan to increase the assessment rate on producers, handlers, and importers of watermelons from four cents to six cents per hundredweight. Domestic producers and handlers will pay three cents per hundredweight each and importers will pay six cents per hundredweight. Of the 40 comments, 27 supported the proposed amendment and 13 comments did not support the proposed amendment. There were 5 duplicate comments. Two of the supporting comments were letters responding to a commenter who opposed the proposed amendment.

In general, commenters supporting the amendment stated that the watermelon industry benefits from the current program. Four commenters stated that the additional revenue from the proposed amendment will improve the program by enhancing the industry's ability to continue promoting watermelons, as it can no longer assume watermelons are going to receive shelf space or be a preferred item in advertising. According to the commenters, the Board is fighting for promotional opportunities and has done an outstanding job of promoting the health benefits, convenience, and the great taste of watermelons to customers. According to these commenters, consumers are more health-conscious than ever and the public needs to be more informed of the nutritional and health value of watermelons. Two commenters further stated that the industry must educate the consumer about watermelons availability all year round.

Six commenters stated that customers rely exclusively on the Board for product information and marketing support in areas where there are no branded watermelon programs. These commenters also stated that increasing awareness of watermelons in the market place will lead to an increase in consumption. The commenters further stated that an increase in revenue will help the Board continue its work of promoting watermelons.

Eleven commenters supported the assessment increase in order to sustain the Board's program of research and consumer information. The commenters stated that the increased funding will help the Board put more emphasis on research as they have done for Lycopene, assisting in solving the mature vine decline problem plaguing the industry, target consumer research, emphasize media relations, and fund successful promotions like the Weight Watchers Pick of the Season promotion, and Teachers Kits promotions. Other commenters stated that recent research conducted on Citrulline and Lycopene should be further explored to formally validate the specific health attributes of Citrulline and Lycopene. However, further studies will require more money, and that is a sufficient reason for supporting the assessment rate increase.

Two commenters stated that programs like the mango research and promotion program have large budgets to support research at the consumer and trade level. Three commenters stated that the Board's budget has not increased significantly since 1995 and that, taking into consideration inflation, the Board is working with 25 percent less funds. According to the commenters, worthwhile programs and opportunities are being eliminated because of ever-tightening budgets.

Two commenters stated that consumer studies in 2002, 2004, and 2006 show increased consumption of watermelons by consumers. The commenters believed that the results could be better if the Board had more funds to position watermelons as a year-round fruit, increase awareness of watermelon health benefits, and provide recipes and appealing ways to incorporate watermelons into consumer diets.

Thirteen commenters stated that the Board does not need a food safety crisis similar to what happened in other commodities in order to realize the importance of having sufficient monies available to respond with a coordinated emergency response to maintain the public's confidence in the safety of watermelons. The commenters recommended that the Board continue developing training in the areas of crisis prevention and crisis management plan in order to be prepared if a crisis in the industry occurs. The commenters believed in having the necessary resources to deal with food safety issues that may arise in the future. Currently, the Board has a crisis management plan in place which is revised every year.

One commenter stated that before requesting the increase, the Board considered other alternatives such as reducing operating cost by $120,000 and include wholesalers and brokers in the program. This last measure failed in referendum.

One commenter stated that the growers, shippers, and importers on the Board work hard to use the assessments

in the most prudent and cost effective manner.

Another commenter stated that when research and promotion programs increase their assessment rates, there is a measurable increase to the return on investment to the industry. The commenter cited an evaluation conducted in December 2002, by Dr. Ronald W. Ward from the Food and Resource Economics Department of the University of Florida titled the Generic Promotions of Watermelons: Measuring the Impact on Watermelon Demand, which addressed the question of whether generic promotion of watermelons has a measurable impact on the domestic demand for watermelons. The evaluation's conclusions were based on a subset of U.S. cities with data recorded over the months from 1992–1999. The evaluation concluded that generic promotion of watermelons does have a measurable impact on domestic demand.

One commenter stated that the assessment increase will result in an overall assessment of $24 per truckload of watermelon. The commenter believed that this modest increase will have virtually no effect on the bottom line of companies in the industry but an enormous impact on the industry by increasing the budget for watermelon promotions.

Another commenter argued that the Board's reserve has stayed at $100,000 for a number of years, and compared to most other programs, the Board's reserve does not have enough funds to cover unforeseen expenses during a crisis. For that reason, the commenter stated, the Board needs to increase its reserve, and increasing the assessment rate is the only way to accomplish that objective.

Three commenters submitted comments supporting the increase but did not provide any further detail. In addition, two commenters submitted letters in response to commenters opposed to the assessment increase. The issues raised and the two commenters views are generally reflected in the discussion of opposition comments that follows.

One commenter opposed the proposal on the basis that the assessment on growers will be passed on to consumers. The same commenter believed in the need to lower watermelon prices. The assessment increase will be imposed on producers, handlers and importers who pay assessments under the Plan. Business decisions on how to manage any increase in assessments are made by producers, handlers, and importers based on their respective business practices.

One commenter disagreed with the Board's promotion, research and development programs. The commenter did not feel that promotional dollars should be spent on research. However, the Board's role is to initiate and implement promotion, research and communication programs under the Plan.

Four commenters opposed the increase and expressed the opinion that the program should be terminated. The commenters also requested information on how to initiate a referendum to terminate the Board. Section 1210.363 (b) of the Plan outlines the procedures to request a referendum in order to determine if the industry favors continuance of the program. The Secretary will hold a referendum if requested by the Board or 10 percent of those that are covered by the program. Interested parties may collect the necessary signatures and submit a request to the Secretary. After verification of the information, the Secretary may call for a referendum.

Another commenter opposed the assessment increase and stated that the watermelon business has not increased, and therefore no assessment increase was needed. However, as previously discussed, assessments are needed to sustain the Board's programs in promotion, research and communication in order to increase the demand for watermelons.

Two commenters stated that they have not seen any increase in watermelon consumption because of the Board's efforts. The commenters stated that the increase in watermelon consumption fails to take into consideration the increase in population and demographics. The study conducted by Dr. Ronald Ward of the University of Florida addressed these issues. The evaluation conducted in December 2002, the Generic Promotions of Watermelons: Measuring the Impact on Watermelon Demand, addressed demographic effects such as age, income, and other demographic effects across cities. For example, the study showed that the watermelon demand increased as the median age increased and that income had a positive impact on the demand for watermelons. The evaluation concluded that demographics are far much more important in impacting the demand.

Another commenter questioned why consumers need ''research'' on watermelons and that watermelons are fine just as they are. Research is one of the core objectives of the program and it has shown to be beneficial to the industry. For example, nutrition research has assisted the Board's efforts in educating consumers about the health benefits of consuming watermelons. In addition, the Board conducts production research, consumer research, and other types of research that benefit the industry.

The same commenter stated opposition to any increase in bureaucratic costs. The Board is industry-funded and as such taxpayers' dollars are not used to cover the expenses of this program.

Another commenter stated that the program does not benefit the industry. This program benefits watermelon producers, handlers, and importers by strengthening the competitive position of watermelon in the marketplace. It also provides the industry with valuable market research, and consumers and commercial users of watermelons with information on buying, storing, and preparing watermelons.

Two commenters stated that the producer absorbs all program costs. This assertion is not correct. While assessments impose some additional costs, the costs are minimal and uniform on all producers, handlers, and importers.

Three commenters were opposed to the assessment increase but did not provide more details. One commenter also stated that the funds collected now are sufficient and there is no need for an increase. The Board provided information showing that not increasing the assessment rate has kept them with a 25 percent less purchasing power when conducting promotions.

One commenter stated that the proposed increased is exorbitant considering that the program benefits are little to none. The commenter also stated that the Board spends a million dollars a year or over 60 percent of its assessment revenue on salaries, staff support, benefits, office expense, board meetings, administration and travel. The Board's financial statement for the year ending March 31, 2006, identifies that the total cost for general and administrative expenses as $470,001 or 29 percent of the total Board budget. It is common financial practice to allocate a portion of salaries under program expenses.

The commenter also stated that the Board failed to notify the watermelon industry of the proposed rate change before the Board members voted to approve the assessment increase. This assertion is not correct. The Board members reported and presented to their respective districts the Board's intent to increase the assessment rate. In addition, Board staff attended industry meetings to address the proposed assessment increase. Furthermore, the

Board discussed the rate of increase at a number of state and regional association meetings as well as at the national meeting of the NWA in February of 2007. It was at this meeting that the Board conducted a special session with industry leaders to discuss their plans to recommend an assessment rate increase once they received industry input. In addition, the Board's industry newsletter the ''Watermelon Update'' included articles announcing the proposed assessment increase in their March/April and June 2007 editions. Furthermore, the Board sent a letter to all industry members on May 8, 2007, providing information regarding the proposal and where to send comments.

The commenter further stated that despite a large communications budget, the Board does not provide industry access to the Board's meeting agendas or minutes on its Web site, and it does not routinely mail out notices to its membership. While the Board's Web site does not contain the Board's meeting agenda or minutes, meeting agendas and minutes, however, are available from the Board upon request. The Board utilizes its newsletter the ''Watermelon Update'' to publicize industry meetings. The Board meets frequently during the year to discuss future programs and those meetings are open to the industry and the public. The Board notifies the watermelon industry on nomination meetings by publishing the nominations on the Board's Web site, contacting the national, state, and regional watermelon associations, and Board's staff attends industry meetings throughout the year in order to disseminate information. In addition, the Department publishes nomination meetings information and other important notices and rulemaking on its Web site.

The commenter further stated that the Board's 50 percent assessment increase adds excessive production costs without any guarantee the grower or handler will get the increase back through sales. Two commenters stated when the market is below normal, the difference between continue farming or not may be the assessment fee. The commenters also stated that there are no safeguards when the producer falls below the break even point. Another commenter stated that farmers are not realizing profits. Under the Plan, the Board administers a coordinated program of research, development, advertising, and promotion designed to strengthen the position of watermelons in the marketplace, and to establish, maintain, and expand markets for watermelons. The program does not guarantee price increases on watermelons. However, as previously discussed in this rule, previous evaluations have shown the positive effects of promotional programs for watermelons.

The commenter also stated that the fact that the Board's budget is one of the smallest of all national check-off programs should not be used to increase the assessment rate. The Board provided information from other research and promotion programs for comparison purposes only.

The commenter further stated that the Board's five-year evaluation study by Dr. Ronald Ward presented an opinion when it stated that, when programs such as the watermelon program increase assessments, there is a measurable increase to the return on investment to the industry. An evaluation conducted in December 2002, the Generic Promotions of Watermelons: Measuring the Impact on Watermelon Demand, addressed the question of whether generic promotion of watermelons has a measurable impact on the domestic demand for watermelons. The evaluation concluded that generic promotion of watermelons does have a measurable impact on domestic demand. For the study, demand models were estimated using cross sections of cities and time series of wholesale arrivals to measure demand at the wholesale market level. Wholesale prices were shown to increase about two cents per pound (11 percent) due to generic promotion activities.

The commenter also addressed the Board's example of how the assessment increase would affect the approximate cost per truckload. The example stated that the cost to watermelon producers would range from $16.00 per truckload of watermelon to $24.00 per truckload of watermelons. The commenter stated that the increase could cost their company more than $5,000 per year in additional assessments and this would bring their yearly assessments to around $15,000. The commenter believed that their company would not receive any benefits from the increase. The Board provided an example of the estimated cost to producers. The Board, however, recognizes the costs will vary among producers and handlers for watermelons based on the size of their watermelon business. Further, the benefits of the program previously have been discussed.

The commenter further stated that the Board will use the additional funds for communication programs and marketing activities, but did not cite an increase in any administrative costs and it failed to reveal the increase in staff support and benefits. The commenter also stated that the Board cannot sustain current staff levels and have funds left for promotions. With the additional revenue, the Board stated that it would maintain its research and promotional activities, expand its programs, and sustain marketing activities in the future. The Board does not anticipate to hire additional staff or expand its Board meeting with the increased revenue. In fact, as previously discussed, the Board engaged in several cost savings measures primarily concerning staff expenses, and the results of the savings was over $120,000 for the 2005–2006 crop year. The increase will cover the cost of running the program in today's financial environment.

The Department has considered all of the comments and is not making any changes to the proposed rule based on them.

After consideration of all relevant material presented, including comments, the Board's recommendation, and other information, it is hereby found that this rule, as published in the **Federal Register** (72 FR 26005) on May 8, 2007, is consistent with and will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

■ For the reasons set forth in the preamble, part 1210, Chapter XI of Title 7 is amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

■ 2. In § 1210.515 paragraph (a) is revised to read as follows:

§ 1210.515 Levy of assessments.

(a) An assessment of three cents per hundredweight shall be levied on all watermelons produced for ultimate consumption as human food, and an assessment of three cents per hundredweight shall be levied on all watermelons first handled for ultimate consumption as human food. An assessment of six cents per hundredweight shall be levied on all watermelons imported into the United States for ultimate consumption as human food at the time of entry in the United States.

* * * * *

Dated: October 24, 2007.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 07–5348 Filed 10–24–07; 11:39 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–29086; Airspace Docket No. 07–ASO–22]

Amendment of Class E Airspace; Aguadilla, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the Class E2 and E5 airspace at Aguadilla, PR. This action corrects the geographical position coordinates for the Rafael Hernandez Airport.

DATES: *Effective Date:* 0901 UTC, December 20, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5581.

SUPPLEMENTARY INFORMATION:

History

On March 16, 2007, the geographical position coordinates for Rafael Hernandez Airport, Aguadilla, PR, changed from lat. 18°29′38″N, long. 67°07′59″W to lat. 18°29′42″N, long. 67°07′46″W. This action corrects the geographical position coordinates of the airport.

This rule becomes effective on the date specified in the **EFFECTIVE DATE** section. Since this action will have no impact on aircraft operating in the vicinity of Rafael Hernandez Airport, Aguadilla, PR, notice and public procedure under 5 U.S.C. 553(b) are not necessary. Class E airspace areas designated as surface areas and Class E airspace areas designated as airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraphs 6002 and 6005, respectively, of FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends Class E2 and E5 airspace at Rafael Hernandez Airport, Aguadilla, PR.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, dated August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6000. Class E Airspace.

* * * * *

ASO PR E2 Aguadilla, PR [Revised]

Rafael Hernandez Airport, PR
(Lat. 18°29′42″ N, long. 67°07′46″ W)
Borinquen VORTAC
(Lat. 18°29′53″ N, long. 67°06′30″ W)

Within a 4.5-mile radius of Rafael Hernandez Airport and within 2.4 miles each side of the Borinquen VORTAC 257° radial, extending from the 4.5-mile radius to 7 miles west of the VORTAC. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASO PR E5 Aguadilla, PR [Revised]

Rafael Hernandez Airport, PR
(Lat. 18°29′42″ N, long. 67°07′46″ W)
Eugenio Maria De Hostos Airport
(Lat. 18°15′21″ N, long. 67°08′55″ W)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Rafael Hernandez Airport and within a 10-mile radius of Eugenio Maria De Hostos Airport.

* * * * *

Issued in College Park, Georgia, on October 5, 2007.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 07–5264 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 33, 35, 154, 157, 300, 375, 376

[Docket No. RM07–22–000; Order No. 701]

Delegations to Office of Electric Reliability

Issued October 19, 2007.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final Rule.

SUMMARY: This Final Rule revises the Commission's regulations to delegate authority to the newly established Office of Electric Reliability to allow that office to process routine, non-controversial matters efficiently. The rule also makes conforming changes to account for changes in office names.

DATES: *Effective Date:* This rule will become effective October 29, 2007.

FOR FURTHER INFORMATION CONTACT: Wilbur Miller, Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 502–8953. *wilbur.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

I. Discussion

1. On September 20, 2007, the Commission announced the creation of

the Office of Electric Reliability (OER) to focus on the development and implementation of mandatory and enforceable reliability standards for the nation's bulk power system. OER was formerly a division of the Office of Energy Markets and Reliability, which will now be called the Office of Energy Market Regulation (OEMR). The organizational change will help implement the Commission's new regulatory authorities under section 215 of the Energy Policy Act of 2005.[1] To enable OER to carry out its functions as efficiently as possible, this Final Rule adds a new section to the Commission's regulations, 18 CFR 375.314, to delegate to OER the authority necessary to process routine matters. These delegations are intended to apply to uncontested, non-controversial matters. This Final Rule also revises a number of regulations to update office names.

II. Information Collection Statement

2. The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rule.[2] This Final Rule does not contain information reporting requirements and is not subject to OMB approval.

III. Environmental Analysis

3. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the quality of the human environment.[3] Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the quality of the human environment under the Commission's regulations implementing the National Environmental Policy Act. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial or internal administrative actions.[4] This rulemaking is exempt under that provision.

IV. Regulatory Flexibility Act

4. The Regulatory Flexibility Act of 1980 (RFA)[5] generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. This Final Rule concerns matters of internal agency procedure and the Commission therefore certifies that it will not have such an impact. An analysis under the RFA is not required.

V. Document Availability

5. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

6. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

7. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov.*

VI. Effective Date and Congressional Notification

8. These regulations are effective immediately upon publication in the **Federal Register**. In accordance with 5 U.S.C. 553(d)(3), the Commission finds that good cause exists to make this Final Rule effective immediately. It concerns only matters of internal operations and will not affect the rights of persons appearing before the Commission. There is therefore no reason to make this rule effective at a later time.

9. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules do not apply to this Final Rule, because this Final Rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

10. The Commission is issuing this as a Final Rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of internal agency procedure and will not significantly affect regulated entities or the general public.

List of Subjects

18 CFR Part 33

Electric utilities, Reporting and recordkeeping requirements, Securities.

18 CFR Part 35

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 154

Alaska, Natural gas, Natural gas companies, Pipelines, Rate schedules and tariffs, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 300

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 376

Civil defense, Organization and functions (Government agencies).

By the Commission.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

■ In consideration of the foregoing, the Commission amends parts 33, 35, 154, 157, 300, 375 and 376, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 33—APPLICATIONS UNDER FEDERAL POWER ACT SECTION 203

■ 1. The authority citation for part 33 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; Pub. L. 109–58, 119 Stat. 594.

§ 33.10 [Amended]

■ 2. Section 33.10 is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 3. The authority citation for part 35 continues to read as follows:

[1] Pub. L. 109–58, sections 1211, 119 Stat. 594, 941–46 (2005) (to be codified at 16 U.S.C. 824o).

[2] 5 CFR Part 1320.

[3] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[4] 18 CFR 380.4(1) and (5).

[5] 5 U.S.C. 601–12.

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

§ 35.2 [Amended]

■ 4. Section 35.2(c) is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

§ 35.5 [Amended]

■ 5. Section 35.5(b) is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

§ 35.13 [Amended]

■ 6. Section 35.13(a)(3) is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

PART 154—RATE SCHEDULES AND TARIFFS

■ 7. The authority citation for part 154 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7102–7352.

§ 154.5 [Amended]

■ 8. Section 154.5 is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

§ 154.302 [Amended]

■ 9. Section 154.302(b) is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 10. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w.

§ 157.8 [Amended]

■ 11. Section 157.8(a) and (c) are amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation''.

PART 300—CONFIRMATION AND APPROVAL OF THE RATES OF FEDERAL POWER MARKETING ADMINISTRATIONS

■ 12. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 825s, 832–832l, 838–838k, 839–839h; 42 U.S.C. 7101–7352; 43 U.S.C. 485–485k.

§ 300.10 [Amended]

■ 13. Section 300.10(h)(2) is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

§ 300.20 [Amended]

■ 14. Section 300.20(b)(1)(i) is amended by removing the phrase ''Markets and Reliability'' and adding in its place the phrase ''Market Regulation.''

PART 375—THE COMMISSION

■ 15. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352; / 42 U.S.C. 16451–16463.

■ 16. Section 375.307 is amended by revising the section heading to read as set forth below, by removing paragraph (a)(2), by redesignating paragraphs (a)(3) through (a)(11) as paragraphs (a)(2) through (a)(10), and by amending paragraphs (b)(1)(i), (b)(2)(i), and (b)(3)(ii) to remove the phrase ''Markets and Reliability'' and add in its place the phrase ''Market Regulation.''

§ 375.307 Delegations to the Director of the Office of Energy Market Regulation.

* * * * *

■ 17. Part 375 is amended by adding new § 375.314 as follows:

§ 375.314 Delegations to the Director of the Office of Electric Reliability.

The Commission authorizes the Director or the Director's designee to:

(a) *Program-Specific Delegated Authority:* Take the following actions with respect to the following programs:

(1) *Section 206 of the Public Utility Regulatory Policy Act of 1978 and corresponding Section 202(g) of the Federal Power Act.*

(i) Accept for filing all uncontested contingency plans regarding shortages of electric energy or capacity, circumstances which may result in such shortages, and accommodations of any such shortages or circumstances, if said contingency plans comply with all applicable statutory requirements, and with all applicable Commission rules, regulations and orders for which waivers have not been granted, or if waivers have been granted by the Commission, if the filings comply with the terms of the waivers;

(ii) Reject a contingency plan regarding shortages of electric energy or capacity, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders;

(iii) Sign and issue deficiency letters;

(iv) Act on any request or petition for waiver, consistent with Commission policy.

(2) *Section 215 of the Federal Power Act.*

(i) Approve uncontested applications, including uncontested revisions to Electric Reliability Organization or Regional Entity rules or procedures;

(ii) Reject an application, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or with all applicable Commission rules, regulations or orders;

(iii) Act on any request or petition for waiver, consistent with Commission policy;

(iv) Sign and issue deficiency letters; and

(v) Direct the Electric Reliability Organization, Regional Entities, or users, owners, and operators of the Bulk-Power System within the United States (not including Alaska and Hawaii) to provide such information as is necessary to implement Section 215 of the Federal Power Act (16 U.S.C. 824o) pursuant to §§ 39.2(d) and 39.11 and Part 40 of this chapter.

(b) *Non-Program-Specific Delegated Authority:*

(1) Take appropriate action on:

(i) Any notice of intervention or motion to intervene filed in an uncontested proceeding processed by the Office of Electric Reliability; and

(ii) Applications for extensions of time to file required filings, reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(2) Take appropriate action on requests or petitions for waivers of filing requirements for the appropriate statements and reports processed by the Office of Electric Reliability pursuant to §§ 141.51 and 141.300 of this chapter; and

(3) Undertake the following actions:

(i) Issue reports for public information purposes. Any report issued without Commission approval must:

(A) Be of a noncontroversial nature, and

(B) Contain the statement, ''This report does not necessarily reflect the views of the Commission,'' in bold face type on the cover;

(ii) Upon request or otherwise, issue staff position papers to further the

Electric Reliability Organization and Regional Entity reliability standard development process. Any such staff position paper issued without Commission approval must contain the statement, ''This position paper does not necessarily reflect the views of the Commission,'' in bold face type on the cover;

(iii) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Electric Reliability.

(iv) Accept for filing, data and reports required by Commission regulations, rules or orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such regulations, rules, orders or decisions and, when appropriate, notify the filing party of such acceptance.

PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS

■ 18. The authority citation for part 376 continues to read as follows:

Authority: 5 U.S.C. 553; 42 U.S.C. 7101–7352; E.O. 12009; 3 CFR 1978 Comp., p. 142.

■ 19. Section 376.204 is amended by revising paragraph (b)(2) to read as follows:

§ 376.204 Delegation of Commission's authority during emergency conditions.

* * * * *

(b) * * *

(2) The list referred to in paragraph (b)(1) of this section is:

(i) The Executive Director;

(ii) Director of the Office of Energy Market Regulation;

(iii) Director of the Office of Energy Projects;

(iv) Director of the Office of Electric Reliability;

(v) General Counsel;

(vi) Director of the Office of Enforcement;

(vii) Deputy Directors, Office of Energy Market Regulation, in order of seniority;

(viii) Deputy Directors, Office of Energy Projects, in order of seniority;

(ix) Deputy Directors, Office of Electric Reliability, in order of seniority;

(x) Deputy General Counsels, in order of seniority;

(xi) Associate General Counsels and Solicitor, in order of seniority;

(xii) Assistant Directors and Division heads, Office of Energy Market Regulation; Assistant Directors and Division heads, Office of Energy Projects; Assistant Directors and Division heads, Office of Electric Reliability; Deputy Associate General Counsels; and Assistant Directors and Division heads, Office of Enforcement; in order of seniority.

* * * * *

[FR Doc. E7–20969 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Monetary Offices

31 CFR Part 82

Prohibition on the Exportation, Melting, or Treatment of 5-Cent and One-Cent Coins; Correction

AGENCY: United States Mint, Treasury.

ACTION: Correcting amendments.

SUMMARY: This document corrects the United States Mint's regulations that prohibit the exportation, melting, and treatment of 5-cent and one-cent coins. These regulations, added in December 2006, were inadvertently allowed to expire on April 14, 2007. A final rule, which was published in the **Federal Register** of Monday, April 16, 2007 (72 FR 18880), was intended to extend the effectiveness of these requirements. However, that document failed to set out the revised 31 CFR Part 82 in its entirety, and this document corrects the agency's regulations by doing so.

DATES: Effective on October 29, 2007.

FOR FURTHER INFORMATION CONTACT: Kristie Bowers, Attorney-Advisor, United States Mint, at (202) 354–7631 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background

The final rule was based on an interim rule, which was published Wednesday, December 20, 2006 (71 FR 76148). The regulations are intended to protect the coinage of the United States, by prohibiting the exportation, melting, and treatment of 5-cent and one-cent coins. The regulations were issued pursuant to 31 U.S.C. 5111(d), which authorizes the Secretary of the Treasury to prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States. The regulations' purpose is to ensure that sufficient quantities of 5-cent and one-cent coins remain in circulation to meet the needs of the United States.

II. Need for Correction

The interim rule was scheduled to expire on April 14, 2007, unless extended by a further rulemaking document published in the **Federal Register**. Because of an administrative oversight, the final rule was published on April 16, 2007, two days after the interim rule had expired. Instead of setting the amended 31 CFR Part 82 out in its entirety, the final rule attempted to adopt the interim rule with certain changes. However, because the interim rule had already expired when the final rule was published, there were no regulations at 31 CFR Part 82 to adopt. This correction is intended to set out the revised 31 CFR Part 82 in its entirety.

List of Subjects in 31 CFR Part 82

Administrative Practice and Procedure, Currency, Penalties.

Authority and Issuance

■ Accordingly, Chapter 1 of Subtitle B of title 31 of the Code of Federal Regulations is corrected by adding part 82 to read as follows:

PART 82—5-CENT AND ONE-CENT COIN REGULATIONS

Sec.
82.1 Prohibitions.
82.2 Exceptions.
82.3 Definitions.
82.4 Penalties.

Authority: 31 U.S.C. 5111(d).

§ 82.1 Prohibitions.

Except as specifically authorized by the Secretary of the Treasury (or designee) or as otherwise provided in this part, no person shall export, melt, or treat:

(a) Any 5-cent coin of the United States; or

(b) Any one-cent coin of the United States.

§ 82.2 Exceptions.

(a) The prohibition contained in § 82.1 against the exportation of 5-cent coins and one-cent coins of the United States shall not apply to:

(1) The exportation in any one shipment of 5-cent coins and one-cent coins having an aggregate face value of not more than $100 that are to be legitimately used as money or for numismatic purposes. Nothing in this paragraph shall be construed to authorize export for the purpose of sale or resale of coins for melting or treatment by any person.

(2) The exportation of 5-cent coins and one-cent coins carried on an individual, or in the personal effects of an individual, departing from a place subject to the jurisdiction of the United States, when the aggregate face value is not more than $5, or when the aggregate face value is not more than $25 and it

is clear that the purpose for exporting such coins is for legitimate personal numismatic, amusement, or recreational use.

(b) The prohibition contained in § 82.1 against the treatment of 5-cent coins and one-cent coins shall not apply to the treatment of these coins for educational, amusement, novelty, jewelry, and similar purposes as long as the volumes treated and the nature of the treatment makes it clear that such treatment is not intended as a means by which to profit solely from the value of the metal content of the coins.

(c) The prohibition contained in § 82.1 against the exportation, melting, or treatment of 5-cent and one-cent coins of the United States shall not apply to coins exported, melted, or treated incidental to the recycling of other materials so long as—

(1) Such 5-cent and one-cent coins were not added to the other materials for their metallurgical value;

(2) The volumes of the 5-cent coins and one-cent coins, relative to the volumes of the other materials recycled, makes it clear that the presence of such coins is merely incidental; and

(3) The separation of the 5-cent and one-cent coins from the other materials would be impracticable or cost prohibitive.

(d) The prohibition contained in § 82.1 against the exportation, melting, or treatment of 5-cent coins shall not apply to 5-cent coins inscribed with the years 1942, 1943, 1944, or 1945 that are composed of an alloy comprising copper, silver and manganese.

(e) The prohibition contained in § 82.1 against the exportation of 5-cent coins and one-cent coins shall not apply to 5-cent coins and one-cent coins exported by a Federal Reserve Bank or a domestic depository institution, or to a foreign central bank, when the exportation of such 5-cent coins and one-cent coins is for use as circulating money.

(f)(1) The prohibition contained in § 82.1 against exportation, melting, or treatment of 5-cent coins and one-cent coins of the United States shall not apply to coins exported, melted, or treated under a written license issued by the Secretary of the Treasury (or designee).

(2) Applications for licenses should be transmitted to the Director, United States Mint, 801 9th Street, NW., Washington, DC 20220.

§ 82.3 Definitions.

(a) *5-cent coin of the United States* means a 5-cent coin minted and issued by the Secretary of the Treasury pursuant to 31 U.S.C. 5112(a)(5).

(b) *One-cent coin of the United States* means a one-cent coin minted and issued by the Secretary of the Treasury pursuant to 31 U.S.C. 5112(a)(6).

(c) *Export* means to remove, send, ship, or carry, or to take any action with the intent to facilitate a person's removing, sending, shipping, or carrying, from the United States or any place subject to the jurisdiction thereof, to any place outside of the United States or to any place not subject to the jurisdiction thereof.

(d) *Person* means any individual, partnership, association, corporation, or other organization, but does not include an agency of the Government of the United States.

(e) *Treat* or *treatment* means to smelt, refine, or otherwise treat by heating, or by a chemical, electrical, or mechanical process.

§ 82.4 Penalties.

(a) Any person who exports, melts, or treats 5-cent coins or one-cent coins of the United States in violation of § 82.1 shall be subject to the penalties specified in 31 U.S.C. 5111(d), including a fine of not more than $10,000 and/or imprisonment of not more than 5 years.

(b) In addition to the penalties prescribed by 31 U.S.C. 5111(d), a person violating the prohibitions of this part may be subject to other penalties provided by law, including 18 U.S.C. 1001(a).

Dated: October 24, 2007.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E7–21272 Filed 10–26–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–07–035]

Drawbridge Operating Regulations; Gulf Intracoastal Waterway, Morgan City to Port Allen Alternate Route, Lower Grand River, Bayou Sorrel, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the State Route 75 (SR 75) pontoon span bridge across the Lower Grand River at mile 38.4, Gulf Intracoastal Waterway, Morgan City to Port Allen Alternate Route at Bayou Sorrel, Iberville Parish, Louisiana. This deviation provides for the bridge to remain closed to navigation for 24 consecutive hours to conduct scheduled maintenance to the drawbridge.

DATES: This deviation is effective from 7 a.m. on Tuesday, November 6, 2007 until 7 a.m. on Wednesday, November 7, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 500 Poydras Street, New Orleans, Louisiana, 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 671–2128. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 671–2128.

SUPPLEMENTARY INFORMATION: The Louisiana Department of Transportation and Development has requested a temporary deviation in order to replace the entire winch and related operating mechanism of the SR 75 pontoon span bridge across the Lower Grand River, Gulf Intracoastal Waterway, Morgan City to Port Allen Alternate Route at Bayou Sorrel, Iberville Parish, Louisiana. Replacement of the winch is necessary for continued operation of the draw span of the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 7 a.m. on Tuesday, November 6, 2007 until 7 a.m. on Wednesday, November 7, 2007. During the closure period, the draw will not be able to open for emergencies. Currently, the draw opens on signal; except that, from about August 15 to about June 5 (the school year), the draw need not be opened from 6 a.m. to 7:30 a.m. Monday through Friday except holidays. The draw opens on signal at any time for an emergency aboard a vessel.

The bridge is a floating pontoon span bridge with no available navigational clearance in the closed-to-navigation position. Thus, vessels will not be able to transit through the bridge site when the bridge is closed. Navigation on the waterway consists of tugs with tows, fishing vessels and recreational powerboats. Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels.

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: October 18, 2007.

David M. Frank,

Bridge Administrator.

[FR Doc. E7–21216 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–130]

RIN 1625–AA09

Drawbridge Operation Regulations; Gowanus Canal, Brooklyn, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary rule.

SUMMARY: The Coast Guard has temporarily changed the drawbridge operating regulations governing the operation of the Hamilton Avenue Bridge, mile 1.2, across the Gowanus Canal at Brooklyn, New York. This final rule allows the bridge owner to require a four-hour notice for bridge openings from November 5, 2007 to January 15, 2009. This rule is necessary to facilitate rehabilitation construction at the bridge.

DATES: This temporary rule suspending § 117.787 and adding § 117.788 is effective from November 5, 2007 to January 15, 2009.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–07–130) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 18, 2007, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulations''; Gowanus Canal, New York, in the **Federal Register** (72 FR 53202). We received no comments in response to the notice of proposed rulemaking. No public hearing 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**.

The bridge repairs scheduled to begin on November 5, 2007, are necessary repairs that must be performed with all due speed to assure the continued safe and reliable operation of the bridge. Any delay in making this rule effective would not be in the best interest of public safety and the marine interests that use the Gowanus Canal. We received no comments on the published NPRM, which included the effective period for comment, indicating a need to delay the effective date of this temporary final rule.

Background and Purpose

The Hamilton Avenue Bridge has a vertical clearance of 19 feet at mean high water, and 23 feet at mean low water in the closed position. The existing drawbridge operating regulations listed at 33 CFR 117.5, require the bridge to open on signal at all times.

The bridge owner, New York City Department of Transportation (NYCDOT), has requested a temporary rule to facilitate structural, electrical and mechanical rehabilitation at the Hamilton Avenue Bridge.

Under this temporary rule the Hamilton Avenue Bridge would open on signal after at least a four-hour advance notice is given by calling (201) 400–5243.

Major rehabilitation bridge repairs have been ongoing at the Hamilton Avenue Bridge since March 2007. The bridge owner NYCDOT, requested a temporary deviation from the drawbridge operation regulations to help facilitate bridge rehabilitation repairs at the Hamilton Avenue Bridge.

As a result of that request the Coast Guard authorized a temporary deviation [CGD01–07–026] on March 15, 2007, which required mariners to provide a four-hour advance notice for bridge openings from April 6, 2007 through September 29, 2007.

On August 7, 2007, the Coast Guard received a second request from the bridge owner NYCDOT, to extend the four-hour advance notice requirement at the Hamilton Avenue Bridge through January 15, 2009, in order to facilitate the remaining rehabilitation bridge repairs.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this temporary final rule.

Regulatory Evaluation

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

This conclusion is based on the fact that all vessel traffic will still be able to transit through the bridge at all times after providing the four-hour advance notice for bridge openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 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 conclusion is based on the fact that all vessel traffic will still be able to transit through the bridge at all times after providing the four-hour advance notice for bridge openings.

Assistance for Small Entities

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

No small entities requested Coast Guard assistance and none was given.

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). 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.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not 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

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), of the instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. 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.

■ 2. From November 5, 2007 to January 15, 2009, suspend § 117.787 and add § 117.788 to read as follows:

§ 117.788 Gowanus Canal.

(a) The draws of the Ninth Street Bridge, mile 1.4, the Third Street Bridge, mile 1.8, the Carroll Street Bridge, mile 2.0, and the Union Street Bridge, mile 2.1, at Brooklyn, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT), Radio Hotline, or the NYCDOT Bridge Operations Office.

(b) The draw of the Hamilton Avenue Bridge, mile 1.2, shall open on signal after at least a four-hour advance notice is given by calling (201) 400–5243. This paragraph is effective from November 7, 2007 to January 15, 2009.

Dated: October 19, 2007.

Timothy S. Sullivan,

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

[FR Doc. E7–21237 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. CGD11–07–014]

Drawbridge Operation Regulations; Sacramento River, Rio Vista, 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 Rio Vista Drawbridge across the Sacramento River, mile 12.8, at Rio Vista, CA. The deviation is necessary to allow the

bridge owner, the California Department of Transportation (Caltrans), to conduct required maintenance of the drawspan. This deviation allows for a 4-hour notice for openings during nighttime.

DATES: This deviation is effective between 9 p.m. and 5 a.m., from October 22, 2007 through December 19, 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 Rio Vista Drawbridge, mile 12.8, Sacramento River, at Rio Vista, CA. The Rio Vista Drawbridge navigation span provides a vertical clearance of 17 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal as required by 33 CFR 117.5. Navigation on the waterway consists of both commercial and recreational vessels.

The 4-hour notice for openings during the maintenance period, between 9 p.m. and 5 a.m., from October 22, 2007 through December 19, 2007, will allow Caltrans to clear the drawspan of maintenance equipment so as not to delay approaching vessels. This temporary deviation has been coordinated with all affected waterway users. No objections to the proposed temporary deviation were raised.

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: October 19, 2007.

J.E. Long,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E7–21239 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–07–031]

RIN 1625–AA09

Drawbridge Operation Regulation; Rigolets Pass, Mile 6.2, Between Orleans and St. Tammany Parishes, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the U.S. 90 Swing Bridge across Rigolets Pass, mile 6.2, between Orleans and St. Tammany Parishes, Louisiana. This deviation will allow the draw of the U.S. 90 Swing Bridge to remain in the closed to navigation position until January 15, 2007.

DATES: This deviation is effective from October 16, 2007 until January 15, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 500 Poydras Street, New Orleans, Louisiana, 70130–3310, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 671–2128. The Eighth Coast Guard District, Bridge Administration Branch, maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Bart Marcules, Bridge Administration Branch, telephone (504) 671–2128.

SUPPLEMENTARY INFORMATION: The U.S. 90 Swing Bridge located on Rigolets Pass at mile 6.2 between Orleans and St. Tammany Parishes, Louisiana has a vertical clearance of 9 feet above mean high water, elevation 2.0 feet Mean Sea Level (MSL) in the closed position and unlimited in the open position. The U.S. 90 Swing Bridge opens on signal as required by 33 CFR 117.5, and this operating schedule has been in effect since 1927.

Due to the fact that a replacement bridge is in the final stages of construction and will be open to traffic shortly the significant costs and time to repair the U.S. 90 Swing Bridge is prohibitive. The repairs will take several months to complete and the new bridge will be open to traffic in three months. The cost of repair is estimated at $250,000 to $500,000 which is an excessive burden on the taxpayers for one month's use of the U.S. 90 Swing Bridge before it is taken out of service. Thus, the Louisiana Department of Transportation and Development has requested that a Temporary Deviation be granted until the new bridge is open for traffic.

The deviation period will be from October 16, 2007 until January 15, 2007, and the U.S. 90 Swing Bridge will be allowed to stay in the closed to navigation position. Small boats can still transit under the U.S. 90 Swing Bridge in the closed to navigation position. This bridge will not be able to open for emergencies.

Since mariners can use the Chef Menteur Pass to access the Gulf of Mexico from Lake Pontchartrain with minimal difference in transit time there are no expected impacts.

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: October 16, 2007.

David M. Frank,

Bridge Administrator.

[FR Doc. E7–21242 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–152]

Drawbridge Operation Regulations; Kennebec River, Bath and Woolwich, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Carlton Bridge across the Kennebec River at mile 14.0, between Bath and Woolwich, Maine. Under this temporary deviation the Carlton Bridge may remain in the closed position to facilitate bridge painting operations from 6:30 a.m. to 6:30 p.m. on November 5, 6, 12, 13, 19, 20, 26, 27, and December 3, 4, 10, 11, 17, and 18, 2007. Vessels that can pass under the draw without a bridge opening may do so at all times. This deviation is necessary to facilitate bridge painting.

DATES: This deviation is effective from 6:30 a.m. on November 5, 2007 through 6:30 p.m. on December 18, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The Carlton Bridge, across the Kennebec River, mile 14.0, between Bath and Woolwich, Maine, has a vertical clearance in the closed position of 10 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.525.

The owner of the bridge, Maine Department of Transportation, requested a temporary deviation to facilitate bridge painting operations at the Carlton Bridge. The bridge rarely opens for vessel traffic in November and December.

Under this temporary deviation the Carlton Bridge need not open for the passage of vessel traffic between 6:30 a.m. and 6:30 p.m. on the days of November 5, 6, 12, 13, 19, 20, 26, 27, and December 3, 4, 10, 11, 17, and 18, 2007. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge 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.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operation schedule.

Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

Dated: October 15, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–21244 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0048; FRL–8482–2]

RIN 2060–AO65

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 19, 2007, the United States Court of Appeals for the District of Columbia Circuit (the Court) vacated EPA's provisions in the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products that established an October 1, 2008, compliance deadline and that created and delisted a low risk subcategory of plywood and composite wood products facilities. This action announces the Court's decision and promulgates ministerial amendments that will incorporate the Court's decision into the Code of Federal Regulations.

DATES: This rule was effective on October 29, 2007.

ADDRESSES: The EPA does not seek comment on this final rule. The opinion issued by the Court on June 19, 2007 and other information about the rule are contained in Docket ID No. OAR–2003–0048 and Legacy Docket ID No. A–98–44. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, Docket ID No. EPA–HQ–OAR–2003–0048, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and compliance assistance, contact your State or local representative or appropriate EPA Regional Office representative. For other information, contact Ms. Mary Tom Kissell, Office of Air Quality Planning and Standards, Sector Policies and Program Division, Coatings and Chemicals Group (E143–01), EPA, Research Triangle Park, NC 27711; telephone number: (919) 541–4516; fax number: (919) 541–0246; e-mail address: *kissell.mary@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without first providing notice and an opportunity for public comment on a proposed rule. There is good cause for making today's rule final without prior proposal and opportunity for comment because the Court vacated EPA's promulgation of the October 1, 2008, compliance date and of the low-risk provisions. The Court ruled that EPA was without statutory authority in our 2006 amendments to the national emission standards for hazardous air pollutants (NESHAP) to re-set the compliance date of October 1, 2007, first promulgated in the 2004 NESHAP. The Court also ruled that EPA had no statutory authority to create and then delist the low-risk Plywood and Composite Wood Products (PCWP) subcategory.[1] Therefore, today's action has no legal effect beyond ministerially fulfilling the Court's order and is clerical in nature: we are merely revising the Code of Federal Regulations to conform our rules to the Court's order and announcing the Court's decision. Thus, notice and public procedure are unnecessary.

EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Providing an opportunity to comment on a proposed conforming amendment would be impracticable because it would unacceptably delay EPA's action beyond the October 1, 2007, compliance deadline the Court ruled EPA must re-impose. It would also be unnecessary, since the Court's direction was clear that EPA must remove the 2006 NESHAP's amendment re-setting the deadline beyond October 1, 2007, and the 2004 and 2006 provisions creating and delisting the low-risk PCWP subcategory was beyond EPA's statutory authority. Finally, it is not in the public

[1] The Court also remanded and vacated EPA's determinations that certain process units at PCWP facilities need not be subject to emissions controls. EPA will respond to that portion of the Court's ruling in a separate notice and comment rulemaking, and is not addressing that issue in today's final rule.

interest to delay revising the rule to conform to the Court's order on these issues, as continuing to leave the vacated provisions in place creates confusion among the regulated community, implementing States and local governments, and the general public.

Regulated Entities

Categories and entities potentially affected by today's action include:

Category	SIC code [a]	NAICS code [b]	Examples of regulated entities
Industry	2421	321999	Sawmills with lumber kilns.
	2435	321211	Hardwood plywood and veneer plants.
	2436	321212	Softwood plywood and veneer plants.
	2493	321219	Reconstituted wood products plants (particleboard, medium density fiberboard, hardboard, fiberboard, and oriented strandboard plants).
	2439	321213	Structural wood members, not elsewhere classified (engineered wood products plants).

[a] Standard Industrial Classification.
[b] North American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by today's action. To determine whether your facility is affected by today's action, you should examine the applicability criteria in § 63.2231 of the final rule. If you have questions regarding the applicability of today's action to a particular entity, consult your State or local representative or the appropriate EPA Regional Office representative.

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's action also will be available on the Worldwide Web (WWW) through EPA's Technology Transfer Network (TTN). Following the Administrator's signature, a copy of this action will be posted on the TTN's policy and guidance page for newly promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

I. Background

We proposed NESHAP for the PCWP source category on January 9, 2003 (68 FR 1276). The final rule (subpart DDDD in 40 CFR part 63) was published on July 30, 2004 (69 FR 45944). In addition to adopting maximum achievable control technology (MACT) standards for the PCWP category, we adopted a risk-based approach in the 2004 final rule by establishing and delisting a low-risk subcategory of PCWP affected sources, which would have allowed low-risk sources to avoid complying with MACT. Except for eight sources that we determined were already eligible to join the low-risk subcategory and avoid MACT, all PCWP sources were initially included in the category subject to MACT, and any would-be low-risk sources could subsequently join the low-risk subcategory after EPA approved their submitted low-risk demonstrations. The methodology and criteria for PCWP affected sources to use in demonstrating that they are eligible to join the delisted low-risk subcategory were promulgated in the 2004 final rule in appendix B to subpart DDDD of 40 CFR part 63. Any source who failed to obtain EPA approval of a low-risk demonstration would remain subject to MACT.

Following promulgation of the 2004 final PCWP rule, the Administrator received a petition for reconsideration filed by the Natural Resources Defense Council (NRDC) and Environmental Integrity Project (EIP) pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA). The petition requested reconsideration of nine aspects of the final rule including the legal basis for the risk-based provisions. The petition for reconsideration also requested a stay of the effectiveness of the risk-based provisions. In a letter dated December 6, 2004, EPA granted NRDC's and EIP's petition for reconsideration and declined the petitioners' request that we take action to stay the effectiveness of the risk-based provisions.

On July 29, 2005 (70 FR 44012), we published a notice of reconsideration and requested comment on the issues in the petition for reconsideration, including the full content of appendix B to subpart DDDD. In a separate notice published on July 29, 2005 (70 FR 44012), we proposed amendments to subpart DDDD and both of the appendices to subpart DDDD including a request for comment on whether the MACT compliance date should be extended for sources submitting low-risk demonstrations or for all sources. On February 16, 2006, EPA promulgated amendments to the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products. In the 2006 final rule, we promulgated a revised compliance deadline of October 1, 2008, for sources subject to the rule, which was 1 year later than the date originally promulgated.

Following promulgation of the 2004 final PCWP rule, four petitions for judicial review of the final PCWP rule were filed with the Court by NRDC and Sierra Club (No. 04–1323, D.C. Cir.), EIP (No. 04–1235, D.C. Cir.), Louisiana-Pacific Corporation (No. 04–1328, D.C. Cir.), and Norbord Incorporated (No. 04–1329, D.C. Cir.). The four cases were consolidated. The NRDC, Sierra Club, and EIP petitions for judicial review [2] addressed three major concerns: (1) EPA's legal authority to create and delist a low-risk subcategory; (2) EPA's re-setting of the compliance date; and (3) EPA's failure to set emission standards for HAP from all emission points. In March 2007, before the Court decided the PCWP case, it ruled in *Sierra Club*, 479 F.3d 875, that ''EPA's failure to set floors for existing small tunnel brick kilns and new periodic brick kilns violated [the] CAA * * * noting that the court had held unlawful EPA's ''no control'' emissions floors for categories in which the best performers used no emission control technology.'' Subsequently, in April 2007, EPA requested a voluntary remand and vacatur of the 2004 final MACT determinations for PCWP emissions points that do not have emission limits (i.e., the ''no emission reduction'' MACT determinations also commonly known as ''no-control MACT floors'').

On June 19, 2007, the Court issued its opinion remanding and vacating EPA's no emission reduction MACT determinations, the low-risk provisions,

[2] The Louisiana-Pacific Corporation and Norbord Incorporated petition for judicial review did not result in any change to the PCWP NESHAP and is not discussed in this preamble.

and the October 1, 2008 compliance date.

While today's rule implements the Court's order regarding the compliance date and low-risk subcategory provisions, EPA will separately reconsider the MACT determinations for the emission points for which EPA had previously determined MACT to be ''no emissions reduction,'' and publish our proposed responses to the Court's remand of those decisions in a separate notice.

II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is, therefore, not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see the **SUPPLEMENTARY INFORMATION** section of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This final rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate ambiguity as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). 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 does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 30, 2004 **Federal Register** notice.

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 18, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401.

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraphs (b)(54), (f)(3) and (f)(4) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(54) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, incorporation by reference (IBR) approved for Table 4 to Subpart DDDD of this part as specified in the subpart.

* * * * *

(f) * * *

* * * * *

(3) NCASI Method IM/CAN/WP–99.02, Impinger/Canister Source Sampling Method for Selected HAPs and Other Compounds at Wood Products Facilities, January 2004, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for Table 4 to Subpart DDDD of this part.

(4) NCASI Method ISS/FP A105.01, Impinger Source Sampling Method for Selected Aldehydes, Ketones, and Polar Compounds, December 2005, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for table 4 to subpart DDDD of this part.

* * * * *

Subpart DDDD—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products—[Amended]

■ 3. Section 63.2231 is amended by revising the introductory paragraph to read as follows:

§ 63.2231 Does this subpart apply to me?

This subpart applies to you if you meet the criteria in paragraphs (a) and (b) of this section.

* * * * *

■ 4. Section 63.2233 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.2233 When do I have to comply with this subpart?

* * * * *

(b) If you have an existing affected source, you must comply with the compliance options, operating requirements, and work practice requirements for existing sources no later than October 1, 2007.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, you must be in compliance with this subpart by October 1, 2007 or

upon initial startup of your affected source as a major source, whichever is later.

* * * * *

■ 5. Section 63.2291 is amended by revising paragraph (c) introductory text and removing paragraph (c)(5) to read as follows:

§ 63.2291 Who implements and enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) * * *

* * * * *

Appendices B and C—[Removed]

■ 6. Appendices B and C to Subpart DDDD of part 63 are removed.

[FR Doc. 07–5295 Filed 10–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[Docket No. EPA–R05–RCRA–2007–0397; FRL–8488–6]

Ohio: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting Ohio Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The agency published a proposed rule on June 6, 2007 at 72 FR 31237 and provided for public comment. The public comment period ended on July 6, 2007. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is proposing to authorize the State's changes through this proposed final action.

DATES: The final authorization will be effective on October 29, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R05–RCRA–2007–0397. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some of the information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy. You may view and copy Ohio's application from 9 a.m. to 4 p.m. at the following addresses: U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Gary Westefer (312) 886–7450; or Ohio Environmental Protection Agency, Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio, contact: Jeff Mayhugh (614) 644–2950.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Ohio Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450, e-mail *westefer.gary@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Ohio's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Ohio final authorization to operate its hazardous waste program with the changes described in the authorization application. Ohio has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Ohio, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Ohio subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Ohio has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

1. Do inspections, and require monitoring, tests, analyses or reports

2. Enforce RCRA requirements and suspend or revoke permits

3. Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Ohio is being authorized by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On June 6, 2007 (72 FR 31237), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Ohio's hazardous waste program and opened our decision to public comment. The agency received no comments on this proposal. EPA found Ohio's RCRA program to be satisfactory.

E. What Has Ohio Previously Been Authorized for?

Ohio initially received final authorization on June 28, 1989, effective June 30, 1989 (54 FR 27170) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on April 8, 1991, effective June 7, 1991 (56 FR 14203) as corrected June 19, 1991, effective August 19, 1991 (56 FR 28088); July 27, 1995, effective September 25, 1995 (60 FR 38502); October 23, 1996, effective December 23, 1996 (61 FR 54950); January 24, 2003, effective January 24, 2003 (68 FR 3429); and January 20, 2006, effective January 20, 2006 (71 FR 3220).

F. What Changes Are We Authorizing With Today's Action?

On January 22, 2007, Ohio submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, that Ohio's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we are granting Ohio final authorization for the following program changes:

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
Toxicity Characteristic; Hydrocarbon Recovery Operations Checklist 80 as amended.	October 5, 1990, 55 FR 40834.	OAC 3745–51–04; Effective April 15, 1993.
Checklist 80.1 as amended	February 1, 1991, 56 FR 3978.	
Checklist 80.2	April 2, 1991, 56 FR 13406.	
Burning of Hazardous Waste in Boilers and Industrial Furnaces Checklist 85.	February 21, 1991, 56 FR 7134.	OAC 3745–50–10; 3745–50–11; 3745–50–40; 3745–50–44; 3745–50–51; 3745–50–66; 3745–51–02; 3745–51–04; 3745–51–06; 3745–55–12; 3745–57–40; 3745–66–12; 3745–66–13; 3745–68–40; 3745–266–100; 3745–266–101; 3745–266–102; 3745–266–103; 3745–266–104; 3745–266–105; 3745–266–106; 3745–266–107; 3745–266–108; 3745–266–109; 3745–266–110; 3745–266–111; 3745–266–112; Effective December 7, 2004.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I Checklist 94.	July 17, 1991, 56 FR 32688	OAC 3745–50–40; 3745–50–44; 3745–50–51; 3745–50–66; 3745–51–03; 3745–51–06; 3745–68–70; 3745–266–100; 3745–266–102; 3745–266–103; 3745–266–104; 3745–266–106; 3745–266–107; 3745–266–108; 3745–266–109; 3745–266–110; 3745–266–112; Effective December 7, 2004.
Burning of Hazardous Waste in Boilers and Industrial Furnaces Technical Amendments II Checklist 96.	August 27, 1991, 56 FR 42504.	OAC 3745–51–02; 3745–66–12; 3745–66–13; 3745–266–100; 3745–266–102; 3745–266–103; 3745–266–104; 3745–266–108; 3745–266–109; 3745–266–110; 3745–266–111; 3745–266–112; Effective December 7, 2004.
Coke Ovens Administrative Stay Checklist 98	September 5, 1991, 56 FR 43754.	OAC 3745–266–100; Effective December 7, 2004.
Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units Checklist 100.	January 29, 1992, 57 FR 3462.	OAC 3745–50–10; 3745–50–44; 3745–54–15; 3745–54–19; 3745–54–73; 3745–56–21; 3745–56–22; 3745–56–23; 3745–56–26; 3745–56–28; 3745–56–51; 3745–56–52; 3745–56–53; 3745–56–54; 3745–57–02; 3745–57–03; 3745–57–04; 3745–57–06; 3745–57–10; 3745–65–15; 3745–65–19; 3745–65–73; 3745–67–21; 3745–67–22; 3745–67–23; 3745–67–26; 3745–67–28; 3745–67–54; 3745–67–55; 3745–67–59; 3745–67–60; 3745–68–02 3745–68–03; 3745–68–04; 3745–68–05; 3745–68–10; Effective December 7, 2004.
Coke by-product Exclusion Checklist 105	June 22, 1992, 57 FR 27880.	OAC 3745–51–04; 3745–266–100; Effective December 7, 2004.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III Checklist 111.	August 25, 1992, 57 FR 38558.	OAC 3745–50–10; 3745–50–11; 3745–51–02; 3745–54–01; 3745–65–01; 3745–266–100; 3745–266–101; 3745–266–103; 3745–266–104; 3745–266–106; 3745–266–107; 3745–266–108; 3745–266–112; Effective December 7, 2004.
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Amendment IV Checklist 114.	September 30, 1992, 57 FR 44999.	OAC 3745–266–103; Effective December 7, 2004.
Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C Checklist 121.	February 16, 1993, 58 FR 8658.	OAC 3745–50–10; 3745–50–51; 3745–54–03; 3745–55–011; 3745–57–72; 3745–57–73; 3745–65–01; 3745–270–02; Effective December 7, 2000.
Requirements for Preparation, Adoption and Submittal of Implementation Plans Checklist 125.	July 20, 1993, 58 FR 38816	OAC 3745–50–11; 3745–266–104; 3745–266–106; Effective December 7, 2004.
Hazardous Waste Management System; Testing and Monitoring Activities Checklist 126 as amended.	August 31, 1993, 58 FR 46040.	OAC 3745–50–11; 3745–50–19; 3745–50–44; 3745–50–62; 3745–50–66; 3745–51–20; 3745–51–22; 3745–51–24; 3745–55–90; 3745–57–14; 3745–66–90; 3745–68–14; 3745–270–07; Effective December 7, 2004.
Checklist 126.1	September 19, 1994, 59 FR 47980.	3745–270–40; Effective February 8, 2005.
Burning of Hazardous Waste in Boilers and Industrial Furnaces, Revised Bevill Exemption Levels Checklist 127.	November 9, 1993, 58 FR 59598.	OAC 3745–266–112; Effective December 7, 2004.

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Solid Waste, Hazardous Waste, Oil Discharge and Superfund Programs; Removal of Legally Obsolete Rules Checklist 144.	June 29, 1995 60 FR 33912.	OAC 3745–50–10; 3745–50–40; 3745–51–31; 375–266–103; 3745–266–104; Effective December 7, 2004.
RCRA Expanded Public Participation Checklist 148	December 11, 1995 60 FR 63417.	OAC 3745–50–10; 3745–50–39; 3745–50–44; 3745–50–57; 3745–50–58; 3745–50–62; 3745–50–66; Effective December 7, 2004.
Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties Checklist 156.	February 12, 1997 62 FR 6622.	OAC 3745–50–10; 3745–50–45; 3745–50–51; 3745–51–02; 3745–52–10; 3745–52–20; 3745–53–10; 3745–54–01; 3745–54–70; 3745–65–01; 3745–65–70; 3745–205–200; 3745–205–201; 3745–205–202; 3745–256–200; 3745–256–201; 3745–256–202; 3745–266–200; 3745–266–201; 3745–266–202; 3745–266–203; 3745–266–204; 3745–266–205; 3745–266–206; Effective December 7, 2004.
Hazardous Waste Management System; Testing and Monitoring Activities Checklist 158.	June 13, 1997 62 FR 32452.	OAC 3745–50–51; 3745–266–103; 3745–266–104; 3745–266–106; 3745–266–107; Effective December 7, 2004.
Kraft Mill Steam Stripper Condensate Exclusion Checklist 164.	April 15, 1998 63 FR 18504	OAC 3745–51–03; 3745–51–04; 3745–51–06; 3745–51–30; 3745–51–31; 3745–51–32; 3745–266–100; Effective December 7, 2004. 3745–270–40; Effective February 8, 2005.
Standards Applicable to Owners/Operators of Closed and Closing Hazardous Waste Management Facilities: Post-Closure Permit Requirement and Closure Process Checklist 174.	October 22, 1998 63 FR 56709.	OAC 3745–50–44; 3745–50–45; 3745–54–90; 3745–55–10; 3745–55–12; 3745–55–18; 3745–55–40; 3745–65–90; 3745–66–10; 3745–66–12; 3745–66–18; 3745–66–21; 3745–66–40; Effective December 7, 2004.
Hazardous Remediation Waste Management Requirements Checklist 175.	November 30, 1998 63 FR 65873.	OAC 3745–50–10; 3745–50–40; 3745–50–42; 3745–50–51; Effective December 7, 2004.
Universal Waste Rule Technical Amendment Checklist 176.	December 24, 1998 63 FR 71225.	OAC 3745–266–80; 3745–273–09; Effective December 7, 2004.
Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Under the CWA and RCRA Checklist 180.	May 14, 1999 64 FR 26315	OAC 3745–50–11; Effective December 7, 2004.
Universal Waste: Lamp Rule Checklist 181	July 6, 1999 64 FR 36465	OAC 3745–50–10; 3745–50–45; 3745–51–09; 3745–54–01; 3745–54–100; 3745–270–01; 3745–273–01; 3745–273–02; 3745–273–03; 3745–273–04; 3745–273–05; 3745–273–06; 3745–273–08; 3745–273–09; 3745–273–10; 3745–273–13; 3745–273–14; 3745–273–30; 3745–273–32; 3745–273–33; 3745–273–34; 3745–273–50; 3745–273–60; 3745–273–81; Effective December 7, 2004.
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors Checklist 182 as amended.	September 30, 1999 64 FR 52827.	OAC 3745–50–10; 3745–50–44; 3745–50–51; 3745–50–62; 3745–50–66; 3745–51–38; 3745–57–40; 3745–57–91; 3745–68–40; 3745–266–100; 3745–266–101; 3745–266–105; 3745–266–112; Effective July 27, 2001 and December 7, 2004.
Checklist 182.1	November 19, 1999 64 FR 63209.	
Wastewater Treatment Sludges from the Metal Finishing Industry; 180 Day Accumulation Time Checklist 184.	March 8, 2000 65 FR 12377.	OAC 3745–52–34; Effective December 7, 2004.
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections Checklist 188 as amended.	July 10, 2000 65 FR 42292	OAC 3745–50–51; 3745–51–38; 3745–57–40; Effective July 27, 2001.
Checklist 188.2	July 3, 2001 66 FR 35087.	
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities Checklist 189.	November 8, 2000 65 FR 67067.	OAC 3745–51–11; 3745–51–30; 3745–51–32; 3745–270–33; 3745–270–48; Effective December 7, 2004. 3745–270–40; Effective February 8, 2005.
Storage, Treatment, Transportation, and Disposal of Mixed Waste Checklist 191.	May 16, 2001 66 FR 27217	OAC 3745–266–210; 3745–266–220; 3745–266–235; 3745–266–240; 3745–266–250; 3745–266–255; 3745–266–260; 3745–266–305; 3745–266–310; 3745–266–315; 3745–266–345; 3745–266–350; 3745–266–355; Effective December 7, 2004.
Revisions to the Mixture and Derived-From Rule Checklist 192A.	May 16, 2001 66 FR 27266	OAC 3745–51–03; Effective December 7, 2004.
Land Disposal Restrictions Correction Checklist 192B	May 16, 2001 66 FR 27266	OAC 3745–270–42; Effective December 7, 2004.

TABLE 1.—OHIO'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
Change of EPA Mailing Address Checklist 193	June 28, 2001 66 FR 34734.	OAC 3745–50–11; Effective December 7, 2004.
Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules Checklist 194 as amended.	October 3, 2001 66 FR 50332.	OAC 3745–51–03; Effective December 7, 2004.
Checklist 194.1	December 3, 2001 66 FR 60153.	
Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes Checklist 195 as amended.	November 20, 2001 66 FR 58257.	OAC 3745–51–04; 3745–51–30; 3745–51–32; 3745–270–36; Effective December 7, 2004; 3745–270–40; February 8, 2005.
Checklist 195.1	April 9, 2002 67 FR 17119.	
CAMU Amendments Checklist 196	January 22, 2002 67 FR 2962.	OAC 3745–50–10; 3745–57–70; 3745–57–71; 3745–57–72; 3745–57–74; 3745–57–75; Effective December 7, 2004.

TABLE 2.—EQUIVALENT STATE INITIATED CHANGES

Ohio Amendment	Description of change	Sections affected and effective date
Recycled Used Oil Management Standards Checklist 112 57 FR 41566.	Adds Federal Equivalent of 40 CFR 266.100 to Ohio's authorized Used Oil Rule.	OAC 3745–266–100; Effective December 7, 2004.
Recovered Oil Exclusion; Petroleum Refining Industry Checklist 135 59 FR 38536.	Adds Federal Equivalent of 40 CFR 266.100 to Ohio's authorized Used Oil Rule.	OAC 3745–51–03; 3745–51–06; 3745–266–100; Effective December 7, 2004.
Land Disposal Restrictions—Phase II—Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristics Wastes and Newly Listed Waste Checklist 137 59 FR 47982.	Adds Federal Equivalent of 40 CFR 266.100 to Ohio's authorized Land Disposal Restrictions —Universal Treatment Standards Rule.	OAC 3745–266–100; Effective December 7, 2004.
Petroleum Refining Process Wastes Checklist 169 63 FR 42110 as amended 63 FR 54356.	Adds Federal Equivalent of 40 CFR 266.100 to Ohio's authorized Petroleum Refining Process Wastes Rule.	OAC 3745–266–100; Effective December 7, 2004.
SB11	State Register, electronic rule filing, changes to JCARR jurisdiction and public notice requirements.	None. Effective September 15, 1999.

TABLE 2.—EQUIVALENT STATE INITIATED CHANGES—Continued

Ohio Amendment	Description of change	Sections affected and effective date
SB265	Changes per SB265 (PUCO case fix); bill effective 10/17/2002.	OAC 3745–50–10; 3745–50–11; 3745–50–19; 3745–50–38; 3745–50–39; 3745–50–40; 3745–50–41; 3745–50–43; 3745–50–44; 3745–50–46; 3745–50–51; 3745–50–53; 3745–50–62; 3745–50–66; 3745–51–03; 3745–51–04; 3745–51–05; 3745–51–06; 3745–51–08; 3745–51–11; 3745–51–20; 3745–51–21; 3745–51–22; 3745–51–23; 3745–51–24; 3745–51–30; 3745–51–32; 3745–51–35; 3745–51–38; 3745–52–10; 3745–52–11; 3745–52–12; 3745–52–20; 3745–52–34; 3745–52–53; 3745–52–54; 3745–52–56; 3745–53–20; 3745–54–30; 3745–54–01; 3745–54–13; 3745–54–18; 3745–54–52; 3745–54–73; 3745–54–98; 3745–55–12; 3745–55–13; 3745–55–42; 3745–55–43; 3745–55–45; 3745–55–51; 3745–55–75; 3745–55–90; 3745–55–93; 3745–55–98; 3745–56–21; 3745–56–51; 3745–57–03; 3745–57–14; 3745–57–40; 3745–57–71; 3745–57–72; 3745–57–73; 3745–54–74; 3745–57–75; 3745–57–91; 3745–65–01; 3745–65–13; 3745–65–52; 3745–65–73; 3745–66–13; 3745–66–42; 3745–66–43; 3745–66–44; 3745–66–45; 3745–66–47; 3745–66–48; 3745–66–90; 3745–66–93; 3745–66–96; 3745–66–98; 3745–66–101; 3745–68–05; 3745–68–14; 3745–68–40; 3745–69–30; 3745–205–101; 3745–266–20; 3745–266–23; 3745–266–100; 3745–266–102; 3745–266–103; 3745–266–104; 3745–266–105; 3745–266–106; 3745–266–107; 3745–266–109; 3745–266–111; 3745–266–112; 3745–266–201; 3745–266–203; 3745–266–205; 3745–266–210; 3745–266–240; 3745–266–250; 3745–266–315; 3745–266–345; 3745–266–350; 3745–270–01; 3745–270–02; 3745–270–03; 3745–270–04; 3745–270–07; 3745–270–31; 3745–270–42; 3745–270–45; 3745–270–48; 3745–270–50; 3745–273–03; 3745–273–09; 3745–273–13; 3745–273–14; 3745–273–33; 3745–273–34; 3745–273–81; 3745–279–10; 3745–279–11; 3745–279–22; 3745–279–42; 3745–279–43; 3745–279–45; 3745–279–51; 3745–279–54; 3745–279–55; 3745–279–62; 3745–279–64; 3745–279–73; Effective December 7, 2004; 3745–270–40; Effective February 8, 2005.
HB432 Section 4	HB432, Hazardous Waste permit length changed to ten years, bill effective April 15, 2005.	OAC 3745–50–54; Effective 10/14/2006.
CL–FLAM	References to ''Flammable and Combustable Liquids Code''.	OAC 3745–50–11; 3745–55–98; 3745–66–98; 3745–66–101; 3745–266–111; Effective December 7, 2004.
CL–FORM	Manifest form number corrections, and other form number corrections.	OAC 3745–52–12; 3745–52–41; 3745–53–11; 3745–54–01; 3745–279–42; 3745–279–51; 3745–279–62; 3745–279–73; Effective December 7, 2004.
CL–HWFB	Removal of ''HWFB'' concept, and addition of authorities to DHWM rules, per HB95 (budget bill, HB95, effective 9/26/2003).	OAC 3745–50–10; 3745–50–11; 3745–50–21; 3745–50–30; 3745–50–38; 3745–50–40; 3745–50–41; 3745–50–51; 3745–66–43; Effective December 7, 2004.
CL–3010	References to ''RCRA 3010'' and its prior locations (includes Region 5's comments on the YR5 (J5) set on this subject).	OAC 3745–50–40; 3745–51–01; 3745–51–04; 3745–51–06; 3745–51–07; 3745–51–08; 3745–51–20; 3745–57–83; 3745–266–21; 3745–266–22; 3745–266–23; 3745–266–70; 3745–266–80; 3745–273–60; 3745–279–42; 3745–279–51; 3745–279–62; 3745–279–73; Effective December 7, 2004.
CL–R5COM	Region 5's comments on the YR5 (J5) rules (not including the ''RCRA 3010'' comments).	OAC 3745–50–10; Effective 12/07/04.
CL–MEGA	Cross-reference of subparts errors, inconsistencies, typos, etc. grouped with Set G (MegaSet).	OAC 3745–50–01; 3745–50–10; 3745–50–40; 3745–50–41; 3745–50–42; 3745–50–43; 3745–50–44; 3745–50–45; 3745–50–46; 3745–50–48; 3745–50–51; 3745–50–53; 3745–50–57; 3745–50–58; 3745–50–62; 3745–51–01; 3745–51–02; 3745–51–03; 3745–51–04; 3745–51–05; 3745–51–06; 3745–51–07; 3745–51–08; 3745–51–09; 3745–51–11; 3745–51–20; 3745–51–21; 3745–51–22; 3745–51–23; 3745–51–24; 3745–51–30; 3745–51–31; 3745–51–33; 3745–51–35; 3745–51–38; 3745–52–10; 3745–52–11; 3745–52–12; 3745–52–34; 3745–52–41; 3745–52–50; 3745–52–51; 3745–52–52; 3745–52–53; 3745–52–54; 3745–52–55; 3745–52–56; 3745–52–60; 3745–52–70; 3745–53–10; 3745–53–11; 3745–53–12; 3745–53–20; 3745–53–30; 3745–54–01; 3745–54–03; 3745–54–10; 3745–54–11; 3745–54–12; 3745–54–14; 3745–54–15; 3745–54–16; 3745–54–17; 3745–54–18; 3745–54–30; 3745–54–50; 3745–54–52; 3745–54–70; 3745–54–71; 3745–54–73; 3745–54–74; 3745–54–76; 3745–54–90; 3745–54–94; 3745–54–98; 3745–55–10; 3745–55–11; 3745–55–12; 3745–55–13; 3745–55–16; 3745–55–17; 3745–55–18; 3745–55–19; 3745–55–40; 3745–55–43; 3745–55–45; 3745–55–51; 3745–55–71; 3745–55–75; 3745–55–78; 3745–55–90; 3745–55–93; 3745–55–97; 3745–55–98; 3745–56–20; 3745–56–21; 3745–56–26;

TABLE 2.—EQUIVALENT STATE INITIATED CHANGES—Continued

Ohio Amendment	Description of change	Sections affected and effective date
		3745–56–28; 3745–56–31; 3745–56–50; 3745–56–51; 3745–56–54; 3745–56–59; 3745–56–78; 3745–56–83; 3745–57–02; 3745–57–03; 3745–57–05; 3745–57–10; 3745–57–14; 3745–57–17; 3745–57–40; 3745–57–41; 3745–57–42; 3745–57–44; 3745–57–73; 3745–57–83; 3745–57–91; 3745–65–01; 3745–65–10; 3745–65–11; 3745–65–12; 3745–65–13; 3745–65–14; 3745–65–15; 3745–65–16; 3745–65–17; 3745–65–30; 3745–65–37; 3745–65–50; 3745–65–52; 3745–65–70; 3745–65–71; 3745–65–73; 3745–65–74; 3745–65–76; 3745–65–90; 3745–65–92; 3745–66–10; 3745–66–11; 3745–66–13; 3745–66–14; 3745–66–16; 3745–66–17; 3745–66–18; 3745–66–19; 3745–66–40; 3745–66–43; 3745–66–44; 3745–66–45; 3745–66–47; 3745–66–48; 3745–66–70; 3745–66–71; 3745–66–90; 3745–66–93; 3745–66–96; 3745–66–97; 3745–66–98; 3745–67–20; 3745–67–21; 3745–67–22; 3745–67–23; 3745–67–26; 3745–67–28; 3745–67–50; 3745–67–54; 3745–67–70; 3745–67–79; 3745–67–80; 3745–68–01; 3745–68–02; 3745–68–14; 3745–68–40; 3745–68–81; 3745–69–01, 3745–69–30, 3745–266–80; 3745–270–01; 3745–270–02; 3745–270–03; 3745–270–04; 3745–270–07; 3745–270–09; 3745–270–31; 3745–270–42; 3745–270–45; 3745–270–48; 3745–270–50; 3745–273–01; 3745–273–02; 3745–273–03; 3745–273–04; 3745–273–05; 3745–273–10; 3745–273–13; 3745–273–14; 3745–273–17; 3745–273–20; 3745–273–30; 3745–273–32; 3745–273–33; 3745–273–34; 3745–273–37; 3745–273–40; 3745–273–50; 3745–273–54; 3745–273–56; 3745–273–60; 3745–273–70; 3745–273–81; 3745–279–10; 3745–279–11; 3745–279–12; 3745–279–22; 3745–279–24; 3745–279–42; 3745–279–43; 3745–279–45; 3745–279–46; 3745–279–51; 3745–279–54; 3745–279–55; 3745–279–56; 3745–279–57; 3745–279–58; 3745–279–61; 3745–279–62; 3745–279–64; 3745–279–65; 3745–279–71; 3745–279–73; 3745–279–74; 3745–279–81; Effective December 7, 2004; 3745–270–40; Effective February 8, 2005.
CL–DIGIT	3-digit rule number reference corrections.	Rescinded rules: OAC 3745–49–031; 3745–50–221; 3745–50–222; 3745–50–311; 3745–50–312; 3745–50–313; 3745–50–314; 3745–50–315; 3745–50–316; 3745–55–01; 3745–55–011; 3745–56–33; 3745–56–60; 3745–57–72; 3745–58–30; 3745–58–31; 3745–58–32; 3745–58–33; 3745–58–60; 3745–58–70; 3745–66–991; 3745–66–992; 3745–68–011; 3745–218–01; 3745–218–011; 3745–218–02; 3745–248–01; 3745–248–011; 3745–248–02 Rescissions; Effective December 7, 2004. New and amended rules: 3745–50–10; 3745–50–19; 3745–50–20; 3745–50–23; 3745–50–24; 3745–50–25; 3745–50–26; 3745–50–27; 3745–50–28; 3745–50–29; 3745–50–30; 3745–50–40; 3745–50–44; 3745–50–45; 3745–50–46; 3745–50–48; 3745–50–51; 3745–50–57; 3745–51–01; 3745–51–02; 3745–51–03; 3745–51–04; 3745–51–05; 3745–51–06; 3745–51–07; 3745–51–08; 3745–51–09; 3745–51–20; 3745–51–32; 3745–51–38; 3745–52–10; 3745–52–11; 3745–52–34; 3745–52–41; 3745–52–70; 3745–53–12; 3745–54–01; 3745–54–03; 3745–54–12; 3745–54–13; 3745–54–14; 3745–54–16; 3745–54–17; 3745–54–18; 3745–54–52; 3745–54–73; 3745–54–74; 3745–54–76; 3745–54–90; 3745–54–91; 3745–54–98; 3745–54–99; 3745–54–100; 3745–54–101; 3745–55–10; 3745–55–11; 3745–55–12; 3745–55–13; 3745–55–17; 3745–55–18; 3745–55–40; 3745–55–42; 3745–55–43; 3745–55–45; 3745–55–51; 3745–55–71; 3745–55–75; 3745–55–93; 3745–56–31; 3745–56–50; 3745–56–59; 3745–56–80; 3745–57–03; 3745–57–10; 3745–57–17; 3745–57–71; 3745–57–73; 3745–57–83; 3745–57–92; 3745–65–01; 3745–65–12; 3745–65–13; 3745–65–14; 3745–65–16; 3745–65–17; 3745–65–52; 3745–65–56; 3745–65–73; 3745–65–74; 3745–66–10; 3745–66–11; 3745–66–12; 3745–66–13; 3745–66–19; 3745–66–40; 3745–66–42; 3745–66–43; 3745–66–45; 3745–66–71; 3745–66–90; 3745–66–93; 3745–66–100; 3745–66–101; 3745–68–05; 3745–68–81; 3745–69–01; 3745–205–100; 3745–205–101; 3745–205–102; 3745–256–100; 3745–256–101; 3745–256–102; 3745–266–20; 3745–266–21; 3745–266–22; 3745–266–23; 3745–266–70; 3745–266–80; 3745–270–04; 3745–270–07; 3745–270–31; 3745–270–50; 3745–273–01; 3745–273–02; 3745–273–03; 3745–273–13; 3745–273–17; 3745–273–33; 3745–273–37; 3745–273–54; 3745–273–60; 3745–279–10; 3745–279–12; 3745–279–22; 3745–279–45; 3745–279–54; 3745–279–64; 3745–279–81; Effective December 7, 2004.

G. Where Are the Revised State Rules Different From the Federal Rules?

Ohio has excluded the non-delegable Federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3. EPA will continue to implement those requirements. In this action, Ohio has chosen to remain more stringent in two rules. The first is the Hazardous Remediation Waste Management Requirements, (Checklist 175 above) by choosing not to adopt 40 CFR Sections 270.79 through 270.230 which allow for Remedial Action Plans (RAP). The RAP is considered to be less stringent. The

second is the Liners and Leak Detection Systems for Hazardous Waste Disposal Units (Checklist 100 above). In this rule, Ohio is not adopting 40 CFR 270.4 which is the permit shield provision. Under Table 2 (Equivalent State Initiated Changes), sections 3745–50–33, 3745–50–34, 3745–50–35, and 3745–50–36 under HWFB, have also been amended. They are broader in scope fee rules, not authorizable in this action. This action involves no other more stringent or broader in scope State requirements.

H. Who Handles Permits After the Authorization Takes Effect?

Ohio will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Ohio is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Ohio?

Ohio is not authorized to carry out its hazardous waste program in ''Indian Country,'' as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Ohio;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, EPA retains the authority to implement and administer the RCRA program in Indian Country. However, at this time, there is no Indian Country within the State of Ohio.

J. What is Codification and is EPA Codifying Ohio's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. Ohio's rules, up to and including those revised June 7, 1991, as corrected August 19, 1991, have previously been codified through the incorporation-by-reference effective February 4, 1992 (57 FR 4162). We reserve the amendment of 40 CFR part 272, subpart KK for the codification of Ohio's program changes until a later date.

K. Statutory and Executive Order Reviews

This proposed rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law (see **SUPPLEMENTARY INFORMATION**, Section A. Why are Revisions to State Programs Necessary?). Therefore this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 18266: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993).

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

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).

5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., 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).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.)

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because the EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. 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 to this rule.

10. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this 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.

11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 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.

12. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Because this rule proposes authorization of pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

13. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 10, 2007.

Walter W. Kovalick,

Acting Regional Administrator, Region 5.

[FR Doc. E7–21251 Filed 10–26–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070322067–7501–01; I.D. 031407A]

RIN 0648–AU03

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Bycatch Management

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

ACTION: Final rule.

SUMMARY: NMFS amends regulations governing salmon bycatch in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to enhance the effectiveness of salmon bycatch measures by exempting pollock vessels from Chinook and Chum Salmon Savings Area closures if they participate in an intercooperative agreement (ICA) to reduce salmon bycatch, and exempting vessels participating in non-pollock trawl fisheries from Chum Salmon Savings Area closures because these fisheries intercept minimal amounts of salmon. This action is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP).

DATES: Effective on November 28, 2007.

ADDRESSES: Copies of Amendment 84; the final Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 84; and the final Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements included in this final rule may be submitted to NMFS at the address above and by e-mail to *David_Rostker@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907–586–7228, or *jason.anderson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the BSAI in the Exclusive Economic Zone under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Pacific salmon are caught incidentally in the BSAI trawl fisheries, especially in the pollock fishery. Of the five species of Pacific salmon, Chinook salmon (*Onchorynchus tshawytscha*) and chum salmon (*O. keta*) are most often incidentally caught in the pollock fisheries. Pacific salmon are placed into two categories for purposes of salmon bycatch management: Chinook and non-Chinook. The non-Chinook category is comprised of chum, sockeye (*O. nerka*), pink (*O. gorbuscha*), and coho (*O. kisutch*) salmon. However, chum salmon represent about 98 percent of non-Chinook salmon harvested incidentally in the pollock trawl fisheries. For convenience, all non-Chinook salmon are referred to as chum salmon.

In October 2005, the Council adopted Amendment 84 to the FMP. Amendment 84 establishes the salmon bycatch intercooperative agreement (ICA) which allows vessels participating in the directed fisheries for pollock in the Bering Sea to utilize their internal cooperative structure to reduce salmon bycatch using a method called the ''voluntary rolling hotspot system'' (VRHS). In recommending Amendment 84, the Council recognized that current regulatory management measures, including a bycatch cap that triggered closure of fixed salmon savings areas, have not been effective at reducing salmon bycatch. Amendment 84 provides an alternative approach to managing salmon bycatch which has the potential to be more effective than current regulations.

The notice of availability for Amendment 84 was published in the **Federal Register** on March 26, 2007 (72 FR 14069), and the public review and comment period closed on May 25, 2007. NMFS approved Amendment 84 on June 22, 2007. This final rule contains regulatory amendments necessary to implement the provisions of Amendment 84.

The proposed rule to implement Amendment 84 was published in the **Federal Register** on April 18, 2007 (72 FR 19454), and the public review and comment period closed on June 4, 2007. The proposed rule contains a description of the management measures adopted by the Council prior to Amendment 84 to limit salmon bycatch, a description of requirements for the salmon bycatch reduction ICA, and a summary of the proposed regulations to implement the Amendment 84. Please refer to the proposed rule for detailed background information as it is not reproduced in this final rule.

The purpose of the salmon bycatch avoidance ICA is to use real-time salmon bycatch information to avoid areas of high chum and Chinook salmon bycatch rates. Parties to the ICA include the American Fisheries Act cooperatives, the six Western Alaska Community Development Quota (CDQ)

groups, at least one third party group representing western Alaskans who depend on salmon and have an interest in salmon bycatch reduction, and at least one private firm retained to facilitate bycatch avoidance behavior and information sharing. The ICA utilizes a system of base bycatch rates, assignment of vessels to tiers based on bycatch rates relative to the base rate, a system of closures for vessels in certain tiers, and monitoring and enforcement through private contractual arrangements. Vessels participating in the salmon bycatch ICA are exempted from closures of the Chinook and Chum Salmon Savings Areas in the Bering Sea. In addition, vessels participating in trawl fisheries for species other than pollock are exempt from Chum Salmon Savings Area closures. More information about the salmon bycatch reduction ICA is included in the Classification section of this rule and in the proposed rule (72 FR 19454; April 18, 2007).

Response to Comments

NMFS received two letters of comment on Amendment 84 and one letter of comment on both the proposed rule and the amendment. These letters contained seven separate comments related to both the proposed rule and the amendment. The following summarizes and responds to these comments.

Comment 1: While we support the ideas and intent of salmon bycatch management through the Voluntary Rolling Hot Spot (VRHS) system adopted by Amendment 84, in the absence of an associated limit on salmon bycatch, we have great concerns that this system will not effectively reduce salmon bycatch in compliance with National Standard 9 of the Magnuson-Stevens Act and the Yukon River Salmon Agreement. In fact, the experiences of the first two seasons of operation of the VRHS under an Experimental Fishing Permit have seen some of the highest bycatch numbers on record.

Response: From 1990 through 2001, BSAI Chinook salmon bycatch averaged around 37,819 individual fish annually, and chum salmon bycatch averaged 69,332. Recently, however, salmon bycatch numbers have increased significantly. In 2003, 54,911 Chinook salmon and 197,091 chum salmon were caught incidentally in the trawl fisheries. In 2004, salmon bycatch increased to 62,493 Chinook and 465,650 chum salmon. Bycatch amounts remained high in 2005 and totaled 74,975 Chinook and 711,939 chum salmon. In 2006, 87,786 Chinook and 326,279 chum salmon were taken.

NMFS authorized exempted fishing permits (EFPs) for the 2006 ''B'' and 2007 ''A'' and ''B'' seasons to allow the pollock fisheries in the Bering Sea to operate under the salmon bycatch ICA that will be implemented by Amendment 84. The EFPs exempted the pollock fleet from salmon savings area closures and allowed them to explore the feasibility of operating under a dynamic salmon bycatch reduction mechanism. One of the objectives of these EFPs was to reduce salmon bycatch, however, as noted by the commenter, salmon bycatch amounts remain high even under the EFPs.

Analyses of data collected under the EFPs suggest that salmon bycatch rates and amounts would have been higher without the salmon savings area exemptions that are provided under Amendment 84. A report prepared by representatives of the ICA for the Council concluded that the reduced salmon bycatch rates under the 2006 EFP resulted in estimated savings of salmon from what would otherwise have occurred (18 percent reduction for Chinook and 65 percent reduction for chum). They also reported that the 2007 EFP resulted in an estimated savings of 39,000 Chinook salmon during the ''A'' season.

The primary objective of Amendment 84 is to reduce salmon bycatch. Information in the EA/RIR/FRFA that compares historical bycatch rates inside and outside the existing salmon savings closure areas and the EFP reports indicate that bycatch rates under the EFP have been reduced relative to what they would have been under the existing regulatory structure.

Amendment 84 provides participants in the pollock fisheries the flexibility to conduct pollock fishing in areas of relatively lower salmon bycatch rates and to be responsive to current bycatch rates rather than relying on static closure areas that were established based on historical high bycatch rates. The EA/RIR/FRFA shows that the existing regulations caused vessels to fish in areas of higher bycatch rates when the Chinook and Chum Salmon Savings Areas closed. For these reasons, we believe that Amendment 84 is consistent with National Standard 9 because it increases the ability of ICA participants to minimize salmon bycatch to the extent practicable. In addition, we believe that Amendment 84 also is consistent with the Yukon River Salmon Agreement because it is an element of the Council's efforts to reduce bycatch of western Alaska salmon in the BSAI groundfish fisheries. Additionally, the Council continues to work on ways to further reduce salmon bycatch and will evaluate the effectiveness of Amendment 84 in the next few years as it analyzes additional alternatives to reduce salmon bycatch.

Comment 2: The commenter is concerned with a statement in the EA/RIR/IRFA that there are recent indications of increasing returns to chum and Chinook salmon stocks in Western Alaska. Specifically, the commenter notes that salmon bycatch in the pollock fishery has increased while Chinook salmon runs in the Yukon River and Norton Sound remain at average or below average returns.

Response: While the EA/RIR/FRFA does contain the general statement quoted in the comment about increasing returns to chum and Chinook stocks in Western Alaska, it also acknowledges, in section 3.4 (Western Alaska Chinook Salmon Stock Status), that there are concerns with the Yukon River and Norton Sound Chinook salmon returns.

Comment 3: It is unclear on what basis the EA can conclude that ''the incidental catch of Chinook salmon by the BSAI trawl fisheries is not thought to be extremely detrimental to the health and viability of those stocks.'' Although the EA does recognize there is some uncertainty in that analysis, the conclusion reached is that Amendment 84 will have limited impacts on the salmon stocks.

Response: The EA/RIR/FRFA provides an overview of the information known about the origin of salmon bycatch in the BSAI groundfish fisheries and the status of western Alaska salmon stocks. Admittedly, NMFS has limited information on salmon biomass and genetic river of origin for salmon bycatch species. Research is underway to address these information deficiencies. However, without this information, NMFS is unable to determine if high bycatch amounts in the pollock fishery are due to high salmon abundance in the Bering Sea, or how these high bycatch amounts affect western Alaska salmon runs. Throughout the EA/RIR/IRFA and discussion of the issue, the Council recognized that salmon bycatch is an important issue and that salmon of western Alaska origin that are caught in the groundfish fisheries are not available for escapement, subsistence fisheries, and commercial fisheries. Amendment 84 provides more flexible regulations that can better respond to changes in salmon bycatch rates, and the Council believes that it is an improvement to the existing regulatory structure. In addition, the Council is continuing to work to identify

additional measures that could be implemented to reduce salmon bycatch amounts.

Comment 4: Two elements of the VRHS system of closures limit the system's ability to reduce bycatch. First, the method of setting the base rate for Chinook salmon in the ''A'' season at the last ''A'' season's average and then adjusting the rate three weeks into the season can result in initially setting the base rate high when salmon bycatch was high in the previous year. This occurred in the 2007 A season. The effect of this method is that most coops move to Tier 1, where closures do not apply. While in reality boats responded to the advisory closures throughout the remainder of the A season as if they were in Tier 3, this action was not required under the VRHS system. Second, limitations on closure areas to 1,000 square miles represent an enormous reduction from the amount of area closed under the regulatory Salmon Savings Areas and it is not clear in the analysis why such a limit is necessary or how a VRHS system with such a limit will achieve salmon bycatch reductions.

Response: The specific components of the ICA were proposed to the Council as a package by the members of the ICA and analyzed as Alternative 3 in the EA/RIR/IRFA. The Secretary concurs with the Council's selection of this alternative as its preferred alternative because it allows the parties to the ICA to develop a more flexible system for responding to salmon bycatch than the existing regulations. Calculation of the base rates and the minimum size of the closure areas are two of many elements of the ICA developed by the parties. The Chinook salmon initial base rate is based on the average bycatch rate in the previous A season, as noted by the commenter. However, the regulations also place an upper limit of 0.06 Chinook per metric ton of pollock as a maximum initial base rate for the A season. Therefore, the initial base rate is not necessarily always as high as the previous year's average bycatch rate. The proposed regulations specify that the maximum ICA Chinook savings area closures during the A season must be at least 1000 square miles. However, the parties to the ICA could specify larger closure areas if they determined that this was necessary to accomplish the goals of reducing salmon bycatch.

In general, the objective of Amendment 84 and its implementing regulations is to allow the parties to the ICA to develop a system of managing salmon bycatch that includes identifying the elements of the ICA that the parties believe will best accomplish the goals of reducing salmon bycatch. At the time the Council took final action on Amendment 84, it also expressed its intent to review salmon bycatch performance under the ICA and to make adjustments in the future, if necessary. Specific elements of the ICA such as the base rate calculations and the size of the closure areas may be reviewed in the future as performance under the ICA is evaluated by the Council.

Comment 5: We strongly support the voluntary rolling hotspot approach to managing Bering Sea salmon bycatch. As noted in the EA/RIR/FRFA, Amendment 84 has the potential to reduce Bering Sea salmon bycatch more than the status quo. If that potential is realized, Amendment 84 would reduce the foregone value of salmon bycatch and increase the overall benefits of bycatch reduction.

Response: NMFS agrees.

Comment 6: The analysis prepared for this action indicates that very little chum bycatch occurs in the non-pollock fisheries. Additionally, virtually no non-Chinook salmon are caught in the flatfish, rockfish, or Atka mackerel fisheries within the Catcher Vessel Operational Area. Therefore, we recommend approval of the component of Amendment 84 that applies closures of the Chum Salmon Savings Area only to vessels conducting directed fishing for pollock. In addition, if there are additional delays in implementing Amendment 84, we recommend implementation of this exemption while other issues of concern are addressed.

Response: Amendment 84 was approved on June 22, 2007, and this final rule revises regulations at 50 CFR part 679 to apply closures of the Chum Salmon Savings Area only to vessels conducting directed fishing for pollock that are not participating in an approved salmon bycatch ICA.

Comment 7: We suggest two changes from the proposed rule. First, several paragraphs of the proposed rule reference Tier assignments at § 679.21(g)(6)(iii)(C). We believe these references should be § 679.21(g)(5)(iii)(C). Second, regulations at § 679.21(g)(5)(vii) require that if a cooperative Board of Directors fails to assess a minimum uniform assessment within 60 days of receiving a notice of an apparent violation, the information used to determine if an apparent violation was committed must be disseminated to all parties to the ICA. The Intercooperative recently addressed several apparent violations of ICA savings area closures. In the process of doing so, it became apparent that 60 days is not sufficient for a vessel captain to gather evidence necessary to defend the violation, the captain to submit this information to the Board of Directors, and the Board of Directors to issue a reasoned decision concerning whether a violation was committed. Therefore, we recommend revising the final rule so that regulations at § 679.21(g)(5)(vii) reflect a 180 day time limit.

Response: NMFS agrees. The reference correction noted in the comment is correct and is made in the final rule. In addition, an increase in the time period for ICA members to respond to a notice of apparent violation is reasonable and will improve the administrative process under the ICA. Therefore, this revision also will be made in the final rule.

Changes From the Proposed Rule

Regulations at § 679.21(g)(5)(iii)(A)(*1*) describe the initial base rate calculation for Chinook salmon. In the first sentence, the final rule adds the words ''in the'' between the words ''season'' and ''prior'' to clarify that sentence.

Regulations at § 679.21(g)(5)(iii)(B)(*5*) and § 679.21(g)(5)(iii)(A)(4) describe fishing restrictions for vessels assigned to Tiers. In the first sentence of both paragraphs, the final rule removes the words ''for seven days'' from the end of the sentence, and adds them between the word ''pollock'' and the comma in the same sentence. This clarifies that the ICA must require chum savings area closures announced on Thursdays must remain in place for seven days for vessels assigned to Tier 3.

Regulations at § 679.21(g)(5)(iii)(C) describe the salmon bycatch reduction ICA requirements for cooperative Tier assignments. However, proposed regulations erroneously referred to this paragraph as § 679.21(g)(6)(iii)(C). These references are corrected in the final rule regulatory text.

Regulations at § 679.21(g)(5)(vii) require that if a cooperative Board of Directors fails to assess a minimum uniform assessment within 60 days of receiving a notice of an apparent violation, the information used to determine if an apparent violation was committed must be disseminated to all parties to the ICA. As noted by public comment above, the 60 day time limit may be constraining, and is not consistent with its intent to provide ample opportunity for internal ICA penalty processes to occur. Therefore, § 679.21(g)(5)(vii) is revised to a 180–day time limit.

Regulations at § 679.61(f)(2)(vii) describe annual reporting requirements for AFA fishery cooperatives. The final rule adds an apostrophe to the word ''vessels'' to indicate its possessive form.

Classification

The Administrator, Alaska Region, NMFS determined that Amendment 84 is necessary for the conservation and management of the groundfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a Final Regulatory Flexibility Analysis. The FRFA incorporates the IRFA, a summary of the significant issues raised by public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). The following summarizes the FRFA.

Objectives and Need for this Action

This action exempts vessels participating in directed pollock fishing from Chinook and Chum Salmon Savings Area closures if they participate in a salmon bycatch reduction ICA. The ICA is intended to reduce salmon bycatch rates in the BSAI AFA and CDQ pollock fisheries. Additionally, this action exempts all non-pollock trawl vessels from the Chum Salmon Savings Area closure.

Number of Small Entities Affected by the Rule

In 2005 about 116 trawl catcher vessels operated in the BSAI with gross revenues less than $4.0 million. NMFS records indicate that 111 BSAI catcher vessels were members of AFA cooperatives. Because of Small Business Administration affiliation guidelines, all AFA vessels are considered large entities. Therefore, five BSAI trawl catcher vessels appear to qualify as small entities. Additionally, NMFS' 2005 data indicate that three non-AFA catcher processor trawl vessels had gross revenues less than $4.0 million.

Significant Alternatives Considered and Steps Taken to Minimize the Significant Economic Impacts to Small Entities

Salmon bycatch in the Bering Sea pollock trawl fishery has increased in recent years under Alternative 1, the status quo. This translates into foregone salmon value, assuming full terminal harvest of salmon bycatch, of nearly $1 million for Chinook and more than $250 thousand for chum salmon. These values very likely overstate the actual harvest that might have occurred if salmon bycatch had not been taken in the Bering Sea pollock trawl fishery. Unfortunately, it is not possible to estimate actual harvest value more accurately at this time. However, the increases in salmon bycatch under the status quo likely result in increases in foregone value and decreased benefits of bycatch reduction. The status quo could also lead to future restrictions on the Bering Sea pollock trawl fleet to reduce the incidental take of Chinook salmon currently listed under the Endangered Species Act.

Alternative 2 would eliminate the salmon savings closure areas altogether. The result would likely be reduced operational costs, improved vessel safety, improved product quality, and reduced management and enforcement costs. However, in the absence of any bycatch reduction measures this alternative may result in further increase in salmon bycatch in the Bering Sea pollock trawl fishery. Were that to occur, the foregone value of such bycatch would increase and the associated benefits of bycatch reduction would decrease, possibly dramatically. This could also result in the increased take of listed Chinook salmon in the Bering Sea pollock trawl fishery. Alternative 3 is the preferred alternative. It exempts vessels participating in a salmon bycatch reduction ICA from the BSAI salmon savings area closures. It is expected to reduce salmon bycatch rates in the BSAI pollock fisheries by penalizing participants that exhibit high salmon bycatch rates and rewarding participants that exhibit low salmon bycatch rates. Vessels participating in a salmon bycatch reduction ICA will be subject to a dynamic system of rolling ''hot spot'' closures dictated by the ICA and designed to reduce salmon bycatch. This alternative likely will reduce operational costs, improve vessel safety, and improve product quality. Alternative 3 also has the potential to reduce salmon bycatch more than the status quo management measures. If that potential is realized, Alternative 3 will reduce foregone value of salmon bycatch and increase the overall benefits of bycatch reduction. Alternative 3 also provides some mitigation possibilities for western Alaska subsistence salmon user groups by including them as parties to the ICA and enabling them to enforce compliance with the ICA's salmon bycatch reduction measures in Bering Sea pollock fisheries through private contractual arrangements.

Alternative 3 will reduce management and enforcement costs for government agencies by transferring much of that cost to the fishing industry. The industry has volunteered to bear this cost in hopes of reducing operational costs associated with the status quo while at the same time attempting to reduce salmon bycatch. If bycatch is not reduced under Alternative 3, additional restrictions on the fleet could result.

Alternative 3, through the suboption to option 2, exempts directly regulated small entities participating in the BSAI Pacific cod and/or flatfish trawl fisheries from all salmon bycatch caps, closures, voluntary salmon bycatch management measures, etc. Pacific cod and/or flatfish trawl fisheries in the BSAI account for a negligible share of the total salmon bycatch attributable to trawl fisheries. At the same time, many of the vessels that prosecute these fisheries are assumed to be ''small'' (as defined by the Regulatory Flexibility Act). Therefore, adoption of the suboption to option 2 that exempts BSAI Pacific cod and/or flatfish trawl fisheries from the regulatory provisions of the salmon bycatch reduction program removes all adverse economic burdens from this action on all small entities operating in these BSAI groundfish trawl fisheries.

Issues Raised by Public Comments on the IRFA

No comments were received on the IRFA.

Recordkeeping, Reporting, and other Compliance Requirements

Depending on the alternative chosen, the subsequent proposed regulation may impose new recordkeeping or reporting requirements on directly regulated small entities. This would be accurate for Alternative 3, which eliminates existing salmon bycatch prevention measures, and replaces them with an industry funded and operated salmon bycatch reduction program. Under this program, the ICA will require vessels to report bycatch and position data to an industry hired contractor. These activities could conceivably increase recordkeeping and reporting requirements for regulated small entities. However, under the suboption to option 2, virtually all the small entities directly regulated under this action would be exempted from the program's provisions.

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.

The preamble to this rule serves as the small entity compliance guide. It applies to trawl catcher vessels and catcher/processors operating in the BSAI. Affected entities are well informed of compliance measures for regulations implementing Amendment 84, due to their involvement in the Council process leading to its adoption of Amendment 84, and industry development of the VRHS system of closures. These entities have assessed their ability to comply with Amendment 84 regulations and provided comments to NMFS on the proposed rule. NMFS has incorporated some of these comments in the final rule. Implementing regulations at §§ 679.2, 679.7, 679.21, 679.22 and 679.61 detail all revisions and additions to definitions, prohibitions, prohibited species management, area closures, and recordkeeping and reporting requirements. This action does not require additional compliance from small entities that is not described in this final rule. Copies of the final rule are available from NMFS (see **ADDRESSES**) and at the following website: *http://www.fakr.noaa.gov*.

Collection-of-Information

This final rule includes collection-of-information requirements subject to the Paperwork Reduction Act (PRA) which have been approved by the Office of Management and Budget under Control Number 0648–0401. Public reporting burden per response is estimated to average 40 hr for salmon bycatch reduction intercooperative agreements; 15 min for renewal of an ICA; 28 hr for a preliminary annual report; 12 hr for a final annual report; and 4 hr for ICA appeal. Reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**) and e-mail to *David_Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid Office of Management and Budget Control Number.

This final rule was developed after meaningful consultation with tribal representatives and Alaska Native corporations.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 23, 2007.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; and Pub. L. 108 199, 118 Stat. 110.

■ 2. In § 679.2, the definition of ''Salmon bycatch reduction intercooperative agreement (ICA)'' is added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Salmon bycatch reduction intercooperative agreement (ICA) is a voluntary chum and Chinook salmon catch avoidance agreement, as described at § 679.21(g) and approved by NMFS, for directed pollock fisheries in the Bering Sea subarea.

* * * * *

■ 3. In § 679.7, paragraphs (d)(9) and (d)(10) are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(d) * * *

(9) For the operator of an eligible vessel, use trawl gear to harvest pollock CDQ in the Chinook Salmon Savings Area between January 1 and April 15, and between September 1 and December 31, after the CDQ group's Chinook salmon PSQ is attained, unless the vessel is participating in a salmon bycatch reduction ICA under § 679.21(e)(7)(ix).

(10) For the operator of an eligible vessel, use trawl gear to harvest pollock CDQ in the Chum Salmon Savings Area between September 1 and October 14 after the CDQ group's non-Chinook salmon PSQ is attained, unless the vessel is participating in a salmon bycatch reduction ICA under § 679.21(e)(7)(ix).

* * * * *

■ 4. In § 679.21, paragraph (e)(7)(vii) is revised and paragraphs (e)(7)(ix) and (g) are added to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(e) * * *

(7) * * *

(vii) *Chum salmon.* If the Regional Administrator determines that 42,000 non-Chinook salmon have been caught by vessels using trawl gear during August 15 through October 14 in the CVOA, defined under § 679.22(a)(5) and in Figure 2 to this part, NMFS will prohibit directed fishing for pollock for the remainder of the period September 1 through October 14 in the Chum Salmon Savings Area as defined in Figure 9 to this part.

* * * * *

(ix) *Exemptions.* (A) Trawl vessels participating in directed fishing for pollock and operating under a salmon bycatch reduction ICA approved by NMFS are exempt from closures in the Chum Salmon Savings Area described at paragraph (e)(7)(vii) of this section. See also § 679.22(a)(10).

(B) Trawl vessels participating in directed fishing for pollock and operating under a salmon bycatch reduction ICA approved by NMFS are exempt from closures in area 2 of the Chinook Salmon Savings Area described at paragraph (e)(7)(viii) of this section.

* * * * *

(g) *Requirements for vessels participating in a salmon bycatch reduction ICA*—(1) *Who must file the salmon bycatch reduction ICA?* The representative for the salmon bycatch reduction ICA identified at paragraph (g)(5)(v) of this section must file a copy of the initial ICA and any amended salmon bycatch reduction ICA with NMFS.

(2) *With whom must the initial salmon bycatch reduction ICA and an amended salmon bycatch reduction ICA be filed?* The ICA representative must send a signed copy of the initial salmon bycatch reduction ICA and any amended salmon bycatch reduction ICA to the NMFS Alaska Region. The mailing address for the Administrator, NMFS Alaska Region is P.O. Box 21668, Juneau, AK 99802. The street address for courier delivery is 709 West 9th St., Suite 401, Juneau, AK 99801.

(3) *What is the deadline for filing?* In order for any ICA participant to be exempt from salmon savings area closures as described at paragraphs (e)(7)(ix)(A) and (B) of this section and at § 679.22(a)(10), the salmon bycatch reduction ICA must be filed in compliance with the requirements of this section, and approved by NMFS. The initial salmon bycatch reduction ICA must be received by NMFS by

December 1, 2007, for the 2008 fishing year. Exemptions from salmon savings area closures will expire upon termination of the initial ICA, expiration of the initial ICA, or if superseded by a NMFS-approved amended salmon bycatch reduction ICA.

(4) *How is the initial and an amended salmon bycatch reduction ICA approved by NMFS?* NMFS will approve the initial or an amended salmon bycatch reduction ICA if it meets all the requirements specified in paragraph (g)(5) of this section. If NMFS disapproves a salmon bycatch reduction ICA, the representative identified at (g)(5)(v) of this section may resubmit a revised salmon bycatch reduction ICA or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(5) *What are the minimum information requirements for the salmon bycatch reduction ICA?* The salmon bycatch ICA must include the following provisions:

(i) The names of the AFA cooperatives, CDQ groups, and third party groups that are parties to the ICA. The ICA must identify at least one third party group. Third party groups include any organizations representing western Alaskans who depend on Chinook and chum salmon and have an interest in salmon bycatch reduction but do not directly fish in a groundfish fishery. The ICA must identify one entity retained to facilitate vessel bycatch avoidance behavior and information sharing. Collectively, these groups are known as parties to the ICA. Parties to the ICA must agree to comply with all provisions of the ICA;

(ii) The names, Federal fisheries permit numbers, and USCG vessel identification numbers of vessels subject to the salmon bycatch reduction ICA;

(iii) Provisions that dictate salmon bycatch avoidance behaviors for vessel operators subject to the ICA, including:

(A) *''A'' season salmon bycatch management*—(*1*) *Initial base rate calculation for Chinook salmon.* The initial ''A'' season Chinook base rate shall be calculated by dividing the total number of Chinook taken incidentally in the ''A'' season in the prior year by the total number of metric tons of ''A'' season pollock catch during the prior year, except that if the initial ''A'' season Chinook base rate for any given year is less than or equal to 0.04 Chinook per metric ton of pollock, the initial base rate shall be 0.04 Chinook per metric ton, and if the initial base rate for any given year is equal to or greater than 0.06 Chinook per metric ton of pollock, the initial base rate shall be 0.06 Chinook per metric ton. Base rate calculations shall include Chinook salmon and pollock caught in both the CDQ and non-CDQ pollock directed fisheries.

(*2*) *Inseason adjustments to the Chinook salmon base rate calculation.* On February 14 of each year, the ''A'' season Chinook base rate shall be recalculated. The recalculated base rate shall be the Chinook bycatch rate for the current year, calculated by dividing the total number of Chinook salmon taken incidentally in the current ''A'' season by the total number of metric tons of ''A'' season pollock catch during the current season. The recalculated base rate shall be used to determine bycatch avoidance areas.

(*3*) *ICA salmon savings area notices.* On January 30 of each year and each Thursday and Monday thereafter for the duration of the pollock ''A'' season, the entity retained to facilitate vessel bycatch avoidance behavior and information sharing identified in paragraph (g)(5)(i) of this section must provide notice to the parties to the salmon bycatch reduction ICA and NMFS identifying one or more areas designated as ''ICA Chinook Savings Areas'' by a series of latitude and longitude coordinates. The Thursday notice of ICA Chinook savings area designations must be effective from 6 p.m. Alaska local time the following Friday through 6 p.m. Alaska local time the following Tuesday. The Monday notice must be effective from 6 p.m. Alaska local time the following Tuesday through 6 p.m. Alaska local time the following Friday. For any ICA salmon savings area notice, the maximum total area closed must be at least 1,000 square miles.

(*4*) *Fishing restrictions for vessels assigned to Tiers as described at paragraph (g)(5)(iii)(C) of this section.* ICA Chinook savings area closures announced on Thursdays must be closed to directed fishing for pollock for seven days, including pollock CDQ, by vessels assigned to Tier 3. ICA Chinook savings area closures announced on Thursdays must be closed to vessels assigned to Tier 2 through 6 p.m. Alaska local time on the following Tuesday. Vessels assigned to Tier 1 may operate in any area designated as an ICA Chinook savings area.

(B) *''B'' season salmon bycatch management*—(*1*) *''B'' season Chinook salmon.* For the ''B'' season of the 2008 fishing year, the Chinook salmon base rate shall be 0.05 Chinook salmon per metric ton of pollock. For the ''B'' season of the 2009 fishing year and each ''B'' season thereafter, the base rate shall be based on the Chinook salmon bycatch during a representative period of the prior year's ''B'' season. The recalculated base rate shall be used to determine bycatch avoidance areas. Base rate calculations shall include Chinook salmon and pollock caught in both the CDQ and non-CDQ pollock directed fisheries.

(*2*) *Non-Chinook salmon.* The initial ''B'' season non-Chinook salmon base rate shall be 0.19 non-Chinook salmon per metric ton of pollock.

(*3*) *Inseason adjustments to the non-Chinook base rate calculation.* Beginning July 1 of each fishing year, and on each Thursday during ''B'' season, the ''B'' season non-Chinook base rate shall be recalculated. The recalculated non-Chinook base rate shall be the three week rolling average of the ''B'' season non-Chinook bycatch rate for the current year. The recalculated base rate shall be used to determine bycatch avoidance areas.

(*4*) *ICA salmon savings area notices.* On each Thursday and Monday after June 10 of each year for the duration of the pollock ''B'' season, the entity retained to facilitate vessel bycatch avoidance behavior and information sharing identified in paragraph (g)(5)(i) of this section must provide notice to the parties to the salmon bycatch reduction ICA and NMFS identifying one or more areas designated as ''ICA Chinook Savings Areas'' and/or ''ICA Chum Savings Areas'' by a series of latitude and longitude coordinates. The Thursday notice of ICA Chinook savings area designations must be effective from 6 p.m. Alaska local time the following Friday through 6 p.m. Alaska local time the following Tuesday. The Monday notice must be effective from 6 p.m. Alaska local time the following Tuesday through 6 p.m. Alaska local time the following Friday. For any ICA salmon savings area notice, the maximum total area closed must be at least 3,000 square miles for ICA chum savings area closures, and 500 square miles for ICA Chinook savings area closures.

(*5*) *Fishing restrictions for vessels assigned to Tiers as described at paragraph (g)(5)(iii)(C) of this section.* ICA chum savings area closures announced on Thursdays must be closed to directed fishing for pollock for seven days, including pollock CDQ, by vessels assigned to Tier 3. ICA chum savings area closures announced on Thursdays must be closed to vessels assigned to Tier 2 through 6 p.m. Alaska local time on the following Tuesday. Vessels assigned to Tier 1 may operate in any area designated as an ICA chum savings area. ICA Chinook savings areas must be closed to fishing by all vessels identified at paragraph (g)(5)(iii)(C) of this section.

(C) *Cooperative tier assignments.* Initial and subsequent base rate calculations must be based on each cooperative's pollock catch for the prior two weeks and the associated bycatch of Chinook or non-Chinook salmon taken by its members. Base rate calculations shall include salmon bycatch and pollock caught in both the CDQ and non-CDQ pollock directed fisheries. Cooperatives with salmon bycatch rates of less than 75 percent of the base rate shall be assigned to Tier 1. Cooperatives with salmon bycatch rates of equal to or greater than 75 percent, but less than or equal to 125 percent of the base rate shall be assigned to Tier 2. Cooperatives with salmon bycatch rates of greater than 125 percent of the base rate shall be assigned to Tier 3. Bycatch rates for Chinook salmon must be calculated separately from non-Chinook salmon, and cooperatives must be assigned to tiers separately for Chinook and non-Chinook salmon bycatch.

(iv) Internal monitoring and enforcement provisions to ensure compliance of fishing activities with the provisions of the ICA. The ICA must include provisions allowing any party of the ICA to bring civil suit or initiate a binding arbitration action against another for breach of the ICA. The ICA must include minimum annual uniform assessments for any violation of savings area closures of $10,000 for the first offense, $15,000 for the second offense, and $20,000 for each offense thereafter;

(v) The name, phone number, and business address of the person who will annually file the ICA with NMFS;

(vi) Provisions requiring the parties to conduct an annual compliance audit, and to cooperate fully in such audit, including providing information required by the auditor. The compliance audit must be conducted by a non-party entity, and each party must have an opportunity to participate in selecting the non-party entity. If the non-party entity hired to conduct a compliance audit discovers a previously undiscovered failure to comply with the terms of the ICA, the non-party entity must notify all parties to the ICA of the failure to comply and must simultaneously distribute to all parties of the ICA information used to determine the failure to comply occurred and must include such notice(s) in the compliance report described in § 679.61(f)(2)(vii).

(vii) Provisions requiring data dissemination in certain circumstances. If the entity retained to facilitate vessel bycatch avoidance behavior and information sharing identified at paragraph (g)(5)(i) of this section determines that an apparent violation of an ICA savings area closure has occurred, that entity must promptly notify the Board of Directors of the cooperative to which the vessel involved belongs. If this Board of Directors fails to assess a minimum uniform assessment within 180 days of receiving the notice, the information used by the entity retained to facilitate vessel bycatch avoidance behavior to determine if an apparent violation was committed must be disseminated to all parties to the ICA.

■ 5. In § 679.22, paragraph (a)(10) is revised to read as follows:

§ 679.22 Closures.

(a) * * *

(10) *Chum Salmon Savings Area.* Directed fishing for pollock by vessels using trawl gear is prohibited from August 1 through August 31 in the Chum Salmon Savings Area defined at Figure 9 to this part (see also § 679.21(e)(7)(vii)). Vessels using trawl gear participating in directed fishing for pollock, including pollock CDQ, and operating under a salmon bycatch reduction ICA are exempt from closures in the Chum Salmon Savings Area. See also § 679.21(e)(7)(vii).

* * * * *

■ 6. In § 679.61, paragraph (f)(2)(vi) is added to read as follows:

§ 679.61 Formation and operation of fishery cooperatives.

* * * * *

(f) * * *

(2) * * *

(vi) The annual report must indicate the number of salmon taken by species and season, estimate the number of salmon avoided as demonstrated by the movement of fishing effort away from salmon savings areas, include the results of the compliance audit described at § 679.21(g)(6)(vi), and list each vessel's number of appearances on the weekly dirty 20 lists for both salmon species.

* * * * *

[FR Doc. E7–21256 Filed 10–26–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 208
Monday, October 29, 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 25

[Docket No. NM381; Notice No. 25–07–13–SC]

Special Conditions: Boeing Model 747 Series Airplanes; Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Boeing Model 747 series airplanes. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by November 28, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM381, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM381. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail alan.sinclair@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Proposed Change to Special Condition Number 4

The FAA previously notified the public of our intent to issue special conditions for seats with non-traditional, large, non-metallic panels on various airplane makes and models. Notice of Proposed Special Conditions No. 25–06–13–SC, applicable to Boeing Model 737 series airplanes, was published in the **Federal Register** on November 9, 2006 (71 FR 65761). The special conditions were issued on June 29, 2007 (Docket No. NM 359, Special Conditions No. 25–358–SC), published in the **Federal Register** on July 10, 2007 (72 FR 37425), and became effective on August 9, 2007. Both the Notice and the Final Special Conditions contained these words:

> We anticipate that seats with non-traditional, large, non-metallic panels will be installed in other makes and models of airplanes. We have made the determination to require special conditions for all applications requesting the installation of seats with non-traditional, large, non-metallic panels until the airworthiness requirements can be revised to address this issue. Having the same standards across the range of airplane makes and models will ensure a level playing field for the aviation industry.

Special condition number 4 in the 737 special conditions limits the applicability of the special conditions to new seat certification programs applied for after the effective date of the special conditions. In these proposed special conditions the FAA proposes to change the applicability to make the special conditions applicable to new seat certification programs that are approved after the effective date of the special conditions. This change could affect pending as well as future project applications. The rationale behind this proposed change is that these seat installations affect survivability during a post-crash fire event and should be implemented as soon as possible. Additionally, the public has been previously notified of the FAA's intent to issue similar special conditions on other airplane makes and models.

Background

On August 8, 2005, Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124, applied for a design change to Type Certificate No. A20WE for installation of seats that include non-traditional, large, non-metallic panels in Boeing Model 747 series airplanes. The Boeing Model 747 series airplanes, currently approved under Type Certificate No. A20WE, are swept-wing, conventional tail, four engine, turbofan-powered, dual aisle, large-sized transport category airplanes.

The applicable regulations to airplanes currently approved under Type Certificate No. A20WE do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat

cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the Model 747 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A20WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A20WE are as follows:

- *For Model 747–100, –100B, –100B SUD, –200B, –200C, –300, 747SR and 747SP airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–8, Amendment 25–15, Amendment 25–17, Amendment 25–18, Amendment 25–20 and Amendment 25–39.
- *For Model 747–400 airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–59. For Model 747–400F airplanes, Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–67.
- *For Model 747–400D airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–70.

In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Boeing Model 747 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels in their designs. In order to provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: Seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture.

Examples of traditional exempted parts of the seat include: Arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include panels that are directly exposed to the passenger cabin in the traditional sense, and panels that are enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (i.e., § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes over materials that do not comply.

At the time these standards were written the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food

trays met the heat release and smoke requirements. The requirements therefore did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985) and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, *Guidance for Flammability Testing of Seat/Console Installations,* October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large, non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in 14 CFR 25.853(d) to seats with large, non-metallic panels in their design.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 747 series airplanes. It is not our intent, however, to require seats with large, non-metallic panels to meet § 25.853, Appendix F, parts IV and V, if they are installed in cabins of airplanes that otherwise are not required to meet these standards. Because the heat release and smoke testing requirements of § 25.853, Appendix F, parts IV and V, are not part of the type certification basis of the Model 747, these special conditions are only applicable if the Model 747 series airplanes are in 14 CFR part 121 operations. Section 121.312 requires compliance with the heat release and smoke testing requirements of § 25.853, for certain airplanes, irrespective of the type certification bases of those airplanes. For the Model 747, these are the airplanes that would be affected by these special conditions. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 747 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with Title 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate non-traditional, large, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of Title 14 CFR part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR § 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on October 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21236 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM382; Notice No. 25–07–14–SC]

Special Conditions: Boeing Model 767 Series Airplanes; Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Boeing Model 767 series airplanes. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards

for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by November 28, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM382, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM382. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail *alan.sinclair@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Proposed Change to Special Condition Number 4

The FAA previously notified the public of our intent to issue special conditions for seats with non-traditional, large, non-metallic panels on various airplane makes and models. Notice of Proposed Special Conditions No. 25–06–13–SC, applicable to Boeing Model 737 series airplanes, was published in the **Federal Register** on November 9, 2006 (71 FR 65761). The special conditions were issued on June 29, 2007 (Docket No. NM 359, Special Conditions No. 25–358–SC), published in the **Federal Register** on July 10, 2007 (72 FR 37425), and became effective on August 9, 2007. Both the Notice and the Final Special Conditions contained these words:

> We anticipate that seats with non-traditional, large, non-metallic panels will be installed in other makes and models of airplanes. We have made the determination to require special conditions for all applications requesting the installation of seats with non-traditional, large, non-metallic panels until the airworthiness requirements can be revised to address this issue. Having the same standards across the range of airplane makes and models will ensure a level playing field for the aviation industry.

Special condition number 4 in the 737 special conditions limits the applicability of the special conditions to new seat certification programs applied for after the effective date of the special conditions. In these proposed special conditions the FAA proposes to change the applicability to make the special conditions applicable to new seat certification programs that are approved after the effective date of the special conditions. This change could affect pending as well as future project applications. The rationale behind this proposed change is that these seat installations affect survivability during a post-crash fire event and should be implemented as soon as possible. Additionally, the public has been previously notified of the FAA's intent to issue similar special conditions on other airplane makes and models.

Background

On August 8, 2005, Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124, applied for a design change to Type Certificate No. A1NM for installation of seats that include non-traditional, large, non-metallic panels in Boeing Model 767 series airplanes. The Boeing Model 767 series airplanes, currently approved under Type Certificate No. A1NM, are swept-wing, conventional tail, twin-engine, turbofan-powered, dual aisle, medium-sized transport category airplanes.

The applicable regulations to airplanes currently approved under Type Certificate No. A1NM do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the Model 767 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A1NM are as follows:

- *For Model 767–200 and –300 airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–37.
- *For Model 767–400ER airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–37 with the exception listed: Section 25.853(d)(3), Compartment interiors, at Amendment 25–72.

In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not

relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 767 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 767 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Boeing Model 767 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels in their designs. In order to provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: Seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: Arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include panels that are directly exposed to the passenger cabin in the traditional sense, and panels that are enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (i.e., § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes over materials that do not comply.

At the time these standards were written the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements therefore did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985) and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, *Guidance for Flammability Testing of Seat/Console Installations*, October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large, non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of

material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in 14 CFR 25.853(d) to seats with large, non-metallic panels in their design.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 767 series airplanes. It is not our intent, however, to require seats with large, non-metallic panels to meet § 25.853, Appendix F, parts IV and V, if they are installed in cabins of airplanes that otherwise are not required to meet these standards. Because the heat release and smoke testing requirements of § 25.853 per Appendix F, parts IV and V, are not part of the type certification basis of the Model 767, these special conditions are only applicable if the Model 767 series airplanes are in 14 CFR part 121 operations. Section 121.312 requires compliance with the heat release and smoke testing requirements of § 25.853, for certain airplanes, irrespective of the type certification bases of those airplanes. For Model 767 series airplanes, these are the airplanes that would be affected by these special conditions. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 767 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with Title 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate non-traditional, large, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of Title 14 CFR part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on October 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21240 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 384; Notice No. 25–07–16–SC]

Special Conditions: Boeing Model 787 Series Airplanes; Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Boeing Model 787 series airplanes. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by November 28, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. 384, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. 384. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail *alan.sinclair@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this

proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Proposed Change to Special Condition Number 4

The FAA previously notified the public of our intent to issue special conditions for seats with non-traditional, large, non-metallic panels on various airplane makes and models. Notice of Proposed Special Conditions No. 25–06–13–SC, applicable to Boeing Model 737 series airplanes, was published in the **Federal Register** on November 9, 2006 (71 FR 65761). The special conditions were issued on June 29, 2007 (Docket No. NM 359, Special Conditions No. 25–358-SC), published in the **Federal Register** on July 10, 2007 (72 FR 37425), and became effective on August 9, 2007. Both the Notice and the Final Special Conditions contained these words:

> We anticipate that seats with non-traditional, large, non-metallic panels will be installed in other makes and models of airplanes. We have made the determination to require special conditions for all applications requesting the installation of seats with non-traditional, large, non-metallic panels until the airworthiness requirements can be revised to address this issue. Having the same standards across the range of airplane makes and models will ensure a level playing field for the aviation industry.

Special condition number 4 in the 737 special conditions limits the applicability of the special conditions to new seat certification programs applied for after the effective date of the special conditions. In these proposed special conditions the FAA proposes to change the applicability to make the special conditions applicable to new seat certification programs that are approved after the effective date of the special conditions. This change could affect pending as well as future project applications. The rationale behind this proposed change is that these seat installations affect survivability during a post-crash fire event and should be implemented as soon as possible. Additionally, the public has been previously notified of the FAA's intent to issue similar special conditions on other airplane makes and models.

Background

On August 8, 2005, Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124, applied for a type certificate for a new Boeing Model 787 airplane. The Boeing Model 787 series airplanes will be all new, twin-engine, jet transport airplanes with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

The applicable regulations to airplanes currently approved under part 25 do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

Type Certification Basis

Under provisions of 14 CFR 21.17, Boeing must show that Model 787–8 airplanes (hereafter referred to as ''the Model 787'') meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–117, except §§ 25.809(a) and 25.812, which will remain at Amendment 25–115. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model 787 airplane because of a novel or unusual design feature, special conditions are prescribed under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 787 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The Boeing Model 787 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels in their designs. In order to provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: Seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: Arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include panels that are directly exposed to the passenger cabin in the traditional sense, and panels that are enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (i.e., § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes over materials that do not comply.

At the time these standards were written the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements therefore did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985) and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, *Guidance for Flammability Testing of Seat/Console Installations,* October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large, non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in 14 CFR 25.853(d) to seats with large, non-metallic panels in their design.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 787 series airplanes. Because the heat release and smoke testing requirements of § 25.853 are part of the type certification basis for the Model 787, these special conditions are applicable to all Model 787 series airplanes. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 787 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with Title 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate non-traditional, large, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of Title 14 CFR part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on October 19, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21243 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM383; Notice No. 25–07–15–SC]

Special Conditions: Boeing Model 777 Series Airplanes; Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Boeing Model 777 series airplanes. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by November 28, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM383, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM383. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail *alan.sinclair@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Proposed Change to Special Condition Number 4

The FAA previously notified the public of our intent to issue special conditions for seats with non-traditional, large, non-metallic panels on various airplane makes and models. Notice of Proposed Special Conditions No. 25–06–13–SC, applicable to Boeing Model 737 series airplanes, was published in the **Federal Register** on November 9, 2006 (71 FR 65761). The special conditions were issued on June 29, 2007 (Docket No. NM 359, Special Conditions No. 25–358–SC), published in the **Federal Register** on July 10, 2007 (72 FR 37425), and became effective on August 9, 2007. Both the Notice and the Final Special Conditions contained these words:

> We anticipate that seats with non-traditional, large, non-metallic panels will be installed in other makes and models of airplanes. We have made the determination to require special conditions for all applications requesting the installation of seats with non-traditional, large, non-metallic panels until the airworthiness requirements can be revised to address this issue. Having the same standards across the range of airplane makes and models will ensure a level playing field for the aviation industry.

Special condition number 4 in the 737 special conditions limits the applicability of the special conditions to new seat certification programs applied for after the effective date of the special conditions. In these proposed special conditions the FAA proposes to change the applicability to make the special conditions applicable to new seat certification programs that are approved after the effective date of the special conditions. This change could affect pending as well as future project applications. The rationale behind this proposed change is that these seat installations affect survivability during a post-crash fire event and should be implemented as soon as possible. Additionally, the public has been previously notified of the FAA's intent to issue similar special conditions on other airplane makes and models.

Background

On August 8, 2005, Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124, applied for a design change to Type Certificate No. T00001SE for installation of seats that include non-traditional, large, non-metallic panels in Boeing Model 777 series airplanes. The Boeing Model 777 series airplanes, currently approved under Type Certificate No. T00001SE, are swept-wing, conventional tail, twin-engine, turbofan-powered, dual aisle, large-sized transport category airplanes.

The applicable regulations to airplanes currently approved under Type Certificate No. T00001SE do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (CFR), part 25, Appendix F, parts IV and

V, heat release and smoke emission requirements.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the Model 777 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. T00001SE are as follows:

- *For Model 777–200 airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–82.
- *For Model 777–200LR airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–100 with the exceptions listed: §§ 25.831(a) and 25.831(g) at Amendment 25–86; § 25.841(a) at Amendment 25–86; and § 25.853(d)(3) at Amendment 25–82.
- *For Model 777–300 airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–86 with the exception listed: § 25.853(d)(3), Compartment interiors, at Amendment 25–82.
- *For Model 777–300ER airplanes*—Title 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–98 with the exception listed: § 25.853(d)(3), Compartment interiors, at Amendment 25–82.

In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Boeing Model 777 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels in their designs. In order to provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: Seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: Arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include panels that are directly exposed to the passenger cabin in the traditional sense, and panels that are enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (i.e., § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes over materials that do not comply.

At the time these standards were written the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements therefore did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985) and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible

to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, *Guidance for Flammability Testing of Seat/Console Installations,* October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large, non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in 14 CFR 25.853(d) to seats with large, non-metallic panels in their design.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 777 series airplanes. Because the heat release and smoke testing requirements of § 25.853 are part of the type certification basis for the Model 777, these special conditions are applicable to all new seat certification programs for Model 777 series airplanes. The existing (i.e., with unchanged interiors) Model 777 fleet and follow-on deliveries of Model 777 series airplanes with previously certificated interiors are not affected. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 777 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with Title 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate non-traditional, large, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of Title 14 CFR part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on October 19, 2007.

Ali Bahrami

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–21248 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0500–200721; FRL–8488–2]

Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted on May 25, 2007, by the Commonwealth of Kentucky (Kentucky), through the Kentucky Division for Air Quality (KDAQ), to remove the ''Potentially hazardous matter or toxic substances'' rule from the EPA-approved Kentucky State Implementation Plan (SIP). KDAQ requested that EPA remove this rule from the Kentucky SIP, because the rule is not related to the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). EPA is proposing to approve this request and correct the Kentucky SIP by removing this rule from the SIP pursuant to section 110(k)(6) of the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 28, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2007–0500, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail: lakeman.sean@epa.gov*.
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2007–0500,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2007–0500.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION: The CAA requires EPA to set NAAQS for commonly occurring air pollutants that pose public health and welfare threats. These pollutants are known as criteria pollutants. Currently, NAAQS exist for six criteria pollutants—ozone (ground level), particulate matter, carbon monoxide, sulfur dioxide, lead and nitrogen dioxide. On July 12, 1982 (47 FR 30059), EPA erroneously approved Kentucky's ''Potentially hazardous matter or toxic substances'' rule (401 KAR 63:020) into the SIP. This rule is not related to the attainment and maintenance of the NAAQS. Pursuant to section 110 of the CAA, provisions approved by EPA as part of States' SIPs should generally be related to attainment and maintenance of these NAAQS.

The Kentucky ''Potentially hazardous matter or toxic substances'' rule applies to antimony, arsenic, bismuth, lead, silica, tin and compounds of such materials. EPA is, therefore, proposing to correct this error by removing the provision from the approved SIP under the authority of section 110(k)(6) of the CAA. Section 110(k)(6) provides: ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.''

Proposed Action

Since Kentucky's ''Potentially hazardous matter or toxic substances'' rule (401 KAR 63:020) is not directed at the attainment and maintenance of the NAAQS, EPA has found that its prior approval of this particular rule into the Kentucky SIP was in error. Consequently, in order to correct this error, EPA is proposing to remove Kentucky rule 401 KAR 63:020 from the approved Kentucky SIP pursuant to section 110(k)(6) of the CAA. EPA will codify this deletion by revising the appropriate paragraph under 40 CFR part 52, subpart S, section 52.920 (Identification of Plan).

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 proposed action merely proposes to remove an erroneously approved State rule from the SIP 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 remove an erroneously approved State rule from the SIP 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 tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to remove an erroneously approved State rule from the SIP, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: October 19, 2007.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

[FR Doc. E7–21245 Filed 10–26–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 070717354–7361–01]

RIN 0648–AV73

Endangered and Threatened Species; Designation of Critical Habitat for the North Pacific Right Whale

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

ACTION: Proposed rule; request for comment.

SUMMARY: We, NMFS, completed a status review of the northern right whale and have determined that the right whale in the North Pacific Ocean is a separate and distinct species from the right whales in the North Atlantic Ocean and southern hemisphere. We also find the species to be described in the North Pacific Ocean, the North Pacific right whale (*Eubalaena japonica*), is in danger of extinction throughout its range. We have proposed to list this species as endangered pursuant to the Endangered Species Act of 1973 (ESA). Here we propose to designate critical habitat for this species. Two specific areas are proposed for designation: one in the Gulf of Alaska (GOA) and another in the Bering Sea. Our most recent mapping calculation indicates this area comprises a total of approximately 36,800 square miles (95,325 square kilometers) of marine habitat. We solicited comments from the public on all aspects of the proposal, including information on the economic, national security, and other relevant impacts of the proposed designation. We may revise this proposal and solicit additional comments prior to final designation to address new information received during the comment period.

DATES: Comments on this proposed rule must be received by close of business on December 28, 2007. Requests for public hearings must be made in writing by December 13, 2007.

ADDRESSES: You may submit comments, identified by 0648–AV73, by any one of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.
- Mail: Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian, P. O Box 21668, Juneau, AK 99802
- Hand delivery to the Federal Building : 709 W. 9th Street, Juneau, Alaska .
- Fax: (907) 586–7012, Attn: Ellen Sebastian.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The proposed rule, maps, stock assessments, and other materials relating to this proposal can be found on the NMFS Alaska Region website *http://www.fakr.noaa.gov/*.

FOR FURTHER INFORMATION CONTACT: Brad Smith, (907) 271–3023, or Marta Nammack, (301) 713–1401.

SUPPLEMENTARY INFORMATION: The ESA, as amended [16 U.S.C. 1531 *et seq.*], grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants, and habitats of such species that have been designated as critical. The U.S. Fish and Wildlife Service and NMFS share responsibility for administering the ESA. Endangered or threatened species under the authority of NMFS are found in 50 CFR parts 223 and 224.

Background

The North Pacific right whale (E. japonica) is a member of the family Balaenidae and is closely related to the right whales that inhabit the North Atlantic and the Southern Hemisphere. Right whales are large baleen whales that grow to lengths and weights exceeding 18 meters and 100 tons, respectively. They are filter feeders whose prey consists exclusively of zooplankton (notably copepods and euphausiids; see below). Right whales attain sexual maturity at an average age of 8–10 years, and females produce a single calf at intervals of 3–5 years (Kraus *et al.*, 2001). Their life expectancy is unclear, but is known to reach 70 years in some cases (Hamilton *et al.*, 1998; Kenney, 2002).

Right whales are generally migratory, with at least a portion of the population moving between summer feeding grounds in temperate or high latitudes and winter calving areas in warmer waters (Kraus *et al.*, 1986; Clapham *et al.*, 2004). In the North Pacific, the feeding range is known to include the GOA, the Aleutian Islands, the Bering Sea, and the Sea of Okhotsk. Although a general northward movement is evident in spring and summer, it is unclear whether the entire population undertakes a predictable seasonal migration, and the location of calving grounds remains completely unknown (Scarff, 1986; Scarff, 1991; Brownell *et al.*, 2001; Clapham *et al.*, 2004; Shelden et al,. 2005). Further details of occurrence and distribution are provided below.

In the North Pacific, whaling for right whales began in the GOA (known to whalers as the ''Northwest Ground'') in 1835 (Webb, 1988). Right whales were extensively hunted in the western North Pacific in the latter half of the 19th century, and by 1900 were scarce throughout their range. Right whales were protected worldwide in 1935 through a League of Nations agreement. However, because neither Japan nor the USSR signed this agreement, both nations were theoretically free to continue right whaling until 1949, when

the newly-created International Whaling Commission (IWC) endorsed this ban. Following this, a total of 23 North Pacific right whales were legally killed by Japan and the USSR under Article VIII of the International Convention for the Regulation of Whaling (1946), which permits the taking of whales for scientific research purposes. However, it is now known that the USSR illegally caught many right whales in the North Pacific (Doroshenko, 2000; Brownell *et al.*, 2001; Ivashchenko, 2007). In the eastern North Pacific, 372 right whales were killed by the Soviets between 1963 and 1967; of these, 251 were taken in the GOA south of Kodiak, and 121 in the Southeastern Bering Sea (SEBS). These takes devastated a population that, while undoubtedly small, may have been undergoing a slow recovery (Brownell *et al.*, 2001).

As a result of this historic and recent hunting, the North Pacific right whale today is among the most endangered of all whales worldwide. Right whales were listed in 1970 following passage of the Endangered Species Conservation Act (ESCA) of 1969, and automatically granted endangered status when the ESCA was repealed and replaced by the ESA. Right whales were also protected in U.S. waters under the Marine Mammal Protection Act of 1972. NMFS issued a Recovery Plan for the northern right whale in 1991 which covered both the North Atlantic and North Pacific (NMFS, 1991).

We have assumed the existence of a single species of right whales in the North Pacific (Hill *et al.*,1997). However, some authors (e.g., Klumov, 1962; Brownell *et al.*, 2001) have discussed the possibility that North Pacific right whales exist in discrete eastern and western North Pacific populations. In particular, Brownell *et al.* (2001) pointed to the different catch and recovery histories of the eastern and western management units as support for such a division. During the 1983 IWC right whale workshop (IWC, 1986), the Scientific Committee recommended distinguishing two North Pacific management units, but stated no conclusion can be reached concerning the identity of biological populations. At this writing, sub-division of this species remains equivocal, and we consider all North Pacific right whales to belong to the single species, *E. japonica*.

In the western North Pacific (the Sea of Okhotsk and adjacent areas), current abundance is unknown but is probably in the low to mid-hundreds (Brownell *et al.*, 2001). There is no estimate of abundance for the eastern North Pacific (Bering Sea, Aleutian Islands, and GOA), but sightings are rare; most biologists believe the current population is unlikely to exceed a hundred individuals, and is probably much smaller. Prior to the illegal Soviet catches of the 1960s, an average of 25 whales was observed each year in the eastern North Pacific (Brownell *et al.*, 2001); in contrast, the total number of records in the 35 years from 1965 to 1999 was only 82, or 2.3 whales per annum.

Since 1996, NMFS and other surveys (directed specifically at right whales or otherwise) have detected small numbers of right whales in the SEBS, including an aggregation estimated at 24 animals in the summer of 2004. Photo-identification and genetic data have identified 35 individuals from the Bering Sea, and the high inter-annual resighting rate further reinforces the idea that this population is small. Right whales have also been sighted in the northern GOA, including a sighting in August 2005 and September 2006, both of which occurred in the same area south of Kodiak Island. However, the overall number of North Pacific right whales using habitats other than the Bering Sea is not known.

The taxonomic status of right whales worldwide has recently been revised in light of genetic analysis (see Rosenbaum *et al.*, 2000; Gaines *et al.*, 2005). Applying a phylogenetic species concept to molecular data separates right whales into three distinct species: *Eubalaena glacialis* (North Atlantic), *E. japonica* (North Pacific) and *E. australis* (Southern Hemisphere). We formally recognized this distinction for the purpose of management in a final rule published on April 10, 2003 (68 FR 17560), but subsequently determined that the issuance of this rule did not comply with the requirements of the ESA, and thus rescinded it (70 FR 1830, January 11, 2005) prior to beginning the process anew. We published a proposed rule on December 27, 2006 (71 FR 77694), to list the North Pacific right whale, *E. japonica*, separately as an endangered species.

Critical Habitat

Section 3 of the ESA defines critical habitat (CH) as ''the specific areas within the geographical area occupied by the species, at the time it is listed, * * * on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and specific areas outside the geographical area occupied by the species at the time it is listed that are determined by the Secretary to be essential for the conservation of the species.'' Section 3 of the ESA (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean ''to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.''

Section 4 of the ESA requires that before designating CH, the Secretary consider economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as CH. The Secretary may exclude any area from CH if the benefits of exclusion outweigh the benefits of inclusion, unless excluding an area from CH will result in the extinction of the species concerned. Once CH is designated, section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS, ensure that any action authorized, funded, or carried out by such agency is not likely to result in the destruction or adverse modification of CH.

CH for the Northern Right Whale

On July 6, 2006, we published a Final Rule (71 FR 38277) to revise the CH for the northern right whale by designating areas within the North Pacific Ocean as CH under the ESA. Two specific areas were designated, one in the GOA and another in the Bering Sea. These are the same areas being proposed here for the North Pacific right whale. In our 2006 Final Rule (71 FR 38277; July 6, 2006) we stated the critical habitat comprised approximately 36,750 square miles (95,200 sq km) of marine habitat. However, our most recent mapping calculation indicates that the area is approximately 95,325 square miles (36,800 square miles) of marine habitat. A description of, and the basis for, the proposed designation follow.

Geographical Area Occupied by the Species

The ESA defines CH (in part) as areas within the geographical area occupied by the species at the time it was listed under the ESA. Because this geographical area has not been previously described for the North Pacific right whale, it is necessary to establish this range when proposing to designate CH.

Prior to the onset of commercial whaling in 1835, right whales were widely distributed across the North Pacific (Scarff, 1986; Clapham *et al.*, 2004; Shelden *et al.*, 2005). By 1973, the North Pacific right whale had been

severely reduced by commercial whaling. Sighting data from this remnant population are too sparse to identify the range of these animals in 1973. However, no reason exists to suspect that the right whales that remain alive today inhabit a substantially different range than right whales alive during the time of the Soviet catches; indeed, given the longevity of this species, it is likely that some of the individuals who survived that whaling episode remain extant now. Consequently, recent habitat use is unlikely to be different from that at or before the time of listing.

Both the SEBS and the western GOA (shelf and slope waters south of Kodiak) have been the focus of many sightings (as well as the illegal Soviet catches) in recent decades. In general, the majority of North Pacific right whale sightings (historically and in recent times) have occurred from about 40° N to 60° N latitude (lat.). There are historical records from north of 60° N lat., but these are rare and are likely to have been misidentified bowhead whales. North Pacific right whales have on rare occasions been recorded off California and Mexico, as well as off Hawaii. However, as noted by Brownell *et al.* (2001), there is no evidence that either Hawaii or the west coast of North America from Washington State to Baja California were ever important habitats for right whales. Given the amount of whaling effort as well as the human population density in these regions, it is highly unlikely that substantial concentrations of right whales would have passed unnoticed. Furthermore, no archaeological evidence exists from the U.S. west coast suggesting that right whales were the target of local native hunts. Consequently, the few records from this region are considered to represent vagrants. The geographical area occupied by the North Pacific right whale at the time of ESA listing extends over a broad area of the North Pacific Ocean, between 120° E and 123° W longitude and 40° N and 60° N latitude, as depicted in Figure 1.

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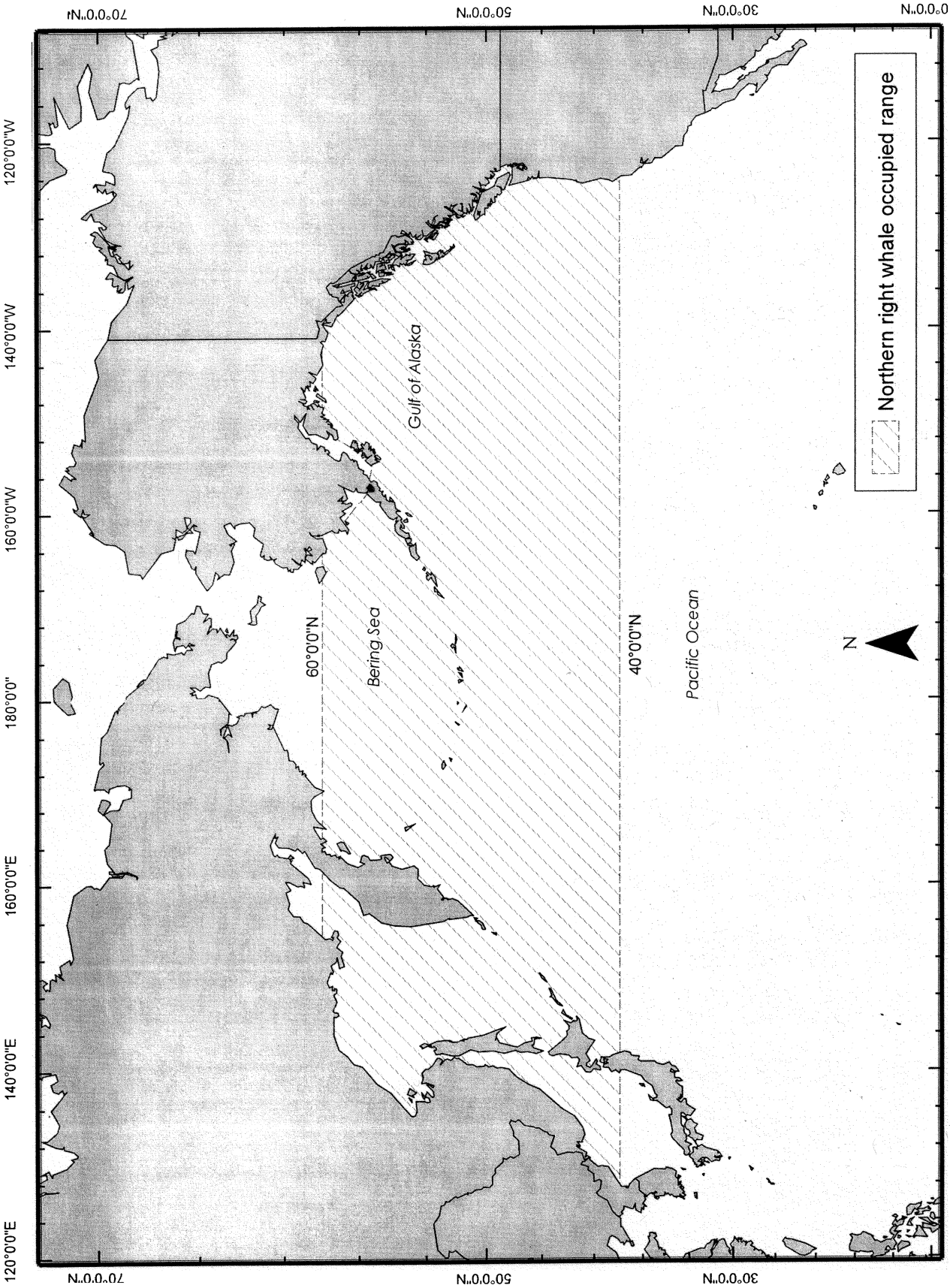

Figure 1. Occupied range of Northern right whales in the North Pacific at time of listing under the Endangered Species Act.

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Unoccupied Areas

ESA section 3(5)(A)(ii) further defines CH to include ''specific areas outside the geographical area occupied'' if the areas are determined by the Secretary to be ''essential for the conservation of the species.'' 50 CFR 424.12(e) specifies that NMFS ''shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.'' We are not proposing to designate any areas not occupied at the time of listing because any such areas are presently unknown (if they exist), and the value of any such habitat in conserving this species cannot be determined. Future revisions to the CH of the North Pacific right whale may consider new information which might lead to designation of areas outside the occupied area of these whales.

Physical or Biological Features Essential to the Conservation of the Species

In determining what areas are CH, 50 CFR 424.12(b) requires that we ''consider those physical or biological features that are essential to the conservation of a given species including space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.'' The regulations further direct us to ''focus on the principal biological or physical constituent elements . . . that are essential to the conservation of the species,'' and specify that the ''known primary constituent elements shall be listed with the critical habitat description.'' The regulations identify primary constituent elements (PCE) as including, but not limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.'' An area must contain one or more PCEs to be eligible for designation as CH; an area lacking a PCE may not be designated in the hope it will acquire one or more PCEs in the future.

NMFS scientists considered PCEs for right whales in the North Pacific during a workshop held during July 2005. Unfortunately, many data gaps exist in our knowledge of the ecology and biology of these whales, and very little is known about the PCEs that might be necessary for their conservation. The life-requisites for such factors as temperatures, depths, substrates, are unknown, or may be highly variable. One certainty is the metabolic necessity of prey species to support feeding by right whales. Examination of harvested whales in the North Pacific and limited plankton tows near feeding right whales in recent years show these whales feed on several species of zooplankton. We have determined these are described by several species of large copepods and other zooplankton which constitute the primary prey of the North Pacific right whale. The PCEs for the North Pacific right whale are species of large zooplankton in areas where right whale are known or believed to feed. In particular, these are: the copepods *Calanus marshallae*, *Neocalanus cristatus*, and *N. plumchrus*. and a euphausiid, *Thysanoessa raschii*, whose very large size, high lipid content, and occurrence in the region likely makes it a preferred prey item for right whales (J. Napp, pers. comm.). A description of the proposed CH (below) establishes the presence of these PCEs within those areas. In addition to the physical presence of these PCEs within the proposed CH, it is likely that certain physical forcing mechanisms are present which act to concentrate these prey in densities which allow for efficient foraging by right whales. There may in fact be critical or triggering densities below which right whale feeding does not occur. Such densities are not presently described for the right whales in the North Pacific, but have been documented in the Atlantic. Accordingly, the proposed CH encompasses areas in which the physical and biological oceanography combines to promote high productivity and aggregation of large copepods into patches of sufficient density for right whales. The PCEs, essential for the conservation of the North Pacific right whale, and these physical forcing or concentrating mechanisms, contribute to the habitat value of the areas proposed for designation.

Special Management Considerations or Protection

An occupied area may be designated as CH if it contains physical and biological features that ''may require special management considerations or protection.'' 50 CFR 424.02(j) defines ''special management considerations or protection'' to mean ''any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.'' We considered whether the copepods and other zooplankton which have been identified as the PCEs for the North Pacific right whale may require special management considerations or protection. The proposed CH areas support extensive and multi-species commercial fisheries for pollock, flatfish, cod, various crabs, and other resources (but not salmon, as salmon fisheries in Alaska are restricted to State waters, except in the case of trolling which is permitted in Federal waters but only immediately adjacent to the Southeast Alaska coastline; these areas are not included in the proposed CH areas). We believe the identified PCEs would not be harmed by these Federally managed fisheries. However, plankton communities and species are vulnerable to physical and chemical alterations within the water column due to both natural processes, such as global climate change or the Pacific Decadal Oscillation, as well as pollution from various potential sources, including oil spills, discharges from oil and gas drilling and production, and fish processing waste discharges. Because of the vulnerabilities to pollution sources, these PCEs may require special management or protection through such measures as conditioning Federal permits or authorizations through special operational restraints, mitigative measures, or technological changes. The 2005 wreck of the M/V *Selendang Ayu* near Unalaska caused the release of approximately 321,000 gallons (1,215,117 litres) of fuel oil and 15,000 gallons (56,781 litres) of diesel into the Bering Sea. That incident has precipitated recommendations for regulations which would improve navigational safety in the area for the protection of the marine environment. While such protections are not targeted towards copepods or zooplankton *per se*, they would act to conserve these PCEs.

We request comment on the extent to which the designated PCEs may require special management considerations or protection. The contributions of these management measures are also relevant to the exclusion analysis under section 4(b)(2) of the ESA, and will be considered further in a later section of this notice.

Proposed Critical Habitat

The current abundance of North Pacific right whales is considered to be very low in relation to historical numbers or their carrying capacity (not determined). The existence of a persistent concentration of right whales found within the SEBS since 1996 is somewhat extraordinary in that it may

represent a significant portion of the remaining population. These areas of concentration where right whales feed are characterized by certain physical and biological features which include nutrients, physical oceanographic processes, certain species of zooplankton, and long photoperiod due to the high latitude. We consider these feeding areas, supporting a significant assemblage of the remaining North Pacific right whales, to be critical in terms of their conservation value. We have based our proposed designation of CH on these areas, rather than where right whales have appeared singly, in low numbers, or in transit. We have been able to substantiate this assumption with observations of feeding behavior, direct sampling of plankton near feeding right whales, or records of stomach contents of dead whales. These assumptions underlie the proposed CH areas shown in Figure 2 and described below. Two areas are proposed: an area of the SEBS and an area south of Kodiak Island in the GOA.

Shelden *et al.* (2005) reviewed prey and habitat characteristics of North Pacific right whales. They noted that habitat selection is often associated with features that influence abundance and availability of a predator's prey. Right whales in the North Pacific are known to prey upon a variety of zooplankton species. Availability of these zooplankton greatly influences the distribution of right whales on their feeding grounds in the SEBS and GOA. Right whales require zooplankton patches of very high density, and zooplankton are typically small and distributed over space and time (Mayo and Marx, 1990). Typical zooplankton sampling is too broad-scale in nature to detect patches of these densities, and directed studies employing fine-scale sampling cued by the presence of feeding right whales are the only means of doing this (Mayo and Marx, 1990). Accordingly, there may be no obvious correlation between the abundance and distribution of prey copepods and euphausiids (as measured by broad-scale oceanographic sampling) and the distribution of right whales (M. Baumgartner, in prep.) In light of this, we must rely upon the whales themselves to indicate the location of important feeding areas in the North Pacific. Aggregations of right whales in high latitudes can be used with high confidence as an indicator of the presence of suitable concentrations of prey, and thus of feeding behavior by the whales. Right whales feed daily during spring and summer, and studies in the North Atlantic have consistently found an association between concentrations of whales and feeding behavior, with dense copepod patches recorded by oceanographic sampling around such groups of whales (Mayo and Marx, 1990; Baumgartner *et al.*, 2003a, 2003b). In the North Atlantic, an analysis of sighting data by NMFS indicated that a density of four or more right whales per 100 nm2 was a reliable indicator of a persistent feeding aggregation (Clapham and Pace, 2001), and this had been used for Dynamic Area Management fisheries closures to reduce the risk of right whales becoming entangled in fishing gear. While this metric is a reliable indicator of the presence of feeding aggregations in the North Atlantic, it is not necessarily the only metric suitable for application in the North Pacific; the much smaller population of right whales in the eastern North Pacific Ocean typically results in sightings of single animals or pairs. Unlike with larger groups, such small numbers sometimes indicate transient passage through an area and thus cannot be unequivocally linked with feeding behavior. However, while sporadic sightings of right whales in such small numbers generally would not be considered a reliable indication of a feeding area, consistent sightings of right whales - even of single individuals and pairs - in a specific area in spring and summer over a long period of time is sufficient indication that the area is a feeding area containing suitable concentrations of copepods.

Therefore, in the absence of data which describe the densities, as well as presence, of the PCEs themselves, the distribution of right whales is used here as a proxy for the existence of suitably dense copepod and euphausiid patches and thus to identify the areas proposed herein for designation as CH. Figure 2 depicts the proposed critical habitats and the best available sightings data.

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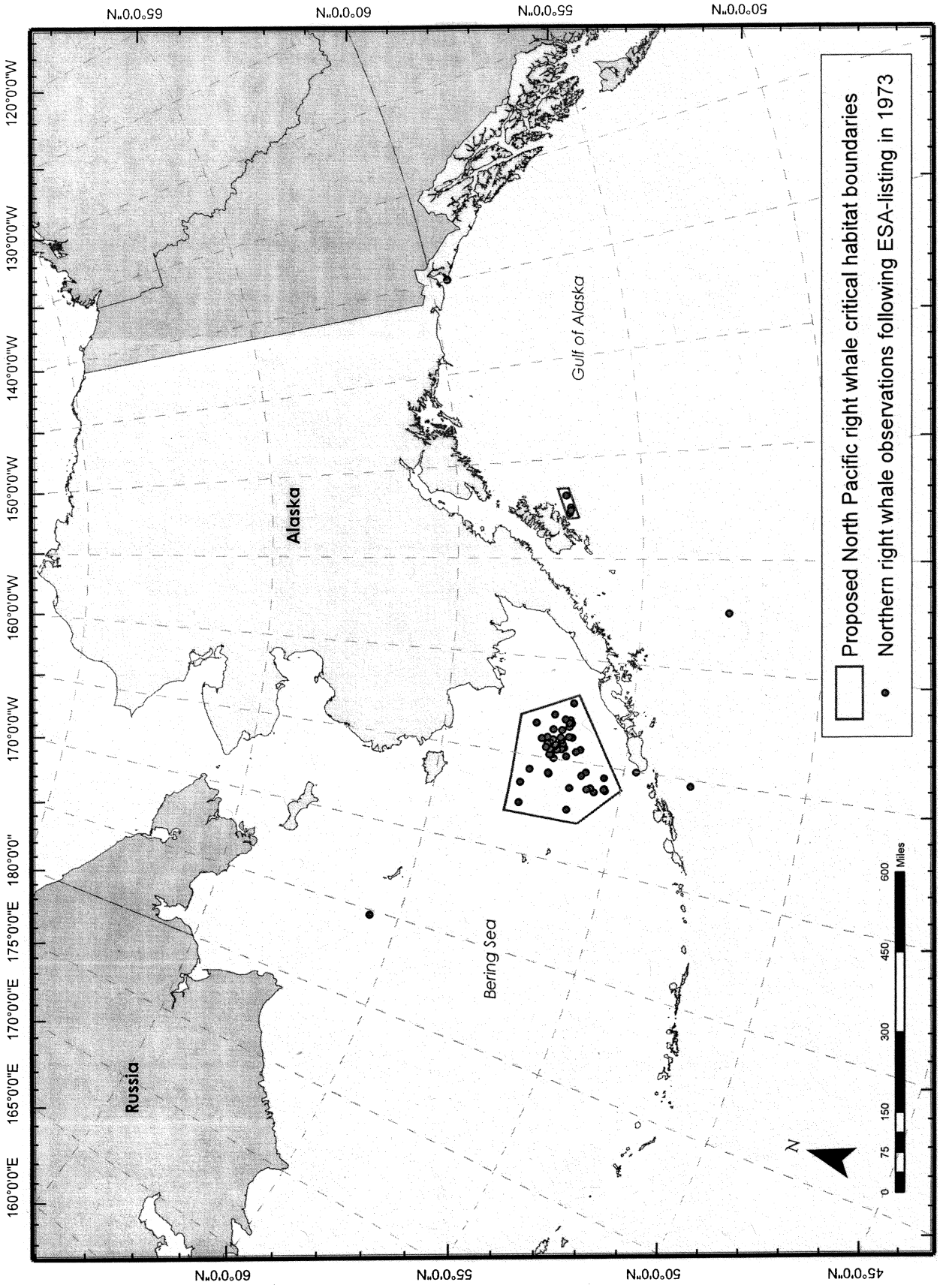
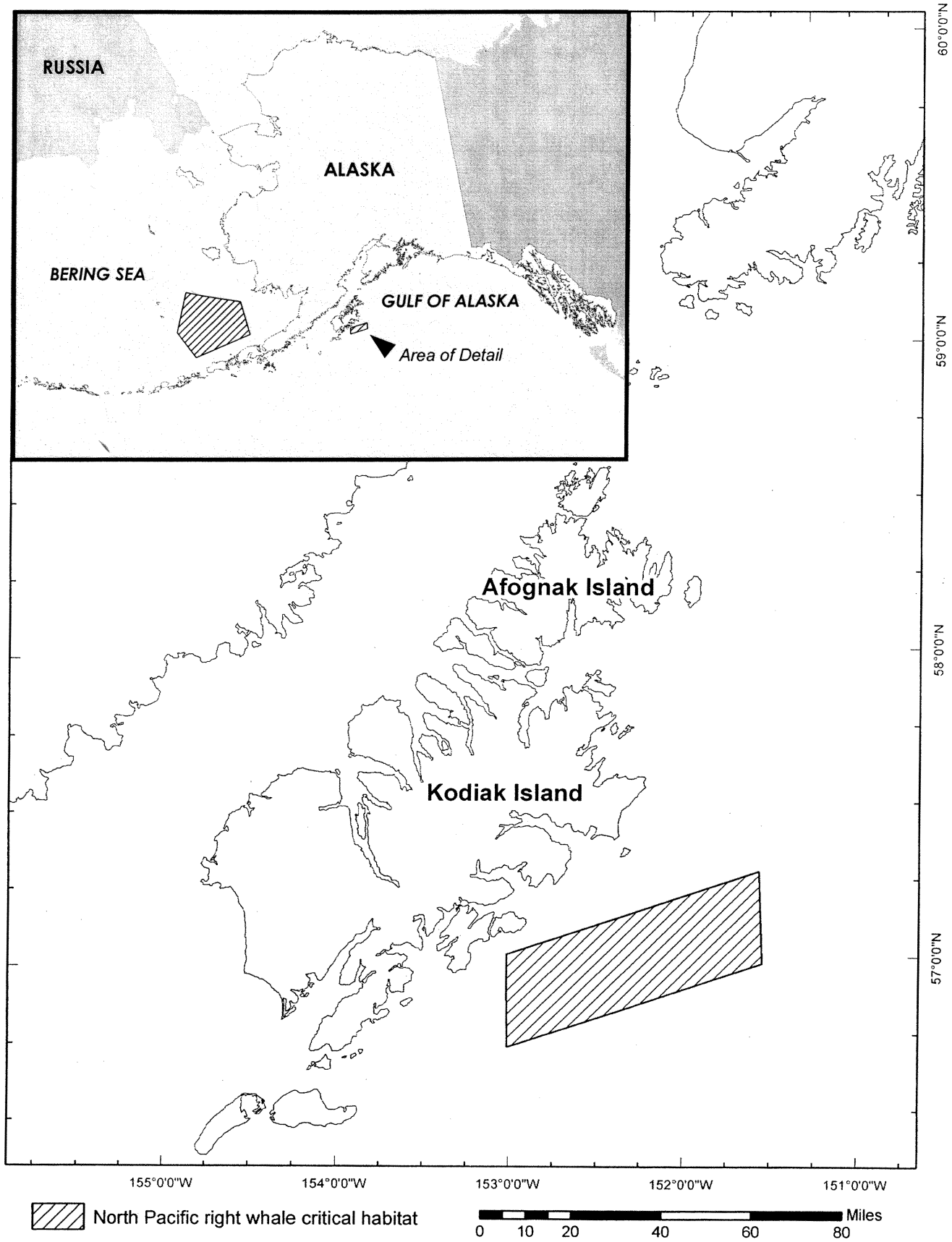


Figure 2. Proposed critical habitat for Northern right whales in the North Pacific.

Gulf of Alaska

We propose to designate CH in the GOA (Figure 3), to be described as an area delineated by a series of straight lines connecting the following coordinates in the order listed: 57°03' N/153°00' W, 57°18' N/151°30' W, 57°00' N/151° 30' W, 56°45' N/153°00' W, and returning to 57°03' N/153°00' W. The area described by these boundaries lies completely within the waters of the United States and its Exclusive Economic Zone (EEZ) and outside of waters of the State of Alaska. State waters extend seaward for 3 nautical miles from the shoreline; very few sightings occurred within state waters. The best available sightings data on right whales in this area totaled 5 out of 14 encounters in the GOA.


RUSSIA
ALASKA
BERING SEA
GULF OF ALASKA
Area of Detail
Afognak Island
Kodiak Island
60°0'0"N
59°0'0"N
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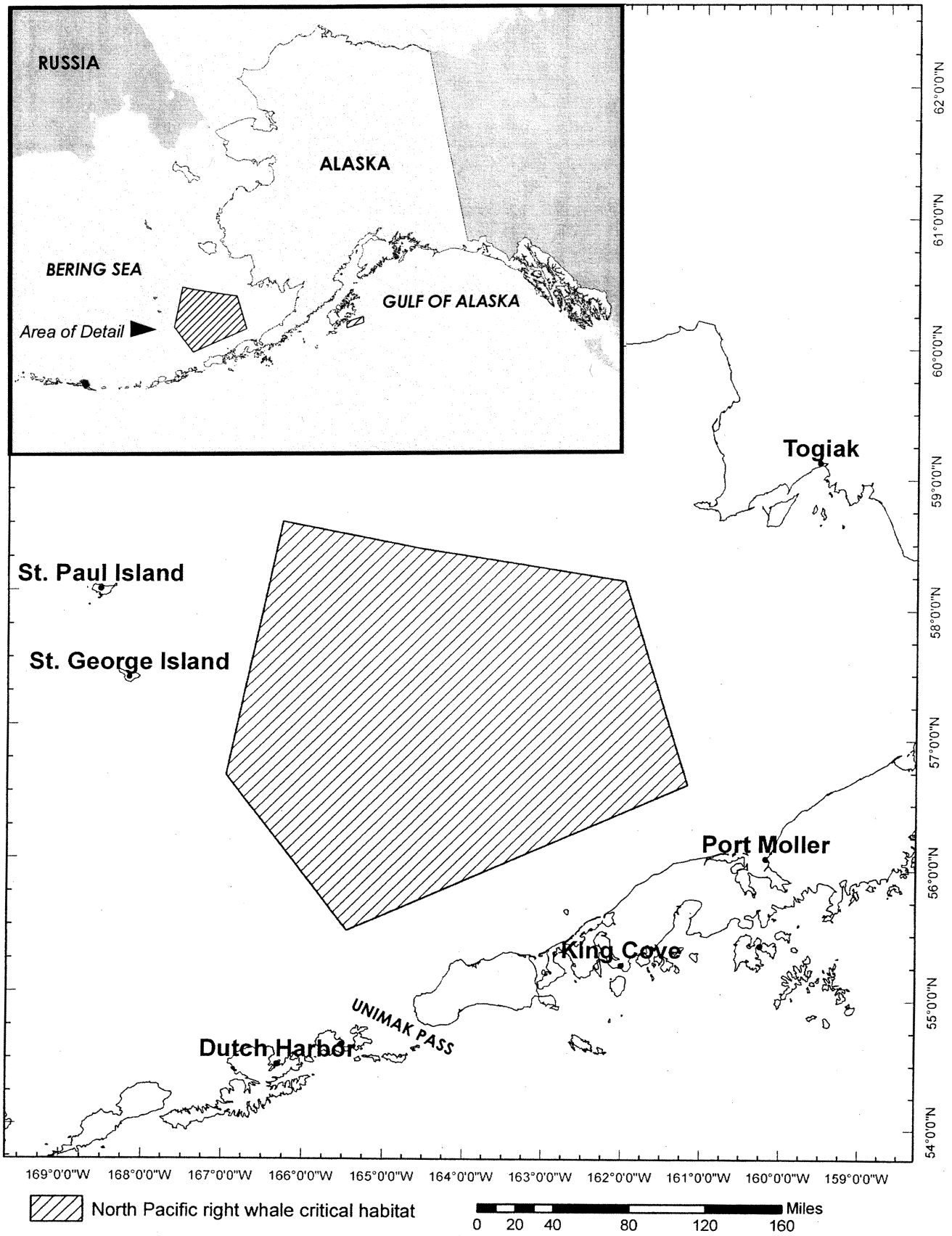
57°0'0"N
155°0'0"W
154°0'0"W
153°0'0"W
152°0'0"W
151°0'0"W
North Pacific right whale critical habitat
Miles
0 10 20 40 60 80

Southeastern Bering Sea

We propose to designate CH in the Bering Sea (Figure 4); to be described as an area described by a series of straight lines connecting the following coordinates in the order listed: 58°00′ N/168°00′ W, 58°00'N/163°00′ W, 56°30′ N/161°45′ W, 55°00' N/166°00′ W, 56°00′ N/168°00' W and returning to 58°00′ N/168°00' W. The area described by these boundaries lies completely within the waters of the United States and its EEZ and outside of waters of the State of Alaska. State waters extend seaward for 3 nautical miles from the shoreline. Because very few sightings occurred within 3 nautical miles of shore, State waters are not included in the proposed CH. The best available information on right whale encounters occurring totaled 182 within this area, out of 184 encounters north of the Aleutian Islands.



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Physical Processes and the Existence of PCEs Within the Proposed Critical Habitat

Southeastern Bering Sea Slope Waters

The Bering Sea slope is a very productive zone, sometimes referred to as the 'Greenbelt', where annual primary production can exceed that on the adjacent shelf and basin by 60 percent and 270 percent, respectively (Springer *et al.*, 1996). Physical processes at the shelf edge, such as intensive tidal mixing, eddies, and up-canyon flow bring nutrients to the surface, thereby supporting enhanced productivity and elevated biomass of phytoplankton, zooplankton, and fish. Western North Pacific right whales have been observed in association with oceanic frontal zones that produce eddies southeast of Hokkaido Island, Japan, and southeast of Cape Patience (Mys Terpeniya), Sakhalin Island, in the Okhotsk Sea (Omura *et al.*, 1969). Whether the Bering Slope Current, or eddies shed from it, support production or entrain right whale prey is unknown.

From August to October in 1955 and 1956, Soviet scientists observed aggregations of *Calanus* spp. between the Pribilof Islands and the Aleutian Islands (around 170° W long.) that were identified as *C. finmarchicus*, though, as mentioned above, were probably *C. marshallae* (Klumov, 1963). Flint *et al.* (2002) also report high concentrations of *C. marshallae* at frontal zones near the Pribilof Islands, with especially high biomass noted for the subthermohaline layer. This oceanographic front effectively separates slope and outer shelf *Neocalanus* spp. from the inshore middle shelf community of *C. marshallae* (Vidal and Smith, 1986). Right whales were found on both sides of this frontal zone (that coincides with the shelf break at 170 m) during both the 19th and 20th centuries. This is similar to the habitat described by Baumgartner *et al.* (2003a) for right whales feeding in the North Atlantic. Six right whales that were caught under scientific permit in late July-early August 1962–63 in Bering Sea slope waters had exclusively consumed *N. cristatus* (*C. cristatus*: Omura *et al.*, 1969). Although oceanic species such as *Neocalanus* spp. usually enter diapause and migrate to depths greater than 200 m by late summer in the slope waters of the Bering Sea (Vidal and Smith, 1986), right whales may still be able to utilize these resources by targeting regions where the bottom mixed layer forces the zooplankton into shallower, discrete layers (e.g. Baumgartner *et al.*, 2003a).

Southeastern Bering Sea Middle-Shelf Waters

The SEBS shelf has been the focus of intense oceanographic study since the late 1970s (e.g. Schumacher *et al.*, 1979; Coachman, 1986; Napp *et al.*, 2000; Hunt *et al.*, 2002a; Hunt *et al.*, 2002b), largely due to the considerable commercial fishing effort in the area (National Research Council, 1996). Coachman (1986) described the now well-established hydrographic domains of the inner-, middle- and outer-shelf, separated by a front or transition zone at roughly the 50 m (inner front) and 100 m (outer front) isobaths. During the 1990s, research focused on these domains demonstrated dynamic advection of nutrient-rich Bering slope water onto the shelf in both winter and summer, via eddies, meanders, and up-canyon flow (Schumacher and Stabeno, 1998; Stabeno and Hunt, 2002). These intrusions of nutrient-rich water, physical factors related to water column stratification, and long summer day length results in a very productive food web over the SEBS shelf (e.g. Livingston *et al.*,1999; Napp *et al.*, 2002; Coyle and Pinchuk, 2002; Schumacher *et al.*, 2003). Specifically, copepod species upon which right whales feed (e.g., *C. marshallae*, *Pseudocalanus* spp., and *Neocalanus* spp.) are among the most abundant of the zooplankton sampled over the middle shelf (Cooney and Coyle, 1982; Smith and Vidal, 1986). Small, dense patches (to >500 mg/m–3) of euphausiids (*T. raschii*, *T. inermis*), potential right whale prey, have also been reported for waters near the SEBS inner front (Coyle and Pinchuk, 2002).

Zooplankton sampled near right whales seen in the SEBS in July 1997 included *C. marshallae*, *P. newmani*, and *Acartia longiremis* (Tynan, 1998). *C. marshallae* was the dominant copepod found in these samples as well as samples collected near right whales in the same region in 1999 (Tynan *et al.*, 2001). *C. marshallae* is the only ''large'' calanoid species found over the SEBS middle shelf (Cooney and Coyle, 1982; Smith and Vidal, 1986). Concentrations of copepods were significantly higher in 1994–98 than in 1980–81 by at least an order of magnitude (Napp *et al.*, 2002), and Tynan *et al.*, (2001) suggest that this increased production may explain the presence of right whales in middle shelf waters. However, at least three right whales were observed in 1985 in the same location as the middle shelf sightings reported in the late 1990s (Goddard and Rugh, 1998).

Gulf of Alaska

The central GOA is dominated by the Alaskan gyre, a cyclonic feature that is demarcated to the south by the eastward flowing North Pacific Current and to the north by the Alaska Stream and Alaska Coastal Current (ACC), which flow westward near the shelf break. The bottom topography of this region is rugged and includes seamounts, ridges, and submarine canyons along with the abyssal plain. Strong semi-diurnal tides and current flow generate numerous eddies and meanders (Okkonen *et al.*, 2001) that influence the distribution of zooplankton.

Copepods are the dominant taxa of mesozooplankton found in the GOA and are patchily distributed across a wide variety of water depths. In northern GOA shelf waters, the late winter and spring zooplankton is dominated by calanoid copepods (Neocalanus spp.), with a production peak in May a cycle that appears resistant to environmental variability associated with El Nino Southern Oscillation (ENSO) (Coyle and Pinchuk, 2003). In oceanic waters (50° N lat., 145° W long.), *N. plumchrus* dominate (Miller and Nielsen, 1988; Miller and Clemons, 1988) and have demonstrated dramatic shifts in the timing of annual peak biomass from early May to late July (Mackas *et al.*, 1998). From late summer through autumn, N. plumchrus migrate to deep water ranging from 200 m to 2000 m depending on location within the GOA (Mackas *et al.*, 1998). The three right whales caught under scientific permit on August 22, 1961, south of Kodiak Island had all consumed *N. plumchrus* (*C. plumchrus*: Omura *et al.*, 1969), potentially by targeting areas where adult copepods remained above 200 m (e.g. Baumgartner *et al.*, 2003a).

The area proposed as CH within the SEBS presents several similarities to that proposed within the GOA. Both areas are influenced by large eddies, submarine canyons, or frontal zones which enhance nutrient exchange and act to concentrate prey. These areas lie adjacent to major ocean currents (the ACC and the Aleutian ocean passes) and are characterized by relatively low circulation and water movement (P. Stabeno, pers. com.). Both proposed CH areas contain the designated PCEs and support feeding by North Pacific right whales.

Right Whale Sightings as a Proxy for Locating the PCEs

As noted above, consistent sightings of right whales - even of single individuals and pairs - in a specific area in spring and summer over an extended

period of time can be used with high confidence as an indicator of the presence of the PCEs in a feeding area. We have used recent sighting records to make this determination because these records are a more reliable indicator of current distribution of feeding whales than historical sightings, especially given that most of the latter relate to animals that were removed from the population by whaling and are thus no longer extant. Of the 184 recent right whale sitings reported north of the Aleutian Islands, 182 occurred within the specific area proposed as critical habitat in the Bering Sea. Since 1996, right whales have been consistently sighted in this area over a period of years during the spring and summer feeding seasons. For example, NMFS surveys alone recorded between two and four sightings in 1996 (Goddard and Rugh, 1998), 13 sightings in 2000 (Le Duc *et al.*, 2004) and over 23 sightings in 2004. Single right whales as well as pairs and aggregations of up to five animals were sighted during this period, and all sightings were within 100 nm2 of one another. Based on consideration of these factors, we conclude that the right whale sightings in the specific area in the Bering Sea described in Figure 2 are a suitable proxy for the presence of the PCEs and therefore propose this area as critical habitat for the North Pacific right whale. Recent sightings of right whales are fewer in number in the GOA than in the Bering Sea. However, three individuals were sighted recently in the specific area proposed as critical habitat in the GOA. These sightings occurred at a time when right whales typically feed in the North Pacific Ocean. In July 1998, a single right whale exhibiting behavior consistent with feeding activity was observed among a group of about eight humpback whales (Waite *et al.*, 2003). In August 2004, a NMFS researcher observed a single right whale among a group of humpbacks. In August 2005, a NMFS researcher reported yet another sighting of a right whale within 250 to 500 meters of groups of humpback and fin whales. Acoustic monitoring of the area conducted in summer 2000 recorded what appeared to be right whale calls in the area on September 6 (Waite, Wynne and Mellinger, 2003). Compared to the Bering Sea sightings, the GOA right whale sightings do not provide as strong an indication of feeding right whales. However, individual right whales have been directly observed in 1998, 2004, and 2005 and detected acoustically in 2000 during the spring and summer feeding seasons in the specific area in the GOA described in Figure 2. It is also instructive that one of these animals was exhibiting feeding behavior at the time it was observed. Based on consideration of these factors, we propose that the right whale sightings in the specific area in the GOA described in Figure 2 are a reasonably reliable proxy for the presence of the PCEs and therefore proposes this area as critical habitat for the North Pacific right whale.

Activities Which may be Affected by This Designation

Section 4(b)(8) of the ESA requires that we evaluate briefly and describe, in any proposed or final regulation to designate critical habitat, those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. A wide variety of activities may affect CH and, when carried out, funded, or authorized by a Federal agency, require that an ESA section 7 consultation be conducted. Such activities include, but are not limited to, oil and gas leasing and development on the Outer Continental Shelf (OCS), Federal management of high seas fisheries in territorial waters and the EEZ of the United States, dredge and fill, mining, pollutant discharges, other activities authorized or conducted by the Army Corps of Engineers and the Environmental Protection Agency (EPA), and military training exercises and other functions of the U.S. armed forces.

This proposed designation of CH will provide these agencies, private entities, and the public with clear notification of proposed CH for North Pacific right whales and the boundaries of the habitat. This proposed designation will also assist these agencies and others in evaluating the potential effects of their activities on CH and in determining if section 7 consultation with NMFS is needed.

Exclusion Process

Section 4 (b)(2) of the ESA states that CH shall be designated on the basis of the best scientific data available and after taking into consideration its economic impact, the impact on national security, and any other relevant impact. Any area may be excluded from CH if the benefits of exclusion are found to outweigh those of inclusion, unless such exclusion would result in the extinction of the species. We will apply the statutory provisions of the ESA, including those in section 3 that define ''critical habitat'' and ''conservation'' to determine whether a proposed action might result in the destruction or adverse modification of CH. Based upon the best available information, it appears that the probability of oil or gas exploration activities within (or immediately adjacent to) proposed right whale critical habitat is very low, certainly within the 10–year time frame of our assessment. Likewise, there are no commercial production facilities in operation, currently under development, nor 'permitted' for future development, within these critical habitat areas. Unless contrary information emerges suggesting exploration and development are imminent, there is little expectation that Federal actions in the oil and gas sector will have the potential to ''destroy or adversely modify'' critical habitat as proposed under this action, within the analytical time horizon.

The oil and gas industry has expressed current interest in exploring and developing oil and gas resources in the North Aleutian Basin OCS Planning Area. We also understand that the State of Alaska has announced support for this activity. However, we lack specific information regarding this potential exploration and development activity and have been unable to gather information on these activities. Therefore, we specifically request comment on the type of exploration and development activities under consideration and the likelihood for such activities to occur, a description of the areas in the North Aleutian Basin that may be affected by any such activities, the extent to which the activities may affect the proposed critical habitat, and any other issues that may be relevant to the analysis of impacts and the exclusion process under section 4(b)(2) of the ESA. Any information we acquire and public comments received on these issues will be considered in analyzing the impacts of the designation of critical habitat and in the section 4(b)(2) exclusion process.

While we expect to consult annually on fishery related proposed actions that ''may affect'' the proposed CH, none of these consultations would be expected to result in a finding of ''adverse modification,'' and thus none would be expected to result in imposition of costs on commercial fishery participants. Because fisheries do not target or affect the PCEs for the North Pacific right whale, it then follows that no fishing or related activity (e.g., at-sea processing, transiting) would be expected to be restricted or otherwise altered as a result of critical habitat designation in the two areas being proposed. We did not find any specific areas in which the costs exceed benefits for activities that may affect CH, and we have therefore not proposed the exclusion of any areas from designation.

This action is anticipated to result in consultations with EPA on seafood processing waste discharges; with the Department of Defense (DoD) on military ''underway training'' activities it authorizes; and with the U.S. Coast Guard (USCG) and Minerals Management Service (MMS) on approvals of oil spill response plans, among others. It is unlikely that these activities will result in an ''adverse modification'' finding, and, thus, no mandatory modifications would be imposed. It must follow then that no ''costs'' are imposed as a result of designation beyond the small costs attributable to inter-agency (occasionally intra-agency) consultation. As explained in the impacts analysis prepared for this action, some larger benefit accrues to society as a result of designation, including the educational value derived from identification and designation of the critical habitat areas within which the PCEs are found. Thus we believe that the benefits of exclusion are outweighed by the benefits of inclusion. Our analysis (available on the NMFS Alaska Region website *http://www.fakr.noaa.gov/*) did not find any specific areas which merit such exclusion in consideration of economics, nor have we determined that national security interests or other relevant impact warrant the exclusion of any specific areas from this proposed designation. We solicit comments on these benefits and costs as well as our determinations.

Public Comments Solicited

We request interested persons to submit comments, information, and suggestions concerning this proposed rule to designate CH for the North Pacific right whale. Comments or suggestions from the public, other concerned governments and agencies, the scientific community, industry, or any other interested party concerning this proposed rule are solicited. Comments particularly are sought concerning:

(1) Maps and specific information describing the amount, distribution, and use type (e.g., feeding, calving, migration) of the North Pacific right whale;

(2) Information as to the identification of physical or biological features which may be essential to the conservation of the North Pacific right whale;

(3) Information on whether the copepods and euphausiids in feeding areas identified by NMFS as PCEs, or any other physical or biological features that may be essential to the conservation of the North Pacific right whale, may require special management considerations or protection;

(4) Information regarding the benefits of excluding any portions of the proposed CH, including the regulatory burden that designation may impose;

(5) Information regarding the benefits of designating particular areas as CH;

(6) Current or planned activities in the areas proposed for designation, and their possible impacts on proposed CH;

(7) Any information regarding potential oil and gas exploration and development activities in the North Aleutian Basin OCS Planning Area, including information on the type of exploration and development activities under consideration and the likelihood for such activities to occur, a description of the areas in the North Aleutian Basin that may be affected by any such activities, the extent to which the activities may affect the proposed critical habitat, and any other issues that may be relevant to the analysis of impacts and the exclusion process under section 4(b)(2) of the ESA;

(8) Any foreseeable economic or other potential impacts resulting from the proposed designation; and

(9) Whether specific unoccupied areas not presently proposed for designation may be essential to the conservation of the North Pacific right whale.

You may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). The proposed rule, maps, fact sheets, and other materials relating to this proposal can be found on the NMFS Alaska Region website at http://www.fakr.noaa.gov/. We will consider all comments and information received during the comment period on this proposed rule in preparing the final rule. Accordingly, the final decision may differ from this proposal.

Public Hearings

50 CFR 424.16(c)(3) requires the Secretary to promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to designate CH. Requests for public hearing must be made in writing (see **ADDRESSES**) by December 13, 2007. Such hearings provide the opportunity for interested individuals and parties to give comments, exchange information and opinions, and engage in a constructive dialogue concerning this proposed rule. We encourage the public's involvement in such ESA matters.

Classification

Regulatory Planning and Review

This proposed rule has been determined to be significant for purposes of Executive Order (E.O.) 12866. As part of our exclusion process under section 4(b)(2) of the ESA, the economic benefits and costs of the proposed critical habitat designations are described in our draft economic report. Data are not available to express all costs and benefits of CH designation in monetary terms. Indeed, many costs and benefits accrue outside of traditional markets and, therefore, are not typically associated with a ''monetary'' measure (e.g., subsistence activities). In such cases, an effort has been made to ''quantify'' benefits and costs in measurable units. Finally, some benefits and costs cannot be either monetized, nor quantified, yet are important to a full evaluation and understanding of a proposed action. In these instances, benefits and costs have been fully characterized in ''qualitative'' terms. Application of a benefit/cost framework is fully consistent with E.O. 12866.

In July 2006, NMFS revised the existing critical habitat for northern right whales to include critical habitat in the eastern North Pacific (71 FR 38227, July 6, 2006). Subsequently, it was determined that the North Atlantic and North Pacific populations of northern right whale are, in fact, distinct species. This rule, therefore, proposes as critical habitat for the North Pacific right whale (currently proposed for listing 71 FR 77694, December 27, 2006) the same critical habitat that was finalized in 2006. The proposal would not have any additional effect because the habitat proposed for designation is the same that was designated in the previous rule. The analysis provided largely mirrors the analysis provided in the previous rulemaking, updated as necessary to account for new information, and does not result in any substantive changes to the analytical conclusions.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). We have prepared an initial regulatory flexibility analysis (IRFA), and this document is available upon request (see **ADDRESSES**). This IRFA evaluates the potential effects of

the proposed CH designation on federally regulated small entities. The reasons for the action, a statement of the objectives of the action, and the legal basis for the proposed rule, are discussed earlier in the preamble. A summary of the analysis follows.

The small entities that may be directly regulated by this action are those that seek formal approval (e.g., a permit) from, or are otherwise authorized by, a Federal agency to undertake an action or activity that ''may affect'' CH for the North Pacific right whale. Submission of such a request for a Federal agency's approval, from a small entity, would require that agency (i.e., the 'action agency') to consult with NMFS (i.e., the 'consulting agency').

Consultations vary, from simple to complex, depending on the specific facts of each action or activity for which application is made. Attributable costs are directly proportionate to complexity. In the majority of instances projected to take place under the proposed CH designation, these costs are expected to accrue solely to the Federal agencies that are party to the consultation. In only the most complex of ''formal consultations'' might it be expected that a private sector applicant could potentially incur costs directly attributable to the consultation process itself. Furthermore, if destruction or adverse modification of CH is found at the conclusion of formal consultation, the applicant must implement modifications to avoid such effects. These modifications could result in adverse economic impacts.

An examination of the Federal agencies with management, enforcement, or other regulatory authority over activities or actions within, or immediately adjacent to, the proposed CH area, resulted in the following list. Potential action agencies may include: the EPA, USCG, DoD, MMS, and NMFS. Activities or actions with a nexus to these Federal agencies which are expected to require consultation include: EPA permitting of seafood processing waste discharges at-sea; USCG and MMS oil spill response plan approval, as well as emergency oil spill response; DoD authorization of military training activities in the Bering Sea and Aleutian Islands (BSAI) and GOA; MMS leasing activity, oil and gas exploration and production permitting, and NMFS fishery management actions in the BSAI and GOA.

A 10–year ''post-CH designation'' analytical horizon was adopted, during which time we may reasonably expect to consult an estimated 27 times on CH-related actions with one or more of the action agencies identified above. The majority of the consultations are expected to be ''informal,'' projected to represent approximately 52 percent of the total. The more complex and costly ''formal'' consultations are projected to account for, perhaps, 37 percent; while the simplest and least costly ''pre-consultations'' are expected 11 percent of the time. These figures reflect the best estimates information and experience can presently provide.

On the basis of the underlying biological, oceanographic, and ecological science used to identify the PCEs that define CH for the North Pacific right whale, as well as the foregoing assumptions, empirical data, historical information, and accumulated experience regarding human activity in the BSAI and GOA, it is believed that only one federally authorized activity (among all those identified in the analyses and referenced above) has the potential to ''destroy or adversely modify'' right whale CH, albeit believed to be a relatively small potential. This one class of activity is OCS oil and gas exploration and production.

As previously indicated, MMS has authority over OCS oil and gas permitting. An examination of published information from the MMS Alaska Region reveals that three MMS OCS planning areas overlap some portion of the proposed right whale CH areas. Further, MMS sources indicate that in only one of these has there been any exploratory well drilling (i.e., St. George Basin). Ten exploratory wells were permitted, all of which were completed in 1984 and 1985 (with no subsequent associated exploration activity). It appears that there has been no recent OCS oil and gas activity in and adjacent to the areas being proposed for critical habitat designation. MMS reports no planned or scheduled OCS lease sales for these areas through 2007 (the end of the current 5–year Lease-Sale planning cycle). However, both seismic acquisition and leasing took place in the adjacent North Aleutian Basin Planning Area through Sale 92 held in 1988. Leases were held until 1995, when a ''buy-back'' settlement was reached between leaseholders and the Federal government. There are no current OCS lease holdings in the St. George Basin or North Aleutian Basin Planning Areas. In January 2007, the President modified the Presidential withdrawal for the North Aleutian Basin, allowing the Secretary of the Interior to offer this OCS planning area for leasing during the next 5–year OCS leasing program (2007–2012). The 2007–2012 program now includes a lease sale in the North Aleutian Basin to be held in 2011. MMS may also offer a sale in the North Aleutian Basin which would be confined to a small portion of the planning area previously offered during lease sale 92 in 1988.

When MMS records were consulted as to the identity of the entities that previously held lease rights to the wells in the St. George Basin, six businesses were listed for the ten permitted exploratory wells. These include: SHELL Western E&P Inc. (2 wells); ARCO Alaska Inc. (3 wells); EXXON Corp. (2 wells); Mobile Oil Corp. (1 well) (now merged with EXXON); GULF Oil Corp. (1 well); and CHEVRON USA Inc. (1 well). MMS records also indicate that the following nine companies submitted bids, jointly or individually, on blocks in the North Aleutian Basin under lease sale 92 held in 1988: Chevron, Unocal, Conoco, Murphy, Odeco, Amoco, Shell, Mobil, and Pennzoil. These data were last updated, according to the MMS website, March 17, 2005. It would appear that none of these entities could reasonably be characterized as ''small'' for RFA purposes. All are widely recognized multi-national corporations and employ more than ''500 full-time, part-time, temporary, or any other category of employees, in all of their affiliated operations worldwide'' (the criterion specified by SBA for assessing entity size for this sector).

The preferred alternative was compared to the mandatory 'No Action' (or status quo) alternative. In addition, a third alternative was analyzed and its expected benefits and costs contrasted with the status quo and preferred alternatives. That alternative was based upon the proposed areas of the Bering Sea identified in an October 2000 petition that requested critical habitat be designated for the northern right whale within the North Pacific Ocean.

Because there appear to be no identifiable economic costs to any small entities attributable to the CH designation action, there cannot be an alternative to the proposed action that imposes lesser impacts, while achieving the purpose of the ESA and the objectives of this action, than are reflected in the preferred alternative.

The action does not impose new recordkeeping or reporting requirements on small entities. The analysis did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

Military Lands

The Sikes Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to

complete, by November 17, 2001, an Integrated Natural Resource Management Plan. The National Defense Authorization Act for Fiscal Year 2004 (Public Law No. 108–136) amended the ESA to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' We have determined no military lands would be impacted by this proposed rule.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O.) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking any action that promulgates or is expected to lead to the promulgation of a final rule or regulation that (1) is a significant regulatory action under E.O. 12866 and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy.

We have considered the potential impacts of this action on the supply, distribution, or use of energy, and we find the designation of critical habitat will not have impacts that exceed the thresholds identified above.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

(a) This proposed rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5) (7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.'' The designation of CH does not impose a legally binding duty on non-Federal government entities or private parties. Under the ESA, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify CH under section 7. While non-Federal entities who receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of CH, the legally binding duty to avoid destruction or adverse modification of CH rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would CH shift the costs of the large entitlement programs listed above to State governments.

(b) Due to the prohibition against take of this species both within and outside of the designated areas, we do not anticipate that this proposed rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Takings

In accordance with E.O. 12630, the proposed rule does not have significant takings implications. A takings implication assessment is not required. The designation of CH affects only Federal agency actions. Private lands do not exist within the proposed CH and therefore would not be affected by this action.

Federalism

In accordance with E.O. 13132, this proposed rule does not have significant federalism effects. A federalism assessment is not required. In keeping with Department of Commerce policies, we request information from, and will coordinate development of, this proposed CH designation with appropriate State resource agencies in Alaska. The proposed designation may have some benefit to State and local resource agencies in that the areas essential to the conservation of the species are more clearly defined, and the PCEs of the habitat necessary to the survival of the North Pacific right whale are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with E.O. 12988, the Department of the Commerce has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the E.O. We are proposing to designate CH in accordance with the provisions of the ESA. This proposed rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of the North Pacific right whale.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

We have determined that an environmental analysis as provided for under the National Environmental Policy Act of 1969 for CH designations made pursuant to the ESA is not required. See *Douglas County* v. *Babbitt*,

48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

Government-to-Government Relationship With Tribes

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. E.O. 13175 – Consultation and Coordination with Indian Tribal Governments- outlines the responsibilities of the Federal Government in matters affecting tribal interests.

We have determined the proposed designation of CH for the North Pacific right whale in the North Pacific Ocean would not have tribal implications, nor affect any tribal governments or issues. None of the proposed CH occurs on tribal lands, affects tribal trust resources, or the exercise of tribal rights. The North Pacific right whale is not hunted by Alaskan Natives for traditional use or subsistence purposes.

References Cited

A complete list of all references cited in this rulemaking can be found on our website at *http://www.fakr.noaa.gov/* and is available upon request from the NMFS office in Juneau, Alaska (see **ADDRESSES**)

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: October 23, 2007.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, we propose to amend part 226, title 50 of the Code of Regulations as set forth below:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533

2. In § 226.203, the section heading and the introductory text are revised; and the headings for paragraphs (a) and (b) are revised to read as follows:

§ 226.203 Critical habitat for right whales.

Critical habitat is designated for right whales in the North Atlantic and North Pacific Oceans as described in paragraphs (a) and (b) of this section. The textual descriptions of critical habitat are the definitive source for determining the critical habitat boundaries. General location maps are provided for critical habitat in the North Pacific Ocean for general guidance purposes only, and not as a definitive source for determining critical habitat boundaries.

(a) North Atlantic right whale (*Eubalaena glacialis*)—* * *

* * * * *

(b) North Pacific right whale (*Eubalaena japonica*)—* * *

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[FR Doc. 07–5367 Filed 10–26–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 208

Monday, October 29, 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

Food Safety and Inspection Service

[Docket No. FSIS–2007–0042]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Import and Export Inspection and Certification Systems

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture, and the U.S. Department of Health and Human Services, Food and Drug Administration (FDA), are sponsoring a public meeting. The meeting will be held on November 1, 2007, 1 p.m.–3 p.m. to discuss the agenda items coming before the 16th Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) and present draft positions on the agenda items. The 16th Session of the CCFICS will be held November 26–November 30, 2007, in Queensland, Australia. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to comment on the agenda items that will be debated at this forthcoming Session of the CCFICS.

DATES: The public meeting is scheduled for Thursday, November 1, 2007, from 1 p.m. to 3 p.m.

ADDRESSES: The public meeting will be held in Room 0161 of the South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC (Smithsonian Metro stop). Documents related to the 16th Session of the CCFICS will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

The U.S. Delegate to the 16th Session of CCFICS, Dr. Catherine Carnevale, Director, Office of Constituent Operations, Center for Food Safety and Applied Nutrition (CFSAN), FDA, invites U.S. interested parties to submit their comments electronically to Dr. Michael Wehr, Acting Deputy Director, Codex Program Coordinator, International Affairs Staff, CFSAN, FDA, E-mail address: *michael.wehr@fda.hhs.gov*.

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Edith Kennard, Staff Officer, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 720–5261, Fax: (202) 720–3157, E-mail: *edith.kennard@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCFICS was established to develop principles and guidelines for food import and export inspection and certification systems to facilitate trade through harmonization and to supply safe and quality foods to consumers. Included in the charge is application of measures by competent authorities to provide assurance that foods comply with essential requirements. The Committee is hosted by the government of Australia.

Issues To Be Discussed at the Public Meeting

Draft Provisional Agenda items to be discussed at the public meeting:

- Matters Referred to the Committee by the Codex Alimentarius Commission and Other Codex Committees and Task Forces
- Proposed Draft Appendix to the Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification at Step 4
- Discussion Paper on the Need to Revise the Codex Alimentarius Commission/Guideline (CAC/GL) 20–1995 and CAC/GL 26–1997
- Discussion Paper on the Need for Guidance for National Food Inspection Systems
- Discussion Paper on the Development of Guidelines for the Conduct of Foreign Audit Team Inspections
- Discussion Paper on the Need for Further Guidance on Traceability/Product Tracing
- Consistency of the Draft *Model Export Certificate for Milk and Milk Products* with CAC/GL 38–2001
- Other Business and Future Work: Discussion Paper on the Development of a Generic Template for Health Certificates

Each issue listed will be fully described in documents distributed, or to be distributed, by the Codex Secretariat. Members of the public may access these documents via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp*.

Public Meeting

At the November 1, 2007, public meeting, the agenda items coming before the 16th Session of the CCFICS will be discussed and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 16th Session of the CCFICS, Dr. Catherine Carnevale (see **ADDRESSES**). Written comments should state that they relate to activities of the 16th Session of the CCFICS.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Notices_Index/*. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The

Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/e-mail_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on October 23, 2007.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. E7–21142 Filed 10–26–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Foreign Agricultural Service (FAS) intends to request an extension for a currently approved information collection procedure for entry of specialty sugars into the United States as described in 15 CFR part 2011.

DATES: Comments should be received on or before December 28, 2007 to be assured of consideration.

ADDRESSES: Mail comments to Ron Lord, Branch Chief, Import and Trade Support Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Ave., SW., Washington, DC 20250–1021. Direct hand delivered comments to Room 440, 1250 Maryland Ave., SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ron Lord, at the address above, or telephone at (202) 720–0638 or e-mail at *Ronald.Lord@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Specialty Sugar Import Certificates.

OMB Number: 0551–0025.

Expiration Date of Approval: March 31, 2008.

Type of Request: Extension of a currently approved information collection.

Abstract: The quota system established by Presidential Proclamation 4941 of May 5, 1982 prevented the importation of certain sugars used for specialized purposes which originated in countries which did not have quota allocations. Therefore, the regulation at 15 CFR part 2011 (Allocation of Tariff-Rate Quota on Imported Sugars, Syrups, and Molasses, Subpart B—Specialty Sugar) established terms and conditions under which certificates are issued permitting U.S. importers holding certificates to enter specialty sugars from specialty sugar source countries at the in-quota tariff rates under the sugar tariff-rate quota (TRQ). Nothing in this subpart affects the ability to enter specialty sugars at the over-quota tariff rate. Applicants for certificates for the import of specialty sugars must supply the information required by 15 CFR 2011.205 to be eligible to receive a specialty sugar certificate. The specific information required on an application must be collected from those who wish to participate in the program in order to grant specialty sugar certificates, ensure that imported specialty sugar does not disrupt the current domestic sugar program, and administer the issuance of the certificates effectively.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Importers.

Estimated Number of Respondents: 30.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 60 hours.

Copies of this information collection can be obtained from Tamoria Thompson-Hall, the Agency Information Collection Coordinator, at (202) 690–1690.

Request for Comments: The public is invited to submit comments and suggestions to the above address regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information. Comments on issues covered by the Paperwork Reduction Act are most useful to OMB if received within 30 days of publication of the Notice and Request for Comments, but should be submitted no later than 60 days from the date of this publication to be assured of consideration. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record. Persons with disabilities who require an alternative means to communicate information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

Signed at Washington, DC, on October 22, 2007.

Michael W. Yost,

Administrator, Foreign Agricultural Service.

[FR Doc. 07–5350 Filed 10–26–07; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Foreign Agricultural Service (FAS) intends to request an extension for a currently approved information collection procedure for Sugar Import Licensing Programs described in 7 CFR part 1530.

DATES: Comments should be received on or before December 28, 2007 to be assured of consideration.

ADDRESSES: Mail or deliver comments to Ron Lord, Branch Chief, Import and Trade Support Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Ave., SW., Washington, DC 20520–1021. Direct hand delivered comments to Room 440, 1250 Maryland Ave., SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ron Lord, at the address above, or telephone at (202) 720–0638 or e-mail at *Ronald.Lord@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Sugar Imported for Export as Refined Sugar or as a Sugar-Containing

Product or used in the Production of Certain Polyalcohols.

OMB Number: 0551–0015.

Expiration Date of Approval: March 31, 2008.

Type of Request: Extension of a currently approved information collection.

Abstract: The primary objective of the Sugar Import Licensing Program is to permit entry of raw cane sugar unrestricted by the quantitative limit established by the sugar tariff-rate quota for re-export in refined form or in a sugar containing product or for the production of certain polyhydric alcohols. These programs are in use by as many as 250 licensees currently eligible to participate. Under 7 CFR part 1530, licensees are required to submit the following: (1) ''Application for a license'' information required for participation as set forth in section 1530.104 (2) ''Regular reporting'' of import, export, transfer, or use for charges and credits to licenses under section 1530.109; and (3) ''miscellaneous submission'' of bonds or letters of credit under section 1530.107, appeals to determinations by the licensing authority under section 1530.112, or requests to the licensing authority for waivers under section 1530.113. In addition, each participant must maintain records on all program reports as set forth in section 1530.110. The information collected is used by the licensing authority to manage, plan, evaluate, and account for program activities. The reports and records are required to ensure the proper operations of these programs.

Estimate of Burden: (1) ''Application for a license'' would require 20 hours per response: (2) ''regular reporting'' would require between 10 and 15 minutes per transaction with the number of transactions varying per respondent; and (3) ''miscellaneous submission'' would require between 1 or 2 hours per bond or letter of credit, 2 to 10 hours per waiver request, and 10 to 100 hours per appeal.

Respondents: Sugar refiners, manufacturers of sugar containing products and producers of polyhydric alcohol.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: New/Renew License: 1; Regular reporting: 75 transactions, average; Miscellaneous: Bonds/letters of credit: 1; Waiver requests: 1; Appeals: 1.

Estimated Total Burden Hours on Respondents: 2,075 hours.

Copies of this information collection can be obtained from Tamoria Thompson-Hall, the Agency Information Collection Coordinator, at (202) 690–1690.

Request of Comments: The public is invited to submit comments and suggestions to the above address regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information. Comments on issues covered by the Paperwork Reduction Act are most useful to OMB if received within 30 days of publication of the Notice and Request for Comments, but should be submitted no later than 60 days from the date of this publication to be assured of consideration. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record. Persons with disabilities who require an alternative means to communicate information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

Signed at Washington, DC, on October 22, 2007.

Michael W. Yost,

Administrator, Foreign Agricultural Service.

[FR Doc. 07–5351 Filed 10–26–07; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites; Federal Lands Recreation Enhancement Act (Title VIII, Public Law 108–447)

AGENCY: Boise National Forest, USDA Forest Service.

ACTION: Notice of proposed new fee sites.

SUMMARY: The Boise National Forest is planning to charge fees at 22 recreation sites. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. The fees listed are currently proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation and maintenance of these recreation sites.

Swanholm and Rice Peak Lookouts, along with cabins at the Landmark Ranger Station and Johnson Creek Guard Station will be available for overnight rental. A fee study, financial analysis, and public involvement efforts were completed. As a result, cabin rental fees would range between $30 and $50 per night. Lookout, ranger, and guard station rentals offer a unique experience and are a widely popular offering on National Forests. The Landmark Ranger Station is eligible for listing on the National Register of Historic Places and is being restored to its original purpose as a working Forest Service administrative site, and to adapt the compound for public use and enjoyment. Fees would continue to help protect and maintain all these administrative structures and their historic integrity. The cabin rentals would be available once a final decision is made and they are listed with the National Recreation Reservation Service which would be in May of 2008 at the earliest.

New $5 day use fees are also proposed for the Arrowrock and Campbell Creek boating access sites and the Granite Creek picnic site. These fees will help address the deferred maintenance needs, such as substandard boat docks at both of the boating sites as well as general operation and maintenance needs at all three sites. The Granite Creek picnic site also serves as a trailhead for an important interpretive trail in the summer and groomed snowmobile trail access in the winter. Amenities include covered picnic shelters, a toilet, and interpretive exhibits.

Fees are proposed at 15 campgrounds including Badger Creek, Castle Creek, Cottonwood, Evans Creek, Little Roaring River Lake, Troutdale, Bald Mountain, Neinmeyer, Powerplant, Queens River, Riverside, Golden Gate, Ice Hole, Penny Springs, and Yellow Pine campgrounds. Many of these sites have been improved with new toilets and picnic tables over the last 8 to 10 years and additional income is needed for their continued operation and maintenance. A fee study, financial analysis, and public involvement efforts were completed in the spring and summer of 2007 in an effort to determine campground fees across the Boise National Forest, including both existing fee campgrounds as well as those proposed for new fees. Fees at campgrounds are proposed to be $15 at sites that provide both drinking and water and trash removal and $12 at sites that do not provide both of these amenities. A $5 day use fee is also proposed at some sites.

DATES: New fees would begin in May 2007 and contingent upon completion of certain improvements at a few sites.

ADDRESSES: Frank Guzman, Deputy Forest Supervisor, Boise National

Forest, 1249 South Vinnell Way, Suite 200, Boise, Idaho 83709.

FOR FURTHER INFORMATION CONTACT: Jim Keller, Recreation Program Manager, 208–373–4142. Information about proposed fee changes and other proposed management actions developed in the Recreation Facility Analysis process can also be found on the Boise National Forest Web site: *http://www.fs.fed.us/r4/boise/.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a 6-month advance notice in the **Federal Register** whenever new recreation fee areas are established.

Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

People wanting to rent the Swanholm and Rice Peak Lookouts, the Landmark Ranger Station or the Johnson Creek Guard Station would need to do so through the National Recreation Reservation Service, at *http://www.reserveusa.com* or by calling 1–877–444–6777 when it becomes available.

Dated: October 23, 2007.

Frank V. Guzman,

Deputy Forest Supervisor.

[FR Doc. 07–5337 Filed 10–26–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD63

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council will hold a second scoping meeting in St. Croix, U.S. Virgin Islands.

DATES: The meeting will be held on November 13, 2007, from 7 p.m. to 10 p.m.

ADDRESSES: The meeting will be held at the Curriculum Center, Department of Education, Estate Kingshill, St. Croix, U.S.V.I.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Caribbean Fishery Management Council in conjunction with the National Marine Fisheries Service intends to prepare Draft Environmental Impact Statements (DEISs) to describe and analyze management alternatives to be included in amendments to the Fishery Management Plans (FMPs) for the spiny lobster, reeffish, and queen conch fisheries of Puerto Rico and the U.S. Virgin Islands. The alternatives include: no action; to require escape vents of various sizes and shapes in traps and pots; to extend the seasonal closure for queen conch or set an annual quota; or to close the fishery for this species in the exclusive economic zone (EEZ) off St. Croix, U.S.V.I. Also, the Council seeks input to implement a size limit on imports of spiny lobster into the USA. The purpose of this scoping meeting is to solicit comments from agencies and the general public on the scope of issues to be addressed by the Council.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: October 24, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–21198 Filed 10–26–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No: 070920527–7528–01]

Low-Power Television and Translator Digital-to-Analog Conversion Program

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce.

ACTION: Initial announcement—notice of availability of funds.

SUMMARY: The National Telecommunications and Information Administration (NTIA) has established a program through which each eligible low-power television broadcast station, Class A television station, television translator station, or television booster station, may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. The conversion devices are necessary so the eligible stations can continue to broadcast in analog after February 17, 2009.[1] Without converter devices, the eligible facilities will be unable to receive the incoming off-air digital signal for conversion and rebroadcast to consumers within their coverage area.

DATES: Applications for the Low-Power Digital Conversion Program may be submitted during the period October 29, 2007–February 17, 2009. Applications requesting Priority compensation may be submitted during the three-month period October 29, 2007–January 31, 2008. Non-priority applications may be submitted beginning February 1, 2008.

FOR FURTHER INFORMATION CONTACT: NTIA Program Officers are prepared to give technical assistance to potential applicants within available resources. They may be contacted by telephone at (202) 482–5802, by fax at (202) 482–2156, or by mail at the address given in Section IV (*NTIA mailing and delivery address for applications*), above. NTIA e-mail address is *lptv@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance (CFDA) Number: 11.553.

Program Authority: The Deficit Reduction Act of 2005, Pub. L. 109–171, Section 3008, 120 Stat. 4, 25–26 (2006).

[1] February 17, 2009, is the date that full-power television stations are required to cease analog broadcasting. 47 U.S.C. 309(j)(14); see also Deficit Reduction Act of 2005, 120 Stat. at 21.

Amount to be Awarded: $8 million; approximately 8,000 awards.

Funding Instrument: Grant.

Eligible Applicants: Any individual or organization that holds a license or construction permit from the Federal Communications Commission for a low-power television broadcast station, Class A television station, translator television station or booster television station.

Additional Information on Eligibility: To be eligible for this program, a low-power, Class A, translator or booster television station (1) must be broadcasting exclusively in analog format; and (2) did not purchase a digital to analog conversion device as defined by the program prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.[2]

Cost Sharing: Cost sharing is not required.

Limitation on Number of Applications: None.

I. Funding Opportunity Description

A. Overview

In this Notice of Availability of Funds (Notice), NTIA implements the Low-power Television and Translator Digital-to-Analog Conversion Program pursuant to Section 3008 of the Deficit Reduction Act of 2005 (Act). This Act, among other things, directs the Federal Communications Commission (FCC) to require full-power television stations to cease analog broadcasting after February 17, 2009, but permits low-power television stations, Class A stations, television translator stations and booster stations to continue broadcasting in analog after that date. It also authorizes NTIA to create an assistance program for low-power stations desiring to continue analog broadcasts. Specifically, Section 3008 of the Act authorizes the Assistant Secretary for Communications and Information ''to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel.'' [3]

B. Summary of Relevant Provisions of the Act

Section 3002 of the Act amends the Communications Act of 1934 to permit low-power television broadcast stations, Class A television stations, television translator stations, and television booster stations to continue to broadcast in analog after the February 17, 2009, deadline for digital conversion of full-power television stations.[4] This section further requires all Class A television stations in the digital television service to broadcast in the radio spectrum between 54 and 698 megahertz (MHZ), by February 18, 2009.[5] Section 3003 of the Act directs the FCC to begin an auction of returned analog television spectrum no later than January 28, 2008, and to deposit auction proceeds into a fund established by the Act no later than June 30, 2008. The returned analog television spectrum to be auctioned is the band between 698 and 806 MHZ, except for the 24 MHZ that has been reserved for public safety uses and certain other frequencies that have already been made available through auction.[6] Section 3004 of the Act establishes a new Treasury fund to be known as the Digital Television Transition and Public Safety Fund (Fund).[7] It directs the receipts from the FCC's analog spectrum return auction to be deposited into the Fund.

Specific to this Notice, Section 3008 of the Act directs NTIA to implement and administer a program through which each eligible low-power television broadcast station, Class A television station, television translator station, or television booster station, may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. The Act defines the term ''eligible low-power broadcast television station'' to mean a ''a low-power television broadcast station, Class A television station, television translator station, or television booster station—(1) that is itself broadcasting exclusively in analog format; and (2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.'' [8] The Act authorizes NTIA to use up to $10 million from the Fund to implement the program. This section also authorizes NTIA, beginning on October 1, 2006, to borrow not more than $10 million from the Treasury to implement the program. NTIA, however, must reimburse the Treasury for this amount, without interest, as recovered analog television spectrum auction proceeds are deposited into the Fund.

In a related matter, though not directly the subject of this Notice, Section 3009 of the Act creates a second program to assist low-power television stations. Under Section 3009, NTIA is authorized to make payments up to $65 million ''to upgrade low-power television stations from analog to digital in eligible rural communities.'' [9] NTIA does not have borrowing authority for the program established under Section 3009 and so must wait until funds are deposited in the Fund, by June 30, 2008, before beginning this second program. As part of this Notice, NTIA will also seek information from low-power stations, Class A stations, television translator stations and booster stations that may be eligible for payments from NTIA under Section 3009, even if they may not qualify for payments under the Section 3008 program. This information is discussed further below in Section VIII B (*Application Forms*).

II. Award Information

NTIA funding assistance is in the form of grants. As explained further below, NTIA will provide a uniform grant of $1,000 per station for the purchase of a digital-to-analog conversion device. As of July 2007, the FCC has authorized approximately 8,000 low-power and translator stations. NTIA is authorized under Section 3008 to expend up to $10 million for this program, including the costs of program administration. There are sufficient monies available to enable NTIA to award grants on a non-competitive basis to all eligible stations that have filed a complete, timely application.

The award period of the grant will start as soon as possible after receipt, review and approval of the application. Grantees will be notified of the approval date of their award.

Grantees will be given a six-month period after a grant is awarded during which the equipment funded by the grant must be purchased and installed.

NTIA will also issue grants to reimburse those eligible stations who purchased an eligible digital-to-analog conversion device after February 8, 2006, the date of enactment of the Act.

Grantees must retain records of purchase of the digital-to-analog

[2] Title III of the Deficit Reduction Act of 2005 may be cited as the ''Digital Television Transition and Public Safety Act of 2005.'' The Deficit Reduction Act of 2005, Pub. L. No. 109–171, was enacted into law on February 8, 2006.

[3] 120 Stat. at 25, 26.

[4] *Id.* at 21.

[5] *Id.*

[6] *Id.* at 22.

[7] *Id.*

[8] *Id.* at 26.

[9] *Id.*

conversion device for a three-year period following receipt of the NTIA grant. NTIA will randomly request documentation of equipment purchases within this time period. Grantee must keep all records intact and accessible for a three-year period.[10]

III. Applicant Eligibility Information

Section 3008(c) of the Act defines the term ''eligible low-power television station'' to mean ''a low-power television broadcast station, Class A television station, television translator station, or television booster station—(1) that is itself broadcasting exclusively in analog format; and (2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.'' [11]

NTIA interprets a ''low-power television broadcast station, Class A television station, television translator station, or television booster station'' to mean a facility authorized by the Federal Communications Commission to use the television broadcast spectrum. NTIA will require an eligible station to have FCC broadcast authorization.

The Act states that an eligible station must be ''itself broadcasting exclusively in analog format.'' [12] NTIA interprets this language to mean that the facility must be broadcasting as authorized by the FCC, not merely possess a Construction Permit. Authorization for broadcast, however, does not mean that the FCC must have issued a license for the station. Under Section 74.14 of the FCC's Rules, 47 CFR 74.14, a station can begin broadcasting service or program tests once it has completed construction and filed for a license showing that it complies with the FCC's technical requirements and engineering standards.

Since almost all full power television stations are now broadcasting a digital signal, NTIA believes that low-power television and translator stations now currently under construction should be installing equipment to receive their corresponding full power station's digital signal, rather than its analog signal. NTIA published information on its Web site regarding program implementation and included a statement that suggested September 30, 2007, as the date by which low-power stations must be broadcasting to be eligible for this program.[13] To provide those applicants nearing completion of their facility sufficient time to complete their construction and prepare FCC license filings, NTIA will permit applicants to file their FCC license applications prior to November 29, 2007. In sum, NTIA will require that an applicant for this program either hold an FCC broadcast license or have filed an application for a broadcast license prior to November 29, 2007.

Included in the Act's definition of an eligible station is the requirement that it ''is broadcasting *exclusively in analog* format.'' [14] NTIA understands that, under FCC procedures, a single broadcast television can operate both analog and digital transmission facilities. Under the FCC's digital television rules, television stations have operated on both an analog channel and on a companion digital channel. The FCC considers these facilities as a single station licensed under a single set of call letters, broadcasting both on an analog and on a digital channel. The FCC is now assigning digital companion channels to low-power television facilities. Inasmuch as the Act requires a low-power station to be broadcasting exclusively in analog format, stations that broadcast in digital, either on the main channel or on a companion channel, will not be eligible to participate in this program. An applicant to the program must certify that it does not broadcast in digital as of the date of submission of the application.

The Act further includes in the definition of an eligible station the requirement that the facility ''has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005'' (i.e., February 8, 2006).[15] NTIA considers a purchase made when funds are obligated through the issuance of a purchase order or other means, not when funds are actually paid. Applicants must be able to certify that they did not order or purchase a digital-to-analog conversion device, as discussed in this document, prior to February 8, 2006.

IV. Project Eligibility

In addition to the definition of an eligible station as discussed above, Section 3008(a) of the Act limits the program to those stations that need ''to convert the incoming digital signal of [their] corresponding full-power television station to analog format for transmission on the low-power television station's analog channel.'' [16]

The Act provides that the digital-to-analog converter device can only be used by a low-power station that receives a digital signal from its corresponding full-power television station, and converts that digital signal to an analog signal. While the digital-to-analog converter device usually is placed at the low-power station site, it sometimes is located at a remote head-end location and then the full power station signal relayed to the low-power station site by microwave or other means. In circumstances where the microwave provides a signal to more than one low-power station, only a single digital-to-analog converter can be funded by the program.

While the digital-to-analog converter device described in the Act can be used by a low-power station that receives its digital television signal off-air at either the station site or at an intermediate microwave head end site, it cannot be used by a low-power station that receives its signal via satellite.[17] Further, it cannot be used by a low-power station that receives an analog television signal, such as those in a ''daisy chain'' of low-power stations where the first station converts a full-power digital television signal to analog, and the remaining stations in the chain rebroadcast the previous low-power station's analog signal. Low-power stations that receive a signal from an analog low-power station in a daisy chain or via satellite, therefore, are not eligible for this program.

V. Equipment Eligibility

As noted earlier, Section 3008(a) of the Act authorizes NTIA to support the purchase ''of a digital-to-analog conversion device that enables [the station] to convert the incoming digital signal of its corresponding full-power television station to analog format * * *.'' [18] The device described in the Act is a digital tuner/receiver that will pick up the digital television signal of the full-power digital station and provide an output to feed the low-power station's analog transmission system.

[10] 2 CFR 215.53(b). While this section refers to requirements imposed upon non-profit organizations receiving federal grants, NTIA imposes the requirement on all grantees under this program.

[11] 120 Stat. at 26.

[12] *Id.* (emphasis added).

[13] NTIA Low-Power Television Digital Programs. June 22, 2007, *http://www.ntia.doc.gov/otiahome/dtv/LPTVDigital_070622.htm.*

[14] 120 Stat. at 26 (emphasis added).

[15] *Id.*

[16] *Id.*

[17] Incoming satellite or microwave signals are usually baseband video and audio. Translators fed in this manner are different from those referred to in the Act. A low-power station receiving a satellite or microwave signal could not use an off-air digital-to-analog conversion device as proposed in the Act (other than stations receiving a microwave signal fed via an intermediate off-air pick up as described above).

[18] 120 Stat. at 25.

The digital turner/receiver will replace the analog tuner/receiver currently used by many low-power stations to pick up the off-air analog signal of the corresponding full-power analog television station. A professional grade digital tuner/receiver should have the capability of auto reset to the designated full-power TV station virtual channel (e.g. Ch. 26–3) in event of power failure. The output of the digital tuner/receiver would normally provide a baseband video signal which in turn can feed the station's existing modulator to modulate an RF signal that would drive the low-power station's transmission system.

Professional-grade digital off-air tuners must have the capability to reset to the desired channel in the event of power failure. Some translators transmit the SAP signal for Reading Services or Second Language Programming, and continuity of those services should be considered for those stations utilizing the subcarrier. Additionally, at the time they cease analog operations, some full power digital television stations will change their transmit frequency. NTIA believes the receiver should be agile and easily adjustable to either the VHF or UHF bands. NTIA also recognizes the likelihood that additional costs may arise for outside receive antennas considering that many digital transmitters are allocated to UHF frequencies. However, outside receive antennas are not ''digital-to-analog conversion device[s]'' and will not be supported by the program.

NTIA will award each eligible station a grant of $1,000 for the purchase of a digital tuner/receiver to pick-up the off-air signal of its corresponding full-power station for conversion to analog broadcasts.[19] NTIA understands that some low-power stations use a heterodyne technology that integrates the station's existing analog tuner/receiver and the station's modulator inside a single box. These stations may have to purchase a separate modulator to interface with the NTIA funded digital tuner/receiver, or they may use the NTIA grant of $1,000 to purchase a heterodyne unit that includes a digital tuner/receiver function, if these units are commercially available. NTIA encourages broadcast equipment manufacturers to provide heterodyne units that include both analog RF and digital RF outputs to feed transmission systems. Such units will assist low-power television stations in economically switching to digital broadcasting in the future.

VI. Priority Compensation

Section 3008(a) mandates that ''[p]riority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.'' [20]

The provision of priority compensation raises several issues that will be discussed in the following paragraphs. These issues are: (1) The definition of a non-profit corporation, (2) the definition of eligible low-power television stations that serve rural areas of fewer than 10,000 viewers, (3) how a request for priority status should be documented, and (4) how the priority should be given.

The Act does not define the term ''non-profit corporation.'' NTIA will accept the common usage of the term non-profit corporation as a corporation that has received a determination of non-profit status under state or Federal law, including stations licensed to entities organized under Section 501(c) of the Internal Revenue Service Code.[21] Under this definition, a governmental unit would not qualify for priority compensation unless the unit has a separate corporate charter and has received a determination of non-profit status. NTIA will accept applicant self-certification as to whether it is a non-profit corporation. NTIA reserves the right to request an applicant to provide documentation of its non-profit status.

The Act also requires that priority compensation be given to low-power stations that ''serve rural areas of fewer than 10,000 viewers.'' [22] NTIA recognizes that there are several hundred low-power stations that may request priority under this provision. To determine station eligibility for priority compensation, NTIA will utilize the industry standard for population coverage as established by the FCC. This standard is the population within the 50/50 contour. NTIA will use the population within a low-power station's 50/50 service contour as one of the criteria upon which to base the award of priority compensation. Applicants must certify that a station's 50/50 contour includes fewer than 10,000 people to qualify for the program's priority compensation. NTIA reserves the right to request an applicant provide documentation of this population coverage.

In sum, an applicant requesting priority compensation must (i) be a non-profit corporation; or (ii) serve fewer than 10,000 people within the low-power station's 50/50 service contour.

In addition to determining how to establish the priority for service to rural areas, NTIA must also determine how to implement this priority. Under the Act, there is approximately a 16 and one-half month period when stations can request funding that begins October 1, 2007 and ends February 17, 2009.[23] NTIA believes that the easiest way to administer the priority is to establish two application periods. During the first application period, (the Priority Period) which would extend for three months from the date of publication of this Notice, October 29, 2007, through January 31, 2008, NTIA will only process applications from stations that are eligible for priority consideration. Beginning February 1, 2008, NTIA would conduct an Open Period during which it would process all applications regardless of priority.

VII. Matching Funds Requirements

There are no matching funds required for this program. There is no limit on the number of applications an applicant may submit.

VIII. Application Procedures

A. Application Submission

NTIA will accept applications that are postmarked during the 15 and one-half month period October 29, 2007, through February 17, 2009.

Applicants may request funds for each eligible station they operate. Applicants may submit only a single request for each station unless additional information for a specific station is requested by NTIA. NTIA will also request additional information if required to process any incomplete application. In order to ease the administrative burden on both the applicant and NTIA, applicants are encouraged to request funds for several stations in a submission.

[19] This maximum amount is consistent with legislative history of Section 3008. See H.R. Rep. 109–362, at 204 (2005) (providing that the ''Assistant Secretary shall determine the maximum amount of compensation such a low-power television station may receive based on the average cost of such digital-to-analog conversion devices during the time period such low-power broadcast television station purchased the digital-to-analog conversion devices, but in no case shall such compensation exceed $1,000.'') At the time of Conference Report's publication, professional grade digital off-air tuners with analog outputs were commercially available for approximately $1,000. Several models were available from manufacturers including CADCO, LG and Zenith at prices ranging from $800 to $1,400.

[20] 120 Stat. at 26.

[21] 26 U.S.C. 501(c) except not (c)(4).

[22] 120 Stat. at 26.

[23] Section 3008(a) of the Act states that NTIA may make payments during FY 2008 (which begins October 1, 2007) and FY 2009, and that stations must submit requests by February 17, 2009.

During the three month period, October 29, 2007, through January 31, 2008, NTIA will process only those applications that qualify for Priority Compensation, as discussed above. Applications submitted during this period that do not qualify for priority compensation will be held by NTIA and processed during the Open Period.

After January 31, 2008, NTIA will process all applications submitted during the Open Period and those applications submitted during the Priority Period that do not qualify for priority compensation. Section 3008(a) of the Act requires applications to be submitted ''on or before February 17, 2009,'' which is the same date as the cessation of analog broadcasting by full-power television stations. Under the Act, applications postmarked after February 17, 2009 are ineligible for NTIA funding and will be returned. NTIA will also return applications which do not meet the eligibility criteria of the program.

B. Applications Forms

Applications for the Low-Power Television and Translator Digital Conversion Program consist of two forms. Both forms must be prepared electronically on the Internet. Forms cannot be submitted electronically. Once completed electronically, applicants must print the forms and sign each form individually. One original plus one copy of the application must be mailed to NTIA and postmarked on or before February 17, 2009. NTIA will not accept facsimile or e-mail applications. The first form, Low-Power Television and Translator Digital-to-Analog Conversion Program Application Form (DTV–4), provides information regarding the eligibility of the applicant and of each station for which funds are requested. The second form, ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881), provides NTIA with payment information so it can electronically deposit grant funds to the applicant's bank account

Applications forms and instructions are available on the Internet at *http://www.ntia.doc.gov/lptv.* A complete application includes the following two forms:

1. DTV–4 Application Form: Low-Power Television and Translator Digital Conversion Program

Much of the information for the DTV–4 form can be found in the station's FCC file. We recommend that applicants have their FCC files available when preparing their NTIA application(s). After applicants enter FCC data, sections of the form will be pre-filled with information from the FCC's database.

Part 1 Information about the applicant (station licensee).

Applicant must enter the following information: name, address, contact information, type of applicant (whether the applicant is a non-profit corporation) and DUNS number. All applicants are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants. See the October 30, 2002 (67 FR 66177), and April 8, 2003 (68 FR 17000), **Federal Register** notices for additional information. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line 1–866–705–5711 or via the Internet (*http://www.dunandbradstreet.com*).

Part 2 Information about the station.

Applicant must enter its FCC Facility ID Number, call letters, location, how the station receives the signal of its corresponding full-power television station, and population within the FCC 50/50 contour.

Applicants must complete Part 2 for each station for which funds are requested.

Part 3 Certifications.

The original application must contain an original signature from an authorized representative of the applicant organization (or individual).

Part 4 Optional Information for the Low-Power Digital Upgrade Program.

This section requests optional information about a station's power, transmitter, antenna, site, and population that will assist NTIA in planning for the Upgrade Program authorized under Section 3009 of the Act. Applicants are asked to complete Part 4 for each station they operate, even if the station does not qualify for the Digital Conversion Program funds.

2. SF–3881 ACH Vendor/Miscellaneous Payment Enrollment Form

Agency Information. This section will be pre-filled by NTIA.

Payee/Company Information. This section will be filled automatically after completion of Part I of the DTV–4 form.

Financial Institution Information. The applicant must complete information about the financial institution and bank account where the NTIA funds will be electronically deposited. Please call your financial institution to obtain the name and phone number of the ACH coordinator and enter this on the 4th line of this section. After completing the ACH form, take the form to your financial institution. This form is a certification and the original application must contain an original signature from an authorized representative of the financial institution.

C. Mailing and Delivery Address for Applications

The mailing and delivery address for the Low-Power Television and Translator Digital-to-Analog Conversion Program is: NTIA LPTV Conversion Program, Room H-4812, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Applicants should note that all material sent via the U.S. Postal Service (including ''Overnight'' or ''Express Mail'') is irradiated and may be damaged in the process. NTIA recommends that applicants use alternate overnight delivery services when submitting their applications.

Hand-deliveries of applications must be made through Room 1874, located at entrance #10 on 15th Street, NW.

X. Administrative Matters

A. Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid Office of Management and Budget (OMB) control number. The DTV–4 application form has been cleared under OMB control no. 0660–0022.

B. Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

C. Executive Order 13132

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

D. Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning grants, benefits, and contracts (5 U.S.C. 553(a)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601

et seq.) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

E. Administrative and National Policy Requirements

Administrative and national policy requirements for all Department of Commerce awards are contained in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, published in the **Federal Register** on December 30, 2004 (69 FR 78389). This notice may be accessed by entering the **Federal Register** volume and page number provided in the previous sentence at the following Internet Web site: *http://www.gpoaccess.gov/fr/retrieve.html.*

XI. Agency Contacts

The program officers, their e-mail addresses, direct phone numbers, and their areas of responsibility are listed below:

Rocky Mountain States: Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Texas, Utah, and Wyoming. Lynn ChadwicK, *lchadwick@ntia.doc.gov,* (202) 482–8338.

All other states and territories: Larry Dyer, *ldyer@ntia.doc.gov,* 202–482–1762.

Applicants may also contact: William Cooperman, Director, *wcooperman@ntia.doc.gov,* (202) 482–5802.

Contact for electronic access problems: *ntiahelpdesk@ntia.doc.gov,* (202) 482–4631.

Answers to Frequently Asked Questions about the Low-Power and Translator Conversion Program grants and applications are available online at *http://www.ntia.doc.gov/lptv.*

Questions regarding Department of Commerce grant policies may be directed to: Joyce Brigham NIST/GAMD Grants Officer, *Joyce.brigham@nist.gov,* (301) 975–6329.

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

[FR Doc. E7–21113 Filed 10–26–07; 8:45 am]

BILLING CODE 3510–60–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 15 November 2007, at 10 a.m. in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street, NW., Washington, DC 20001–2728. Items of discussion may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *http://www.cfa.gov.* Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address, or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, October 25, 2007.

Thomas Luebke,

AIA, Secretary.

[FR Doc. 07–5336 Filed 10–26–07; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

October 23, 2007.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

EFFECTIVE DATE: October 29, 2007.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain herringbone stretch woven fabrics of polyester, rayon and spandex yarns, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 2582.

For further information on-line: *http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf.*Reference number: 35.2007.09.19.Fabric.Alston&Birdfor NewWorldSourcing.

SUPPLEMENTARY INFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

Background:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)–(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25, Note; see also section 203(o)(4)(C) of the Act.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Act for modifying the Annex 3.25 list. On March 21, 2007, CITA published final procedures it would follow in considering requests to modify the Annex 3.25 list (72 FR 13256).

On September 19, 2007, the Chairman of CITA received a commercial availability request from Alston & Bird, LLP, on behalf of New World Sourcing, for certain herringbone stretch woven fabrics of polyester, rayon and spandex yarns, of the specifications detailed below. On September 21, 2007, CITA notified interested parties of, and posted on its website, the accepted petition and requested that interested entities provide, by October 3, 2007, a response advising of its objection to the commercial availability request or its ability to supply the subject product. CITA also explained that rebuttals to responses were due to CITA by October 10, 2007.

No interested entity filed a response advising of its objection to the request or its ability to supply the subject product.

In accordance with Section 203(o)(4)(C) of the CAFTA-DR Act, and its procedures, as no interested entity submitted a response objecting to the request or expressing an ability to supply the subject product, CITA has determined to add the specified fabrics

to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject fabrics are added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been published on-line.

Woven fabric specifications:

HTS Subheading:	5515.11.0040
Fiber content:	61 to 67 percent polyester; 30 to 36 percent rayon; 1 to 6 percent spandex.
Staple length:	3.18 to 4.44 centimeters
Yarns:	**Warp:** plied polyester/rayon staple of any yarn size **Filling:** plied polyester/rayon staple of any yarn size combined with spandex filament of any denier
Thread count:	36 to 40 warp ends by 22 to 28 filling picks per centimeter
Weave type:	Twill
Weight:	225 to 250 grams per square meter
Width:	144 to 155 centimeters
Finish:	Piece Dyed

Janet E. Heinzen,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E7–21270 Filed 10–26–07; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–DARS–0112]

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 November 28, 2007.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Administrative Matters, and related clauses at DFARS 252.204; DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, and DD Form 2051–1, Request for Information/Verification of Commercial and Government Entity (CAGE) Code; OMB Control Number 0704–0225.

Type of Request: Extension.

Number of Respondents: 11,921.

Responses per Respondent: 1.

Annual Responses: 11,921.

Average Burden per Response: .7432 hours.

Annual Burden Hours: 8,860.

Needs and Uses: DoD uses this information to control unclassified contract data that is sensitive and inappropriate to release to the public; and to facilitate data exchange among automated systems for contract award, contract administration, and contract payment by assigning a unique code to each DoD contractor.

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: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–5338 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–DARS–0113]

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 November 28, 2007.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 244, Subcontracting Policies and Procedures; OMB Control Number 0704–0253.

Type of Request: Extension.

Number of Respondents: 90.

Responses per Respondent: 1.

Annual Responses: 90.

Average Burden per Response: 16 hours.

Annual Burden Hours: 1,440.

Needs and Uses: Administrative contracting officers use this information in making decisions to grant, withhold, or withdraw purchasing system approval at the conclusion of a purchasing system review. Withdrawal of purchasing system approval would necessitate Government consent to individual subcontracts.

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 1100, Arlington, VA 22209–2133.

Dated: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–5339 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–DARS–0114]

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 November 28, 2007.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 215.4, Contract Pricing, and associated clause at DFARS 252.215 and DD Form 1861; OMB Control Number 0704–0232.

DoD is combining reporting requirements previously approved under both 0704–0267 and 0704–0232 under this revision to 0704–0232.

Type of Request: Revision.

Number of Respondents: 10,300.

Responses per Respondent: Approximately 5.19.

Annual Responses: 53,458.

Average Burden per Response: Approximately 10.073 hours.

Annual Burden Hours: 538,480.

Needs and Uses: DoD contracting officers use DD Form 1861 in computing profit objectives for negotiated contracts. A DD Form 1861 is normally completed for each proposal for a contract for supplies or services that is priced and negotiated on the basis of cost analysis. The form enables contracting officers to differentiate profit objectives for various types of contractor assets (land, buildings, equipment). DoD needs this information to develop appropriate profit objectives when negotiating Government contracts.

DoD contracting officers need the information required by DFARS 215.407–5, Estimating systems, and the related contract clause at 252.215–7002, Cost Estimating System Requirements, to determine if a contractor has an acceptable system for generating cost estimates, and to monitor the correction of any deficiencies.

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: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–5340 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–DARS–0115]

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 November 28, 2007.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 223, Occupational Safety and Drug-Free Workplace, and related clauses at DFARS 252.223; OMB Control Number 0704–0272.

DoD is combining reporting and recordkeeping requirements previously approved under both 0704–0336 and 0704–0272 under this revision to 0704–0272.

Type of Request: Revision.

Number of Respondents: 19,531 (1,519 reporting/18,012 recordkeeping).

Responses per Respondent: 1.6138 average (8.892 reporting/1 recordkeeping).

Annual Responses: 31,519 (13,507 reporting/18,012 recordkeeping).

Average Burden per Response: 31.39515 hrs average (0.6995 hrs reporting/54.4135 hrs recordkeeping).

Annual Burden Hours: 989,544 (9,448 reporting/980,096 recordkeeping).

Needs and Uses: This information collection requires that an offeror or contractor submit information to DoD in response to DFARS solicitation provisions and contract clauses relating to occupational safety. DoD contracting officers use this information to:

Verify compliance with requirements for labeling of hazardous materials;

Ensure contractor compliance and monitor subcontractor compliance with DoD 4145.26–M, DoD Contractors' Safety Manual for Ammunition and Explosives, and minimize risk of mishaps;

Identify the place of performance of all ammunition and explosives work; and

Ensure contractor compliance and monitor subcontractor compliance with DoD 5100.76–M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

In addition, this information collection requires DoD contractors to maintain records regarding drug-free work force programs provided for contractor employees. The information is used to ensure reasonable efforts to eliminate the unlawful use of controlled substances by contractor employees.

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.* Following 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: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–5341 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–OS–0003]

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 November 28, 2007.

Title, Form, and OMB Number: Application for Department of Defense Common Access Card—DEERS Enrollment; DD Form 1172–2; OMB Control Number 0704–0415.

Type of Request: Extension.

Number of Respondents: 300,000.

Responses per Respondent: 1.

Annual Responses: 300,000.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 50,000.

Needs and Uses: This information collection requirement is needed to obtain the necessary data to establish a record in the Defense Enrollment Eligibility Reporting System (DEERS) for individuals not pre-enrolled in the DEERS, and to maintain a centralized database of individuals eligible for a DoD identification card. This information is used to establish eligibility for the DoD Common Access Card (CAC) for individuals that are either employed by or associated with the Department of Defense. The information also provides a source of date for demographic reports.

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: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–5342 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2007–OS–0032]

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 November 28, 2007.

Title, Form, and OMB Number: Repatriation Automated Accounting and Reporting System: DD Form 2585; OMB Control Number 0704–0334.

Type of Request: Extension.

Number of Respondents: 5,000.

Responses per Respondent: 1.

Annual Responses: 5,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 1,667.

Needs and Uses: This information collection is necessary for personnel accountability of all evacuees, regardless of nationality, who are processed through designated Repatriation Centers throughout the United States. The information obtained from the DD Form 2585 is entered into an automated system; a series of reports is accessible to DoD Components, Federal and State agencies and Red Cross, as required.

Affected Public: Individuals or households; Federal government; State, local or tribal government.

Frequency: On occasion.

Respondents 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 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: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–5343 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army, (OAA–RPA), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Army 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 December 28, 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 Military Surface Deployment and Distribution Command, 200 Stovall Street, Hoffman Building II, Alexandria, Virginia 22332–5000, ATTN: SDDC–PPP–PO, Room 10N67 (Gail Collier), or call Department of the Army reports clearance officer at (703) 428–6440.

Title, Associated Form, and OMB Number: Uniform Tender of Rates and/or Charges for Domestic Transportation Services (DOD/USCG Sponsored Household Goods); SDDC Form 43–R; OMB Control Number 0702–0018.

Needs and Uses: Department of Defense approved household goods carrier files rates to engage in the movement of DOD and United States Coast Guard sponsored shipments within the continental United States. Headquarters, Military Surface Deployment and Distribution Command evaluates the rates and awards the traffic to low rate responsible carriers whose rates are responsive and most advantageous to the Government.

Affected Public: Business or other for profit.

Annual Burden Hours: 3,160.

Number of Respondents: 1,580.

Responses per Respondent: 4.

Average Burden per Response: 30 minutes.

Frequency: Semi-annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The method SDDC uses to procure shipments is the voluntary submission by carriers during two intrastate filing cycles each year, May 1 to October 31 and November 1 to April 30. Historically, carriers file higher rates in the winter cycle. By accepting rates in two cycles, the Government experiences lower costs during the summer month for the same services. If rates were filed less frequently, shipments would move at higher cost.

Dated: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–5344 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2007–0029]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army, (OAA–RPA), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Department of the Army 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 December 28, 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 Military Surface Deployment and Distribution Command, 200 Stovall Street, Hoffman Building II, Alexandria, Virginia 22332–5000, ATTN: SDDC–PPP–PO, Room 10N67 (Gail Collier), or call Department of the Army Reports clearance officer at (703) 428–6440.

Title, Associated Form, and OMB Number: Tender of Service and Letter of Intent for Personal Property Household Goods and Unaccompanied Baggage Shipments; DD Form 619 and DD Form 619–1; OMB Control Number 0702–0022.

Needs and Uses: Since household goods (HHG) move at Government expense, data is needed to choose the best service at lowest cost to the Government. The information provided by the carrier serves as a bid for contract to transport HHG, unaccompanied baggage, mobile homes, and boats. This information is collected on a regular basis, but it submitted intermittently throughout the year. Best-service-for-least-cost carrier receives the contract. DD Form 619 certifies that accessorial services were actually performed. The Government would not know which carriers to use for shipping personal property if they could not collect this information.

Affected Public: Business or other for-profit.

Annual Burden Hours: 70,548.

Number of Respondents: 2,636.

Responses per Respondent: 167.5556.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Tender of Service is the contractual agreement between DoD and the carrier, under which the carrier agrees to provide services in accordance with the terms and conditions cited in the Tender of Service. In accordance with the provisions of DOD 4500.9–R, the DD Form 619 is used by the household goods carrier industry to itemize packing material and other charges for billing purposes on household goods and unaccompanied baggage shipments.

Dated: October 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–5345 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Office of the Secretary of Defense Performance Review Board

AGENCY: Department of Defense.

ACTION: Notice.

This notice announces the appointment of the members of the Performance Review Board (PRB) of the Office of the Secretary of Defense, to include the Joint Staff, the U.S. Mission to the North Atlantic Treaty Organization, Defense Field Activities, the U.S. Court of Appeals of the Armed Forces and the following Defense Agencies: Defense Advance Research Projects Agency, the Defense Commissary Agency, Defense Security Service, Defense Security Cooperation Agency, Missile Defense Agency, Defense Business Transformation Agency, Defense Legal Services Agency, and Pentagon Force Protection Agency; The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board (PRB) provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Secretary of Defense.

EFFECTIVE DATE: October 22, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Prater, Executive and Political Personnel Division, Human Resources Directorate, Washington Headquarters Services, Office of the Secretary of Defense, Department of Defense, The Pentagon, (703) 693–8347.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following executives are appointed to the Office of the Secretary of Defense PRB: Specific PRB panel assignments will be made from this group. Executives listed will serve a one-year renewable term, effective October 22, 2007.

Office of the Secretary of Defense

Chairperson: Eric Coulter

Nancy Spruill
Timothy Harp
Mary George
William Lowry
Alan Liotta
Lora Muchmore
Jennifer Buck
Kenneth Handelman
Joseph Noguiera
Richard Sayre
Sheryl McNair
Frank Anderson
Noreen Holthaus
Tom Lavery
Bruce Bade
Sheila Earle
Charles Kosak
Radja Sekar
Gary Pennett
Curt Gilroy
Margaret Myer
Susan Shekmar
Don Diggs
Bonnie Hammersley
Scott Comes
Craig Glassner
Paul Koffsky
Christine Condon
Dennis Clem
Gail McGinn
James Russel
Cheryl Roby
Gary Powell
Joe Sikes
Patrick O'Brien
Sheryl McNair
Steve Huybrechts

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–5347 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–M

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 256. 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 256 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* November 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 255. 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:

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 256 ARE UPDATES TO THE RATES FOR AGUADILLA, MAYAGUEZ, AND PONCE, PUERTO RICO.				
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	80	209	07/01/2007
10/01 - 04/30	89	76	165	07/01/2007
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	06/01/2007
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	80	209	07/01/2007
10/01 - 04/30	89	76	165	07/01/2007
HAINES				

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
04/01 - 09/30	109	75	184	06/01/2007
10/01 - 03/31	89	73	162	06/01/2007
HEALY				
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	07/01/2007
09/16 - 05/14	79	78	157	07/01/2007
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
SELDOVIA				
05/15 - 09/15	131	84	215	07/01/2007
09/16 - 05/14	79	78	157	07/01/2007
SEWARD				
05/01 - 09/30	199	85	284	06/01/2007

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	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
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	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

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
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	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	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	75	64	139	11/01/2007
BAYAMON	195	82	277	10/01/2007
CAROLINA	195	82	277	10/01/2007
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	82	277	10/01/2007
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	82	277	10/01/2007
LUQUILLO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
MAYAGUEZ	109	77	186	11/01/2007
PONCE	139	83	222	11/01/2007
SABANA SECA [INCL ALL MILITARY]	195	82	277	10/01/2007
SAN JUAN & NAV RES STA	195	82	277	10/01/2007
[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

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
12/15 - 04/14	299	111	410	05/01/2006
WAKE ISLAND				
WAKE ISLAND	152	15	167	06/01/2006

Dated: October 23, 2007.

L.M. Bynum

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–5346 Filed 10–26–07; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant a Partially Exclusive Patent License; Oasis Diagnostics Corp

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Oasis Diagnostics Corp., a revocable, nonassignable, partially exclusive license to practice worldwide the Government owned inventions described in U.S. Patent No. 6,841,159 issued on January 11, 2005, for ''Rapid Lateral Flow Assay for Determining Exposure to Mycobacterium Tuberculosis and other mycobacteria''; and related foreign filings (PCT/US 03/02311, EP/1478395, and AU/2003210662 filed) in the fields of detection of antibodies in present in oral fluids from the group saliva, oral rinse expectorant, oral mucosal transudate, gingival crevicular fluid, and phlegmuntil.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than November 13, 2007.

ADDRESSES: Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone: 301–319–7428.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: October 23, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–21202 Filed 10–26–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant a Partially Exclusive Patent License; Oasis Diagnostics Corp

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Oasis Diagnostics Corp., a revocable, nonassignable, partially exclusive license to practice worldwide the Government owned inventions described in U.S. Patent 6,927,068 entitled ''A Rapid and Non-Invasive Method to Evaluate Immunization Status of a Patient'' issued 9 August 2005 and related foreign filings (PCT/US 2003/002239, EP/1490665, and AU/2003301840) in the fields of detection of antibodies in present in oral fluids from the group saliva, oral rinse expectorant, oral mucosal transudate, gingival crevicular fluid, and phlegmuntil.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than November 13, 2007.

ADDRESSES: Written objections are to be filed with the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone: 301–319–7428.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: October 23, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–21204 Filed 10–26–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant a Partially Exclusive Patent License; United States—Vietnam Foundation

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to United States-Vietnam Foundation, a revocable, nonassignable, partially exclusive license to practice worldwide the Government owned inventions described in the invention disclosed and claimed in International Application Number PCT/US2005/019963, with the International Filing Date of June 6, 2005, which was published on December 14, 2006 with the International Publication Number WO 2006/132635 A1, for ''Hand-Held Fluorescence Polarimeter''; and the national stage patent applications to be filed in Vietnam, Thailand, Cambodia, Laos, Indonesia, the Philippines and Myanmar in the fields of screening and diagnosis of: (1) Infectious diseases; (2) viral-induced cancer, such as Human Paplloma Virus/AIDs; and (3) toxins.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than November 13, 2007.

ADDRESSES: Written objections are to be filed with the Office of Technology

Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone: 301–319–7428.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: October 23, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–21206 Filed 10–26–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–56–001; Docket No. EL07–58–001]

Allegheny Electric Cooperative, Inc., et al. v. PJM Interconnection, L.L.C.; Organization of PJM States, Inc., et al. v. PJM Interconnection, L.L.C.; Notice of Non-Decisional Status (Consolidated)

October 23, 2007.

Take notice that, for purposes of the above-captioned dockets (and all subdockets in those dockets), Jennifer B. Shipley, from the Commission's Office of Energy Market Regulation, is a non-decisional authority and non-decisional employee. *Cf.* 18 CFR 385.102(a) (2006) (definition of decisional authority); 18 CFR 385.2201(c)(3) (2006) (definition of decisional employee).

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21231 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–398–001]

Gulf Crossing Pipeline Company LLC; Notice of Amended Application

October 22, 2007.

Take notice that on October 16, 2007, Gulf Crossing Pipeline Company LLC (Gulf Crossing), 9 East Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP07–398–001, an amendment to its pending application pursuant to section 7(c) of the Natural Gas Act (NGA) in which it seeks authorization to site, construct, and operate facilities proposed in Docket No. CP07–398–000 filed June 19, 2007. In the amended application, Gulf Crossing proposes to decrease the amount of compression at its proposed Sherman Compressor Station and increase compression at its proposed Paris Compressor Station, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The Commission staff will determine if this amendment will have an effect on the schedule for the environmental review of this project. If necessary, a revised Notice of Schedule for Environmental Review will be issued within 90 days of this Notice. The instant filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application may be directed to J. Kyle Stephens, Vice President of Regulatory Affairs, Boardwalk Pipeline Partners, LP, 9 Greenway Plaza, Houston, Texas 77046 or by telephone at 713–479–8033 or telecopy to 713–479–1846.

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 below listed comment date, 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 commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 13, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21226 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP08–8–000]

Leaf River Energy Center, LLC; Notice of Applications

October 23, 2007.

Take notice that on October 9, 2007, as supplemented on October 22, 2007, Leaf River Energy Center, LLC (Leaf River), 61 Wilton Road, Westport, CT, 06880, filed an application under section 7 of the Natural Gas Act for authorization to construct and operate a new underground natural gas storage and pipeline header facility to be located in Smith, Jasper, and Clarke Counties, Mississippi. This filing is available for review at the Commission

in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. Questions concerning this application may be directed to James F. Bowe, Jr., Dewey & LeBoeuf LLP, 975 F Street, NW., Washington, DC 20004, and (phone) 202–862–1000.

Leaf River seeks: (1) A certificate of public convenience and necessity that would authorize Leaf River to construct, own, operate and maintain a high-deliverability salt cavern gas storage facility that will accommodate the injection, storage and subsequent withdrawal of natural gas for redelivery in interstate commerce; (2) a blanket certificate pursuant to Subpart G of 18 CFR Part 284 that will permit Leaf River to provide open-access firm and interruptible natural gas storage services on behalf of others in interstate commerce with pre-granted abandonment of such services; (3) a blanket certificate pursuant to Subpart F of 18 CFR Part 157 that will permit Leaf River to construct, acquire, operate, rearrange and abandon certain facilities following construction of the proposed project; (4) authorization to provide the proposed storage services at market-based rates; and (5) approval of a pro forma FERC Gas Tariff, under which Leaf River will provide open-access natural gas storage services in interstate commerce.

Leaf River states that the Project will include four storage caverns with a total working gas capacity of 32 billion cubic feet (Bcf), supported by cushion gas capacity of 9.9 Bcf. Leaf River also states that the Project will be capable of withdrawing and delivering gas at a rate of up to 2.5 Bcf per day and of receiving and injecting gas at a rate of up to 1.0 Bcf per day. Leaf River proposes that the Project will include a natural gas pipeline header system to interconnections with five interstate gas transmission pipelines. Leaf River states that the Project's header system will include dual bi-directional 24-inch natural gas pipelines and a length of single 24-inch gas pipeline, which will follow the corridor to be occupied by the proposed Gulf South Southeast Expansion Project for about 37 miles. Leaf River represents that construction and operation of the Project will have minimal impacts on the natural environment and on adjacent landowners.

Leaf River states that the market power study included with its Application demonstrates that Leaf River will not have market power in any relevant market. It asserts that the Commission can therefore conclude that Leaf River will be unable to charge or collect rates for its services that exceed just and reasonable levels. Leaf River states that its proposed pipeline header system will include no end-user interconnections and will function exclusively as the means by which Leaf River provides storage and wheeling services nominated by its customers.

Leaf River also requests that the Commission waive the requirements of (i) 18 CFR 157.6(b)(8) and 157.14(a)(13), (14), (16), (17) (which relate to the filing of information required to justify rates on a cost-of-service basis, given that Leaf River proposes to charge market-based rates for the services it will provide); (ii) 18 CFR 157.14(a)(10) (which requires a showing regarding accessible gas supplies that is not applicable to a storage project to which third parties will deliver their gas); (iii) 18 CFR 260.2 and Part 201 (accounting and reporting requirements appropriate for a cost-of-service rate structure); and (iv) 18 CFR 284.7(e) and 284.10 (which impose requirements relating to the design of rates that are not applicable to market-based rates).

Leaf River states that the Project would provide necessary natural gas infrastructure in furtherance of the Commission's policies supporting the development of new natural gas storage capacity. According to Leaf River, the Project will increase the reliability of natural gas supply during periods of production and transportation interruptions and will enhance the reliability of the interstate pipeline grid.

Pursuant to section 157.9 of the Commission's rules, 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.

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 comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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 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.

Comment Date: 5 p.m. Eastern Time, November 14, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21230 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–4–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Application

October 22, 2007.

Take notice that on October 5, 2007, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP08–4–000, an application pursuant to section 7 of the Natural Gas Act (NGA) for authorization to: (1) Expand the existing certificated boundary and buffer zone; (2) to redefine the cap rock of the gas storage formation; (3) install a gas compressor unit; and (4) revise the maximum certificated wellhead shut-in pressure at Southern Star's existing South Welda Storage Field located in Anderson County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

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.

Any questions regarding this application may be directed to David N. Roberts, Manager, Regulatory Affairs, 4700 Highway 56, Owensboro, Kentucky 42301 and at (270) 852–4654.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, before the comment date of this notice, 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: November 13, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21224 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–62–000 and CP07–63–000]

AES Sparrows Point LNG and Mid Atlantic Express, L.L.C.; Notice of FERC Staff Attendance

October 23, 2007.

On October 30, 2007, staff of the Office of Energy Projects (OEP) will meet with representatives of the National Association of State Fire Marshalls (NASFM). NASFM, on behalf of civic leaders, have requested a meeting with staff to discuss the Commission's review process for LNG proposals.

The meeting will be held on Tuesday October 30, 2007 at 2 p.m. (EST), Room No. 3M–3, at the Commission Headquarters in Washington, DC.

Information concerning any changes to the above may be obtained from the Commission's Office of External Affairs at (202) 502–8004 or toll free at 1–(866) 208–FERC (208–3372).

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21233 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–615–000]

California Independent System; Operator Corporation; Notice of FERC Staff Attendance

October 22, 2007.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on October 25–26, 2007, members of its staff will attend the meeting of Western Electricity Coordinating Council (WECC) Market Interface Committee in Vancouver, BC. The agenda and other documents for the meeting are available on the WECC Web site, *http://www.wecc.biz.*

Sponsored by the WECC, the meeting is open to all market participants, and staff's attendance is part of the Commission's ongoing outreach efforts. The meetings may discuss matters at issue in the above captioned docket.

For further information, contact Saeed Farrokhpay at

saeed.farrokhpay@ferc.gov; (916) 294–0322.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–21225 Filed 10–26–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8488–3; Docket ID No. EPA–HQ–ORD–2007–0920]

Board of Scientific Counselors, Human Health Risk Assessment Subcommittee Meeting—November 14–16, 2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Human Health Risk Assessment Subcommittee.

DATES: The face-to-face meeting will be held on November 14–16, 2007. The meeting will begin on November 14, 2007 (8:30 a.m. until 5 p.m.); continue on November 15, 2007 (10 a.m. to 5 p.m.); and conclude on November 16, 2007 (8:30 a.m. until 12 noon). All times noted are eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 2 business days before the meeting.

ADDRESSES: The meeting will be held at the Residence Inn by Marriott, Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, Maryland 20814. The hotel is located across the street from the Bethesda red line Metro stop. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–0920, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2007–0920.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2007–0920.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Human Health Risk Assessment Subcommittee Meetings—Fall 2007 Docket, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2007–0920.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2007–0920. Note: this is not a mailing 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-HQ-ORD–2007–0920. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Board of Scientific Counselors, Human Health Risk Assessment Subcommittee Meetings—Fall 2007 Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via express mail to: Joanna Foellmer, Charles Glover Building, 808 17th Street, NW., 4th Floor, Washington, DC 20006; via regular mail to: Joanna Foellmer, Mail Code 8601D, Office of Research and Development, U. S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW. , Washington, DC 20460; via phone/voice mail at: (202) 564–3208; via fax at: (202) 565–0061; or via e-mail at: *foellmer.joanna@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Joanna Foellmer, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the meeting include, but are not limited to: how the human health risk assessment program is helping to accomplish the mission of the U.S. EPA; and overviews and poster sessions relevant to the Human Health Risk Assessment Program's long-term goals: Goal 1; Integrated Risk Information System (IRIS) and other priority health assessments; Goal 2; State of the Science, risk assessment models, methods and guidance; and Goal 3; Integrated Science Assessments, previously known as Air Quality Criteria Documents. The meeting is open to the public. The subcommittee roster and charge can be accessed at: *http://www.epa.gov/osp/bosc/subcomm-hhra.htm.*

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Joanna Foellmer on (202) 564–3208 or *foellmer.joanna@epa.gov.* To request accommodation of a disability, please contact Joanna Foellmer, preferably at least 10 days prior to the

meeting, to give EPA as much time as possible to process your request.

Dated: October 18, 2007.

Jeff Morris,

Acting Director, Office of Science Policy.

[FR Doc. E7–21250 Filed 10–26–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Localism Hearing and Open Commission Meeting; Wednesday, October 31, 2007

October 24, 2007.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, October 31, 2007, which is scheduled to commence at 9 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC. This Open Meeting will be immediately followed by a Localism Hearing that will also be held in the Commission Meeting Room, Room TW–C305. The Localism Hearing will include a presentation by the Media Bureau summarizing the record the Commission has received on the topic of localism, a panel presentation, and a period for public comment. The Localism Hearing will conclude at 2 p.m.

Item No.	Bureau	Subject
1	Wireline Competition	*Title:* Implementation of section 224 of the Act; Amendment of the Commission's Rules and Policies Governing Pole Attachments (RM–11293, RM–11303). *Summary:* The Commission will consider a Notice of Proposed Rulemaking concerning appropriate changes, if any, to its implementation of section 224 of the Act, governing access to pole attachments.
2	Wireline Competition	*Title:* IP-Enabled Services (WC Docket No. 04–36); Telephone Number Portability (CC Docket No. 95–116); Numbering Resource Optimization (CC Docket No. 99–200); Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements. *Summary:* The Commission will consider a Report and Order, Declaratory Ruling, Order on Remand, and a Notice of Proposed Rulemaking addressing a number of local number portability (LNP) and certain other numbering requirements.
3	Media	*Title:* Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments (MD Docket No. 07–51). *Summary:* The Commission will consider a Report and Order concerning the use of exclusive contracts for the provision of video services to multiple dwelling units ("MDUs") and other real estate developments.
4	Media	*Title:* Implementation of section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05–311). *Summary:* The Commission will consider a Second Report and Order concerning Section 621(a)(1)'s directive that local franchising authorities not unreasonably refuse to award competitive franchises and the application of the Commission's findings in the First Report and Order to existing franchises.
5	Media	*Title:* Localism Hearing. *Summary:* Along with competition and diversity, promoting localism is a key goal of the Commission's media ownership rules. The purpose of the hearing is to gather information from consumers, industry, civic organizations, and others on broadcasters' role in their local communities and proposed changes to our rules.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. In addition, include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days advance notice. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu*.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com*.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–5383 Filed 10–25–07; 1:05 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2838]

Petition for Reconsideration of Action in Rulemaking Proceeding

October 18, 2007.

A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be

purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to this petition must be filed by November 13, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to oppositions must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fredericksburg, Converse, Flatonia, Georgetown, Ingram, Lakeway, Lago Vista, Llano, McQueen, Nolanville, San Antonio, and Waco, Texas) (MB Docket No. 05–112).

Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Llano, Junction and Goldthwaite, Texas) (MB Docket No. 05–151).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–21269 Filed 10–26–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the six information collections described below.

DATES: Comments must be submitted on or before November 28, 2007.

ADDRESSES: Interested parties are invited to submit written comments to Steve Hanft, (202) 898–3907, Clearance Officer, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. Comments may also be Faxed to (202) 898–8788; or e-mailed to: *comments@fdic.gov.* All comments should refer to the relevant OMB control number.

A copy of the comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Steve Hanft, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title:* Foreign Branching and Investment by Insured State Nonmember Banks.

OMB Number: 3064–0125.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 61.

Estimated Time per Response: 333 hours.

Total Annual Burden: 20,298 hours.

General Description of Collection: The Federal Deposit Insurance (FDI) Act requires state nonmember banks to obtain FDIC consent to establish or operate a branch in a foreign country, or to acquire and hold, directly or indirectly, stock or other evidence of ownership in any foreign bank or other entity. The FDI Act also authorizes the FDIC to impose conditions for such consent and to issue regulations related thereto. This collection is a direct consequence of those statutory requirements.

2. *Title:* Procedures for Monitoring Bank Secrecy Act Compliance.

OMB Number: 3064–0087.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 5,168.

Estimated Time per Response: 62.6 hours.

Total Annual Burden: 323,755 hours.

General Description of Collection: Respondents must establish and maintain procedures designed to assure and monitor their compliance with the requirements of the Bank Secrecy Act and the implementing regulations promulgated by the Department of Treasury at 31 CFR 103. Respondents must also provide training for appropriate personnel.

3. *Title:* Community Reinvestment Act.

OMB Number: 3064–0092.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 5,296.

Estimated Time per Response: 36.6 hours.

Total Annual Burden: 193,975 hours.

General Description of Collection: This information collection permits the FDIC to fulfill its obligations under the Community Reinvestment Act to evaluate and assign ratings to the performance of institutions, in connection with helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices. The FDIC uses the information in the examination process and in evaluating applications for mergers, branches, and certain other corporate activities.

4. *Title:* Application for Waiver of Publication on Acceptance of Brokered Deposits for Adequately Capitalized Insured Institutions.

OMB Number: 3064–0099.

Frequency of Response: On occasion.

Affected Public: Any insured depository institution seeking a waiver to the prohibition on the acceptance of brokered deposits.

Estimated Number of Respondents: 30.

Estimated Time per Response: 6 hours.

Total Annual Burden: 180 hours.

General Description of Collection: Section 29 of the FDI Act prohibits undercapitalized insured depository institutions from accepting, renewing, or rolling over any brokered deposits. Adequately capitalized institutions may do so with a waiver from the FDIC, while well-capitalized institutions may accept, renew, or roll over brokered deposits without restriction.

5. *Title:* Real Estate Lending Standards.

OMB Number: 3064–0112.

Frequency of Response: On occasion.

Affected Public: Insured Savings Associations.

Estimated Number of Respondents: 5,300.

Estimated Time per Response: 20 hours.

Total Annual Burden: 106,000 hours.

General Description of Collection: Institutions will use real estate lending policies to guide their lending operations in a manner that is consistent with safe and sound banking practices and appropriate to their size, nature and scope of their operations. These policies should address certain lending considerations, including loan-to-value limits, loan administration policies, portfolio diversification standards, and documentation, approval and reporting requirements.

6. *Title:* Management Official Interlocks.

OMB Number: 3064–0118.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 6.

Estimated Time per Response: 4 hours.

Total Annual Burden: 24 hours.

General Description of Collection: This collection is associated with the FDIC's Management Official Interlocks regulation, 12 CFR Part 348, which implements the Depository Institution Management Interlocks Act (DIMIA). DIMIA generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies but allows the FDIC to grant exemptions on request in appropriate circumstances.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start up costs, and costs of operation, maintenance and purchase of services to provide the information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC, this 22nd day of October, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–21097 Filed 10–26–07; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974, as Amended; System of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of new and revised systems of records.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') proposes to add three new systems of records to its collection of systems of records notices published pursuant to the Privacy Act of 1974. These new systems of records are entitled: Office of the Chairman Correspondence Records; Congressional Correspondence Records; and, Legislative Information Tracking System Records. The FDIC also proposes to revise twenty-three existing systems of records to update various system elements and to add routine use language recommended by the President's Task Force on Identity Theft. We hereby publish this notice for comment on the proposed actions.

DATES: Comments on the proposed systems of records must be received on or before November 28, 2007. The proposed systems of records will become effective 45 days following publication in the **Federal Register**, unless a superseding notice to the contrary is published before that date.

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

- *Agency Web site:* Located at *http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on this Web site.
- *E-mail:* Send to *comments@fdic.gov.* Include ''Notice of New and Revised FDIC Systems of Records'' in the subject line.
- *Mail:* Send to Fredrick L. Fisch, Supervisory Counsel, Attention: Comments, FDIC System of Records, 550 17th Street, NW., Washington, DC 20429.

All submissions should refer to ''Notice of New and Revised FDIC System of Records.'' Comments may also be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, Virginia 22226, between 9 a.m. and 5 p.m. (EST), Monday to Friday.

FOR FURTHER INFORMATION CONTACT: Fredrick L. Fisch, Supervisory Counsel, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, (202) 898–6901.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended, the FDIC has conducted a review of its Privacy Act systems of records and has determined that it needs to introduce three new systems of records, and to revise twenty-three existing system of records notices. The FDIC previously published one or more of its existing system of records notices at various times. These publications may be viewed at the FDIC's Privacy Act Web page: *http://www.fdic.gov/about/privacy/.*

The FDIC proposes to revise twenty-three existing system of records notices. There are four types of revisions: (1) Generalized edits to make it easier to read and understand through consistent style, formatting, and manner of presentation; (2) minor, technical amendments necessitated by organizational changes within the FDIC; (3) minor revisions to clarify or more accurately describe various system elements and to insure the use of consistent language wherever possible; and (4) elaboration of the FDIC's routine uses for consistency with other FDIC notices, and to fulfill new requirements for routine uses including responding to, preventing, minimizing, or remedying, harm that may result from a data breach or compromise.

The FDIC also proposes to add three new system of records notices to cover information maintained by new data technology systems that collect, process, or store personal information. The first new system of records is designated as FDIC–30–64–0028 (Office of the Chairman Correspondence Records). This system of records will be used to support the administration of correspondence addressed to the FDIC, Office of the Chairman. The second new system of records is designated as FDIC–30–64–0029 (Congressional Correspondence Records). This system of records will be used to document and respond to constituent and other inquiries forwarded by Members of the U.S. Congress or Congressional staff. The third new system of records is designated as FDIC–30–64–0030 (Legislative Information Tracking System Records). This system of records will be used to track Congressional inquiries and ensure that responses are made in a timely manner. More detailed information on the proposed new and revised systems of records may be viewed in the complete text below.

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FDIC 30–64–0030 Legislative Information Tracking System Records

FDIC–30–64–0001

SYSTEM NAME:

Attorney and Legal Intern Applicant Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for the position of attorney or legal intern with the Legal Division of the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references; applicants' resumes; application forms; and in some instances, comments of individuals who interviewed applicants; documents relating to an applicant's suitability or eligibility; writing samples; and copies of academic transcripts and class ranking.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The information in this system is used to evaluate the qualifications of individuals who apply for attorney or legal intern positions in the Legal Division.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To individuals or concerns whose names were supplied by the applicant as references and/or past or present employers in requesting information about the applicant.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper format within individual file folders in file cabinets.

Note: In the future all or some portion of the records may be stored in electronic media. These records will be: Stored on a secured computer server; password protected; and accessible only by authorized personnel.

RETRIEVABILITY:

Individual file folders are indexed and retrieved by name. Records of

unsuccessful applicants are indexed first by job position category and year and then by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records of unsuccessful applicants are retained two years after their submission; records of successful applicants become a part of the Personnel Records system of records (FDIC 30–64–0015) and are retained two years after the applicant leaves the employ of the FDIC.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the applicants; references supplied by the applicants; current and/or former employers of the applicants; and FDIC employees who interviewed the applicants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 12 CFR Part 310.13(b), investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the FDIC under an express promise of confidentiality.

FDIC–30–64–0002

SYSTEM NAME:

Financial Institution Investigative and Enforcement Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who participate or have participated in the conduct of or who are or were connected with financial institutions, such as directors, officers, employees, and customers, and who have been named in suspicious activity reports or administrative enforcement orders or agreements. Financial institutions include banks, savings and loan associations, credit unions, other similar institutions, and their affiliates whether or not federally insured and whether or not established or proposed.

(2) Individuals, such as directors, officers, employees, controlling shareholders, or persons who are the subject of background checks designed to uncover criminal activities bearing on the individual's fitness to be a director, officer, employee, or controlling shareholder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains interagency or intra-agency correspondence or memoranda; criminal referral reports; suspicious activity reports; newspaper clippings; Federal, State, or local criminal law enforcement agency investigatory reports, indictments and/or arrest and conviction information; and administrative enforcement orders or agreements. **Note:** Certain records contained in this system (principally criminal investigation reports prepared by the Federal Bureau of Investigation, Secret Service, and other federal law enforcement agencies) are the property of federal law enforcement agencies. Upon receipt of a request for such records, the FDIC will notify the proprietary agency of the request and seek guidance with respect to disposition. The FDIC may forward the request to that agency for processing in accordance with that agency's regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5, 6, 7, 8, 9, 18, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1818, 1819, 1828, 1829).

PURPOSE:

The information is maintained to support the FDIC's regulatory and supervisory functions by providing a centralized system of information (1) for conducting and documenting investigations by the FDIC or other financial supervisory or law enforcement agencies regarding conduct within financial institutions by directors, officers, employees, and customers, which may result in the filing of suspicious activity reports or criminal referrals, referrals to the FDIC Office of the Inspector General, or the initiation of administrative enforcement actions; and (2) to identify whether an individual is fit to serve as a financial institution director, officer, employee or controlling shareholder.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm

to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To a financial institution affected by enforcement activities or reported criminal activities;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To other Federal, State or foreign financial institutions supervisory or regulatory authorities; and

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third Parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Financial institutions; financial institution supervisory or regulatory authorities; newspapers or other public records; witnesses; current or former FDIC employees; criminal law enforcement and prosecuting authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of the records in this system of records were compiled for law enforcement purposes and are exempt from disclosure under 12 CFR Part 310.13 and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

FDIC–30–64–0003

SYSTEM NAME:

Administrative and Personnel Action Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Legal Division, Executive Secretary Section, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of administrative actions or personnel actions by the FDIC Board of Directors or by standing committees of the FDIC and individuals who have been the subject of administrative actions by FDIC officials under delegated authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Minutes of the meetings of the FDIC Board of Directors or standing committees and orders of the Board of Directors, standing committees, or other officials as well as annotations of entries into the minutes and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 8, 9, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819, 1829).

PURPOSE:

The system is maintained to record the administrative and personnel actions taken by the FDIC Board of Directors, standing committees, or other officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C.

552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To the U.S. Office of Personnel Management, General Accounting Office, the Office of Government Ethics, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media, microfilm, paper format within individual file folders, minute book ledgers and index cards.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format, index cards, and minute book ledgers are stored in lockable metal file cabinets or vault accessible only by authorized personnel. A security copy of certain microfilmed portions of the records is retained at another location.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Legal Division, Executive Secretary Section, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Intra-agency records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0004

SYSTEM NAME:

Changes in Financial Institution Control Ownership Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who acquired or disposed of voting stock in an FDIC-insured financial institution resulting in a change of financial institution control or ownership; and

(2) Individuals who filed or are included as a member of a group listed in a ''Notice of Acquisition of Control'' of an FDIC-insured financial institution.

Note: The information is maintained only for the period 1989 to 1995. Commencing in 1996 the records were no longer collected nor maintained on an individual name or personal identifier basis and are not retrievable by individual name or personal identifier. Beginning in 1996, information concerning changes in financial institution control is collected and maintained based upon the name of the FDIC-insured financial institution or specialized number assigned to the FDIC-insured financial institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name of proposed acquirer; statement of assets and

liabilities of acquirer; statement of income and sources of income for each acquirer; statement of liabilities for each acquirer; name and location of the financial institution; number of shares to be acquired and outstanding; date ''Change in Control Notice'' or ''Notice of Acquisition of Control'' was filed; name and location of the newspaper in which the notice was published and date of publication. For consummated transactions, names of sellers/transferors; names of purchasers/transferees and number of shares owned after transaction; date of transaction on institution's books, number of shares acquired and outstanding. If stock of a holding company is involved, the name and location of the holding company and the institution(s) it controls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

PURPOSE:

The system maintains information on individuals involved in changes of control of FDIC-insured financial institutions for the period 1989 to 1995 and is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To other Federal or State financial institution supervisory authorities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records for the period 1989 to 1995 are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Persons who acquired control of an FDIC-insured financial institution; the insured financial institution or holding company in which control changed; filed ''Change in Control Notice'' form and ''Notice of Acquisition of Control'' form during the period 1989 to 1995; federal and state financial institution supervisory authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429, and FDIC regional offices for complaints or inquiries originating within or involving an FDIC-insured depository institution located in an FDIC region. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted complaints or inquiries concerning activities or practices of FDIC-insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence and records of other communications between the FDIC and the individual submitting a complaint or making an inquiry, including copies of supporting documents and contact information supplied by the individual. May contain correspondence between the FDIC and the FDIC-insured depository institution in question and/or intra-agency or inter-agency memoranda or correspondence concerning the complaint or inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Section 202(f) of Title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)).

PURPOSE:

The system maintains correspondence from individuals regarding complaints or inquiries concerning activities or practices of FDIC-insured depository institutions. The information is used to identify concerns of individuals, to manage correspondence received from individuals and to accurately respond to complaints, inquiries, views and concerns expressed by individuals. The information in this system supports the FDIC regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To the insured depository institution which is the subject of the complaint or inquiry when necessary to investigate or resolve the complaint or inquiry;

(11) To authorized third-party sources during the course of the investigation in order to resolve the complaint or inquiry. Information that may be disclosed under this routine use is limited to the name of the complainant or inquirer and the nature of the complaint or inquiry and such additional information necessary to investigate the complaint or inquiry; and

(12) To the Federal or State supervisory/regulatory authority that has direct supervision over the insured depository institution that is the subject of the complaint or inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by unique identification number which may be cross referenced to the name of complainant or inquirer.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format files are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Supervision and Consumer Protection , FDIC, 550 17th Street, NW., Washington, DC 20429, or the Regional Director, Division of Supervision and Consumer Protection for records maintained in FDIC regional offices (See *Appendix A* for the location of FDIC Regional Offices).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or

amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained; FDIC-insured depository institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; congressional offices that may initiate the inquiry; and other parties providing information to the FDIC in an attempt to resolve the complaint or inquiry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0006

SYSTEM NAME:

Employee Confidential Financial Disclosure Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Records are located in component divisions, offices and regional offices to which individuals covered by the system are assigned. Duplicate copies of the records are located in the Legal Division, Executive Secretary Section, Ethics Unit, FDIC, 550 17th Street, NW., Washington, DC 20429. (See *Appendix A* for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, and special government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains statements of personal and family financial holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions and determinations of ethics counselors; information related to conflict of interest determinations; and information contained on the following forms:

(1) *Confidential Financial Disclosure Report*—contains listing of personal and family investment holdings, interests in business enterprises and real property, creditors, and outside employment.

(2) *Confidential Report of Indebtedness*—contains information on extensions of credit to employees, including loans and credit cards, by FDIC-insured depository institutions or their subsidiaries; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured financial institutions or subsidiaries thereof.

(3) *Confidential Report of Interest in FDIC-Insured Depository Institution Securities*—contains a brief description of an employee's direct or indirect interest in the securities of an FDIC-insured depository institution or affiliate, including a depository institution holding company, and the date and manner of acquisition or divestiture; a brief description of an employee's direct or indirect continuing financial interest through a pension or retirement plan, trust or other arrangement, including arrangements resulting from any current or prior employment or business association, with any FDIC-insured depository institution, affiliate, or depository institution holding company; and a certification acknowledging that the employee has read and understands the rules governing the ownership of securities in FDIC-insured depository institutions.

(4) Employee Certification and Acknowledgment of Standards of Conduct Regulation—contains employee's certification and acknowledgment that he or she has received a copy of the Standards of Ethical Conduct for Employees of the FDIC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Ethics in Government Act of 1978 (5 U.S.C. 7301 and App.); Section 9 and 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a), 1822(f)); 26 U.S.C. 1043; Executive Order Nos. 12674 (as modified by 12731), 12565, and 11222; 5 CFR Part 2634, 2635, and 3201.

PURPOSE:

The records are maintained to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, Federal Statutes and FDIC regulations and to determine if a conflict of interest exists between employment of individuals by the FDIC and their personal employment and financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or

suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections; and

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual. Electronic media and paper format do not index the names of prospective employees who are not selected for employment.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format copies are maintained in lockable file cabinets.

RETENTION AND DISPOSAL:

Records concerning prospective employees who are not selected for employment are retained for one year and then destroyed, except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. All other records are retained for six years and then destroyed. Entries maintained in electronic media are deleted, except that paper format documents and electronic media entries needed in an ongoing investigation will be retained until no longer needed for the investigation. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Program Manager, Executive Secretary Section, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual or a person or entity designated by the individual; FDIC employees designated as Ethics Counselors or Deputy Ethics Counselors; other employees or individuals to whom the FDIC has provided information in connection with evaluating the records maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0007

SYSTEM NAME:

Employee Training Information Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC Corporate University, 3501 North Fairfax Drive, Arlington, VA 22226, and FDIC Office of Inspector General, 3501 North Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees and any non-FDIC employees that have attended training conducted or sponsored by the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the training history of an individual while employed by the FDIC. Records may include schedule of employee's training classes and other educational programs attended, dates of attendance, tuition fees and expenses. The system used by the Office of Inspector General may also contain employee certifications on training attended, employee certifications or other information on educational degrees or professional memberships and other similar information. The Corporate University system does not record or track educational degrees, professional memberships, or similar information, and it is not used by the FDIC to confirm continuing education requirements of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sections 4(b) and 6(e) of the Inspector General Act of 1978, at amended (5 U.S.C. app).

PURPOSE:

The system is used to record and manage comprehensive training information that is available to employees, training administrators, and management. The system is also used to schedule training events, enroll students, and launch online training. The system is utilized for reporting purposes and to maintain records for applicable continuing education requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To educational institutions for purposes of enrollment and verification of employee attendance and performance;

(11) To vendors, professional licensing boards or other appropriate third parties, for the purpose of verification, confirmation, and substantiation of training or licensing requirements;

(12) To the U.S. Office of Personnel Management for purposes of tracking and analyzing training and related information of FDIC employees; and

(13) To other Federal Offices of Inspector General or other entities for purposes of conducting quality assessments or peer reviews of the OIG or any of its components.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media are accessible by FDIC Employee ID number or name. A small number of archived historical records are accessible only by social security number, with no associated name recorded. File folders are indexed and retrieved by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper records within individual file folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESSES:

Assistant Chief Learning Officer, Corporate University, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee about whom the record is maintained; training administrators; and the training facility or institution attended.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0008

SYSTEM NAME:

Chain Banking Organizations Identification Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429, and FDIC regional offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own or control two or more insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the names of and contact information for individuals who, either alone or in concert with others, own or control two or more insured depository institutions as well as the insured depository institutions names, locations, stock certificate numbers, total asset size, and percentage of outstanding stock owned by the controlling individual or group of individuals; charter types and, if applicable, name of intermediate holding entity and percentage of holding company held by controlling individual or group.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 7(j) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j), 1819).

PURPOSE:

This system identifies and maintains information of possible linked FDIC-insured depository institutions or holding companies which, due to their common ownership, present a concentration of resources that could be susceptible to common risks. The information in this system is used to

support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To other Federal or State financial institution supervisory authorities for: (a) Coordination of examining resources when the chain banking organization is composed of insured depository institutions subject to multiple supervisory jurisdictions; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name of controlling individual(s) or assigned identification number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained in electronic media. Certain records are archived in off-line storage and all records are periodically updated to reflect changes. These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above.

Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Examination reports and related materials; regulatory filings; and Change in Financial Institution Control Notices filed pursuant to 12 U.S.C. 1817(j).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0009

SYSTEM NAME:

Safety and Security Incident Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Division of Administration, 550 17th Street, NW., Washington, DC 20429, and the FDIC regional or area offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and past FDIC employees, contractors, volunteers, visitors, and others involved in the investigation of accidents, injuries, criminal conduct, and related civil matters involving the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains investigative reports, correspondence and other communications that may include, without limitation, name, home and office address and phone numbers, physical characteristics, and vehicle information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to support the administration and maintenance of a safety and security incident investigation, tracking and reporting system involving FDIC facilities, property, personnel, contractors, volunteers, or visitors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government; and

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, or case number.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Paper records and electronic media are retained for five years after their creation in accordance with the FDIC Records Retention and Disposition Schedule. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include current FDIC employees, contractors, members of the public, witnesses, law enforcement officials, medical providers, and other parties providing information to the FDIC to facilitate an inquiry or resolve the complaint.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(c)(3), (d)(5), (e)(1), (e)(4)(G), (H), and (I), (f) and (k).

FDIC–30–64–0010

SYSTEM NAME:

Investigative Files of the Office of Inspector General.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC Office of Inspector General (OIG), 3501 North Fairfax Drive, Arlington, VA 22226. In addition, records are maintained in OIG field offices. OIG field office locations can be obtained by contacting the Assistant Inspector General for Investigations at said address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FDIC employees and individuals involved in or associated with FDIC programs and operations including contractors, subcontractors, vendors and other individuals associated with investigative inquiries and investigative cases, including, but not limited to, witnesses, complainants, suspects and those contacting the OIG Hotline.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files, including memoranda, computer-generated background information, correspondence, electronic case management and tracking files, reports of investigations with related exhibits, statements, affidavits, records or other pertinent documents, reports from or to other law enforcement bodies, pertaining to violations or potential violations of criminal laws, fraud, waste, and abuse with respect to administration of FDIC programs and operations, and violations of employee and contractor Standards of Conduct as set forth in section 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)), 12 CFR Parts 336, 366, and 5 CFR Parts 2634, 2635, and 3201. Records in this system may contain personally identifiable information such as names, social security numbers, dates of birth and addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended (5 U.S.C. app.).

PURPOSE:

Pursuant to the Inspector General Act, the system is maintained for the purposes of (1) conducting and documenting investigations by the OIG or other investigative agencies regarding FDIC programs and operations in order to determine whether employees or other individuals have been or are engaging in waste, fraud and abuse with respect to the FDIC's programs or operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities which were the subject of investigations; (4) reporting investigative findings to other FDIC components or divisions for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; and (5) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act or those of other federal instrumentalities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To the appropriate Federal, State, local, foreign or international agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the record, either by itself or in combination with other information, 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 by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary;

(3) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To a grand jury agent pursuant either to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury;

(6) To the subjects of an investigation and their representatives during the course of an investigation and to any other person or entity that has or may have information relevant or pertinent to the investigation to the extent necessary to assist in the conduct of the investigation;

(7) To third-party sources during the course of an investigation only such information as determined to be necessary and pertinent to the investigation in order to obtain information or assistance relating to an audit, trial, hearing, or any other authorized activity of the OIG;

(8) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(9) 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 for the FDIC to obtain information concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit;

(10) To a Federal agency responsible for considering suspension or debarment action where such record is determined to be necessary and relevant;

(11) To a consultant, person or entity who contracts or subcontracts with the FDIC or OIG, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a);

(12) To a governmental, public or professional or self-regulatory licensing organization when such record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(13) To the U.S. Office of Personnel Management, Government Accountability Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with hiring or retaining an employee, rendering advice requested by OIG, issuing a security clearance, reporting an investigation of an employee, reporting an investigation of prohibited personnel practices, letting a contract or

issuing a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter;

(14) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC or to obtain information in the course of an investigation (to the extent permitted by law). Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt; and

(15) To other Federal Offices of Inspector General or other entities for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components, or for statistical purposes.

Note: In addition to the foregoing, a record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual, unique investigation number assigned, referral number, social security number, or investigative subject matter.

SAFEGUARDS:

The electronic system files are accessible only by authorized personnel and are safeguarded with user passwords and authentication, network/database permission, and software controls. File folders are maintained in lockable metal file cabinets and lockable offices accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Data maintained in file folders is retained for ten years and then destroyed by shredding. The retention period for electronic system data is ten years. However, the manner of disposing of electronic system records has not been determined. This determination will depend on expected future guidance from legislation or from the National Archives and Records Administration. Until that determination is made, electronic system records may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Inspector General for Investigations, FDIC Office of Inspector General, 3501 North Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

Note: This system contains records that are exempt under 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5). See ''Exemptions Claimed for the System'' below.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

Note: This system contains records that are exempt under 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5). See ''Exemptions Claimed for the System'' below.

RECORD SOURCE CATEGORIES:

Current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system of records, to the extent that it consists of information compiled for the purpose of criminal investigations, has been exempted from the requirements of subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4)(G) and (H); (e)(5); (e)(8); (e)(12); (f); (g); and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, this system of records, to the extent that it consists of investigatory material compiled: (A) For other law enforcement purposes (except where an individual has been denied any right, privilege, or benefit for which he or she would otherwise be entitled to or eligible for under Federal law, so long as the disclosure of such information would not reveal the identity of a source who furnished information to the FDIC under an express promise that his or her identity would be kept confidential); or (B) solely for purposes of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the FDIC on a confidential basis, has been exempted from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G) and (H); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), respectively.

FDIC–30–64–0011

SYSTEM NAME:

Corporate Recruiting, Evaluating and Electronic Referral System.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Human Resources Branch, Division of Administration, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing applications for employment with the FDIC in response to advertised position vacancy announcements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position vacancy announcement information such as position title, series and grade level(s), office and duty location, opening and closing date of the announcement, and dates of referral and return of lists of qualified candidates; applicant personal data such as name, address, other contact information, social security number, sex, veterans' preference and federal competitive status; and applicant qualification and processing information such as

qualifications, grade level eligibility, reason for ineligibility, referral status, and dates of notification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); 5 U.S.C. 1104.

PURPOSE:

The records are collected and maintained to monitor and track individuals filing employment applications with the FDIC and to assess recruiting goals and objectives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government; and

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name and social security number of individual applicant.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Network servers are located in a locked room with physical access limited to only authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Information Systems and Services Section, Human Resources Branch, Division of Administration, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information originates from position vacancy announcements, applications for employment submitted by individuals, and the applicant qualification and processing system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0012

SYSTEM NAME:

Financial Information Management Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Finance, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226. Records concerning garnishments, attachments, wage assignments and related records concerning FDIC employees are located with the General Counsel, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees, current and former vendors and contractors providing goods and/or services to the FDIC, current and former FDIC customers, and individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver.

Note: Only records reflecting personal information are subject to the Privacy Act.

This system also contains records concerning failed financial institution receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains (1) employee payroll, benefit, and disbursement-related records; (2) contractor and vendor invoices and other accounts payable records; (3) customer records related to accounts receivable; (4) payment records for individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver; and (5) accounting and financial management records. The payroll and/or disbursement records include employees' mailing addresses and home addresses; financial institution account information; social security number and unique employee identification number; rate and amount of pay; tax exemptions; tax deductions for employee payments; and corporate payments information for tax reporting. Records relating to employee claims for reimbursement of official travel expenses include travel authorizations, vouchers showing amounts claimed, exceptions taken as a result of audit, and amounts paid. Other records maintained on employees include reimbursement claims for relocation expenses consisting of authorizations, advances, vouchers of amounts claimed and amounts paid; reimbursement for educational expenses or professional membership dues and licensing fees; awards, bonuses, and buyout payments; Life-Cycle and other reimbursements/payments; advances or other funds owed to the FDIC; and garnishments, attachments, wage assignments or related records. Copies of receipts/invoices provided to the FDIC for reimbursement from employees may contain credit card or other identifying account information. Records on individuals who are not employees of the FDIC consist of all documents relating to the purchase of goods and/or services from those individuals including contractual documents, vendor addresses and financial institution account information, vendor invoice statements; amounts paid, and vendor tax identification number. Copies of documentation supporting vendor invoice statements may contain identifying data, such as account number. Customer information is also captured as necessary for the collection of accounts receivable. Payment records for individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver include name, address, and payment amount; tax ID numbers or social security numbers are also included for depositors or claimants when an informational tax return must be filed. The records also include general ledger and detailed trial balances and supporting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9 and 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1820(a)).

PURPOSE:

The records are maintained for the FDIC and the failed financial institution receiverships managed by the FDIC. The records are used to manage and account for financial transactions and financial activities of the FDIC. The records and associated databases and subsystems provide a data source for the production of reports and documentation for internal and external management reporting associated with the financial operations of the FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To auditors employed by the U.S. Government Accountability Office;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To vendors, carriers, or other appropriate third parties by the FDIC Office of Inspector General for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations; and

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the

individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format in file folders.

RETRIEVABILITY:

Electronic media are indexed and retrievable by social security number or specialized identifying number; paper format records are generally indexed and retrieved by name

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are maintained in secure areas.

RETENTION AND DISPOSAL:

Financial records are retained by the FDIC for ten years in electronic format and then transferred to the Federal Records Center or destroyed. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Finance, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226. For records about FDIC employees concerning garnishments, attachments, wage assignments and related records, the system manager is the General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual upon whom the record is maintained; other government agencies; contractors; or from another FDIC office maintaining the records in the performance of their duties. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial authority.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0013

SYSTEM NAME:

Insured Financial Institution Liquidation Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were obligors or obligees of FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator of FDIC-insured financial institutions that were provided assistance by the FDIC and the FDIC is acting as liquidator, receiver or conservator of certain of the financial institution's assets. **Note:** Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed financial institution receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the individual's files held by the closed financial institution or assisted financial institution, which files may include the loan or contractual agreement and related documents and correspondence. It also contains FDIC asset files, including judgments obtained, restitution orders and loan deficiencies arising from the liquidation of the obligor's loan asset(s) and associated collateral, if any; information relating to the obligor's financial condition such as financial statements, income tax returns, asset or collateral verifications or searches, appraisals, and potential sources of repayment. FDIC asset files also include intra-or inter-agency memoranda, notes relating to the liquidation of the loan obligation or asset, correspondence and any other documents related to the liquidation of the loan obligation or asset. FDIC's receivership claims files may include all information related to claims filed with the receivership estate by a failed financial institution's landlords, creditors, service providers or other obligees or claimants. **Note:** Records held by the FDIC as receiver are a part of this system only to the extent that the state law governing the receivership is not inconsistent or does not otherwise establish specific requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1823) and applicable State laws governing the liquidation of assets and wind-up of the affairs of failed financial institutions.

PURPOSE:

The records are maintained to: (a) Identify and manage loan obligations and assets acquired from failed FDIC-insured financial institutions for which the FDIC was appointed receiver of liquidator or FDIC-insured financial institutions that were provided assistance by the FDIC; (b) identify, manage and discharge the obligations to creditors, obligees and other claimants of FDIC-insured financial institutions for which the FDIC was appointed receiver or liquidator of FDIC-insured financial institutions that were provided assistance by the FDIC; and (c) assist with financial and management reporting. The records support the liquidation and receivership functions of the FDIC required by applicable Federal and State statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors or entities performing services for the FDIC in connection with the liquidation of an individual's obligation(s), including judgments and loan deficiencies or in connection with the fulfillment of a claim filed with the FDIC as receiver or liquidator. Third party contractors include, but are not limited to, asset marketing contractors; loan servicers; appraisers; environmental contractors; attorneys retained by the FDIC; collection agencies; auditing or accounting firms retained to assist in an audit or investigation of FDIC's liquidation activities; grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To prospective purchaser(s) of the individual's obligation(s), including judgments and loan deficiencies, for the purpose of informing the prospective purchaser(s) about the nature and quality of the loan obligation(s) to be purchased;

(11) To Federal or State agencies, such as the Internal Revenue Service or State taxation authorities, in the performance of their governmental duties, such as obtaining information regarding income, including the reporting of income resulting from a compromise or write-off of a loan obligation;

(12) To participants in the loan obligation in order to fulfill any contractual or incidental responsibilities in connection with the loan participation agreement;

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

(14) To Federal or State agencies or to financial institutions where information is relevant to an application or request by the individual for a loan, grant, financial benefit, or other entitlement;

(15) To Federal or State examiners for the purposes of examining borrowing relationships in operating financial institutions that may be related to an obligation of an individual covered by this system; and

(16) To the individual, the individual's counsel or other representatives, insurance carrier(s) or underwriters of bankers' blanket bonds or other financial institution bonds for failed or assisted FDIC-insured financial institutions in conjunction with claims made by the FDIC or litigation instituted by the FDIC or others on behalf of the FDIC against former officers, directors, accountants, lawyers, consultants, appraisers, or underwriters of bankers' blanket bonds or other financial institution bonds of a failed or assisted FDIC-insured financial institution.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed by financial institution number, name of failed or assisted insured institution, and by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records maintained in individual file folders are stored in lockable file cabinets and/or in secured vaults or warehouses and are accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Credit/loan files or files concerning the obligees of the failed or assisted financial institution are maintained until the receivership claim, loan obligation, judgment, loan deficiency or other asset or liability is sold or otherwise disposed of, or for the period of time provided under applicable Federal or State laws pursuant to which the FDIC liquidates the assets, discharges the liabilities or processes the claims. FDIC asset files will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Deputy Director, Field Operations Branch, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained; appraisers retained by the originating financial institution or the FDIC; investigative and/or research companies; credit bureaus and/or services; loan servicers; court records; references named by the individual; attorneys or accountants retained by the originating financial institution or the FDIC; participants in the obligation(s) of the individual; officers and employees of the failed or assisted financial institution; congressional offices that may initiate an inquiry; and other parties providing services to the FDIC in its capacity as liquidator or receiver.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0016

SYSTEM NAME:

Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives, and U.S. Government Securities Brokers/Dealers.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Supervision and Consumer Protection, Risk Management Policy and Exam Oversight Branch, FDIC, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who are or seek to be associated with municipal securities brokers or municipal securities dealers which are FDIC-insured, state-chartered financial institutions (including insured state-licensed branches of foreign financial institutions), not members of the Federal Reserve System, or are subsidiaries, departments, or divisions of such financial institutions;

(2) Persons who are or seek to be persons associated with U.S. Government securities dealers or brokers which are FDIC-insured state-chartered financial institutions, other than members of the Federal Reserve System.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain identifying information, detailed educational and employment histories, examination information, disciplinary information, if any, and information concerning the termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 15B(c), 15C, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4, 78o–5, and 78q and 78w); and Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The records are maintained to comply with the registration requirements of municipal securities dealers, municipal securities representatives, and U.S. Government securities brokers or dealers and associated persons contained in the Securities Exchange Act of 1934 and to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation

concerning personnel policies, practices, and matters affecting working conditions;

(10) To the appropriate Federal, State, local, or foreign agency or authority or to the appropriate self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)(26)), to the extent disclosure is determined to be necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or regulation, rule or order issued pursuant thereto;

(11) To assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in this system, in which the FDIC or one of its past or present employees is a party, to the extent that the information is relevant to the proceeding;

(12) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to an FDIC inquiry concerning a person who is or seeks to be associated with a municipal securities dealer as a municipal securities principal or representative or a U.S. Government securities broker or a U.S. Government securities dealer;

(13) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization in connection with the issuance of a license or other benefit to the extent that the information is relevant and necessary; and

(14) To a registered dealer, registered broker, registered municipal securities dealer, U.S. Government securities dealer, U.S. Government securities broker, or an insured financial institution that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Indexed by name and dealer registration number or FDIC financial institution certificate number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in file folders in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Examination Specialist, Risk Management Policy and Exam Oversight Branch, Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, municipal securities dealers and U.S. Government securities dealers and brokers (as such dealers are described in ''Categories of Individuals Covered by the System'' above), and Federal, State, local, and foreign governmental authorities and self-regulatory organizations or agencies which regulate the securities industry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0017

SYSTEM NAME:

Employee Medical and Health Assessment Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Health Unit, Corporate Services Branch, Division of Administration, FDIC, located at the following addresses: 550 17th Street, NW., Washington, DC 20429, and 3501 North Fairfax Drive, Arlington, VA 22226; and Health Units located in FDIC regional offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees and other individuals who seek information, treatment, medical accommodations, or participate in health screening programs administered by the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of the employee, including name, age, height, weight, history of certain medical conditions, health screening records; dates of visits to the FDIC Health Unit, diagnoses, and treatments administered; ergonomic reviews and assessments; and the name and telephone number of the person to contact in the event of a medical emergency involving the employee.

Note: In addition to the FDIC system of records, the United States Office of Personnel Management maintains a government-wide system of records (known as OPM/GOVT–10).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The records are collected and maintained to identify potential health issues and concerns of an individual and to identify and collect information with respect to medical conditions reported by an individual to the FDIC Health Unit and to identify necessary contacts in the event of a medical emergency involving the covered individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C.

552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To the appropriate Federal, State or local agency when necessary to adjudicate a claim (filed by or on behalf of the individual) under the Federal Employees Compensation Act (the FECA) as codified in 5 U.S.C. 8101–8193, or a retirement, insurance or health benefit program;

(11) To a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease;

(12) To health or life insurance carriers contracting with the FDIC to provide life insurance or to provide health benefits plan, such information necessary to verify eligibility for payment of a claim for life or health benefits;

(13) To a Health Unit or occupational safety and health contractors, including contract nurses, industrial hygienists, and others retained for the purpose of performing any function associated with the operation of the Health Unit; and

(14) To the person designated on the appropriate form as the individual to contact in the event of a medical emergency of the employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in lockable metal file cabinets. Access is limited to authorized employees, authorized employees of the contractor or contract nurses responsible for servicing the records in the performance of their duties.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Corporate Services Branch, Division of Administration, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The records are compiled by the employee and contractor personnel during the course of a visit to the Health Unit for treatment. Records are also created as a result of the individual's participation in a health screening program, and are used to assist in the performance of accident/incident investigations, or if the individual requests an ergonomic assessment or health or medical accommodation. The employee supplies the information contained in the emergency contact sheet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0018

SYSTEM NAME:

Grievance Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Human Resources Branch, Division of Administration, FDIC, 3501 North

Fairfax Drive, Arlington, VA 22226. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations are located in the FDIC regional office where originated (See Appendix A for a list of the FDIC regional offices and their addresses). For non-headquarters employees, duplicate copies may be maintained by the Human Resources Branch, Division of Administration, Arlington, VA for the purpose of coordinating grievance and arbitration proceedings.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC employees who have submitted grievances in accordance with part 771 of the United States Office of Personnel Management's regulations (5 CFR Part 771) or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under Part 771 of the United States Office of Personnel Management's regulations, or under 5 U.S.C. 7121. Case files contain documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related correspondence and exhibits. This system includes files and records of internal grievance procedures that FDIC may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) 5 U.S.C. 7121; 5 CFR Part 771.

PURPOSE:

The information contained in this system is used to make determinations and document decisions made on filed grievances and settle matters of dissatisfaction or concern of covered individuals. Information from this system may be used for preparing statistical summary or management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To any source during the course of an investigation only such information as determined to be necessary and pertinent to process a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in lockable metal file cabinets. Access is limited to authorized employees, authorized employees of the contractor or contract nurses responsible for servicing the records in the performance of their duties.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Human Resources Branch, Division of Administration, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226. The appropriate FDIC Regional Director for records maintained in FDIC regional offices (see Appendix A for a list of the FDIC regional offices and their addresses).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records

must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information in this system is provided: (1) By the individual on whom the record is maintained; (2) by testimony of witnesses; (3) by agency officials; and (4) from related correspondence from organizations or persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0019

SYSTEM NAME:

Potential Bidders List.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have purchased or submitted written notice of an interest in purchasing loans, owned real estate or other assets from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, address, telephone number and electronic mail address, if available; information as to the kind or category and general geographic location of loans or owned real estate that the individual may be interested in purchasing; and information relating to whether any bids have been submitted on prior loan sales.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11 and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821 and 1823).

PURPOSE:

The system collects, identifies and maintains information about potential purchasers of assets (primarily loans and owned real estate) from the FDIC. The information is utilized by the FDIC in the marketing of assets, to identify potential purchasers and to solicit bids for assets. The information in this system is used to support the FDIC's liquidation/receivership functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To other Federal or State agencies and to contractors to assist in the marketing and sale of loans, real estate, or other assets held by the FDIC.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format in file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by name of prospective purchaser or unique identification number assigned to the prospective purchaser.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets or offices.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or

amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual about whom the record is maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0020

SYSTEM NAME:

Telephone Call Detail Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Information Technology, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned telephone numbers and authorization codes by the FDIC, including current and former FDIC employees and contractor personnel, who make local and long distance telephone calls and individuals who receive telephone calls placed from or charged to FDIC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, including telephone number, location, dates and duration of telephone call, relating to use of FDIC telephones to place or receive long distance and local calls; records of any charges billed to FDIC telephones; records indicating assignment of telephone numbers to individuals covered by the system; and the results of administrative inquiries to determine responsibility for the placement of specific local or long distance calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSES:

The records in this system are maintained to identify and make a record of all telephone calls placed to or from FDIC telephones and enable the FDIC to analyze call detail information for verifying call usage; to determine responsibility for placement of specific long distance calls; and for detecting possible abuse of the FDIC-provided long distance telephone network.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To current and former FDIC employees and other individuals currently or formerly provided telephone services by the FDIC to determine their individual responsibility for telephone calls;

(11) To a telecommunications company providing telecommunications support to permit servicing the account; and

(12) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Records are indexed and retrieved by telephone number and office location.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed after the close of the fiscal year in which they are audited or after three years from the date the record was created, whichever occurs first.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Division of Information Technology, 3501 North Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance and local calls.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0021

SYSTEM NAME:

Fitness Center Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Fitness Centers, Corporate Services Branch, Division of Administration, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226, and 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC employees who apply for membership and participate in the Fitness Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, gender, age; fitness assessment results; identification of certain medical conditions; and the name and phone number of the individual's personal physician and emergency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The records are collected and maintained to control access to the fitness center; to enable the Fitness Centers' contractor to identify any potential health issues or concerns and the fitness level of an individual; and to identify necessary contacts in the event of a medical emergency while the individual is participating in a fitness activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To the individuals listed as emergency contacts or the individual's personal physician, in the event of a medical emergency; and

(11) To a Health Unit or occupational safety and health contractors, including contract nurses, industrial hygienists, and others retained for the purpose of performing any function associated with the operation of the Fitness Centers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Records are stored in paper format within individual file folders. Information recorded on index cards is stored in a card file box.

RETRIEVABILITY:

Individual file folders and cards are indexed and retrieved by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets. Access is limited to authorized employees of the contractor responsible for servicing the records in the performance of their duties. **Note:** In the future, all or some portion of the records may be stored in electronic media. These records will be indexed and retrieved by name and will be password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 3501 North Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information is principally obtained from the individual who has applied for membership and Fitness Center personnel. Some information may be provided by the individual's personal physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0022

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATIONS:

Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429. In addition, records may be maintained at the division or office level in the FDIC Washington office or at FDIC Regional offices (see *Appendix A* for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted requests for information pursuant to the Freedom of Information Act; individuals who have submitted requests for records about themselves under the provisions of the Privacy Act of 1974, and individuals filing an administrative appeal of a denial, in whole or part, of any such requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains names and addresses of individuals making written requests for access to information; written requests for amendment of records made pursuant to the Privacy Act; correspondence to or from the requester; correspondence to or from a person writing on the requester's behalf; internal FDIC memoranda; memoranda to or from other Federal agencies having a substantial interest in the determination of the request; responses to requests (including for example acknowledgment letters, fee estimate letters, and final determinations); administrative appeals of denials of access to records; administrative appeals of denials of requests for amendment of records made pursuant to the Privacy Act. These records may contain personal information retrieved in response to a request.

Note: Freedom of Information Act and Privacy Act case records may contain inquiries and requests regarding any of the FDIC's other systems of records subject to the Freedom of Information Act and Privacy Act, and information about individuals from any of these other systems may become part of this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C 552a), 12 CFR 309 and 310.

PURPOSES:

The records maintained in this system are collected to process requests made under the provisions of the Freedom of Information Act and the Privacy Act. The records are also used by the FDIC to prepare reports to the Office of Management and Budget, the Department of Justice, and Congress required by the Freedom of Information Act or the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm

to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To another Federal government agency having a substantial interest in the determination of the request or for the purpose of consulting with that agency as to the propriety of access or correction of the record in order to complete the processing of requests;

(11) To a third party authorized in writing to receive such information by the individual about whom the information pertains; and

(12) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format records are indexed and retrieved by the requester's name or by unique log number assigned to the request. Records sometimes are retrieved by reference to the name of the requester's firm, if any, or the subject matter of the request.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Records for Freedom of Information Act requests which are granted, withdrawn or closed for non-compliance or similar reason, are destroyed two years after the date of the reply. Records for all other Freedom of Information Act requests (*e.g.*, requests denied in part, requests denied in full, and requests for which no responsive information was located) are destroyed six years after the date of the reply, unless the denial is appealed, in which case the request and related documentation are destroyed six years after the final agency determination or three years after final adjudication by the courts, whichever is later. Records maintained for control purposes are destroyed six years after the last entry. Records maintained for processing Privacy Act requests are disposed of in accordance with established disposition schedules for individual records, or five years after the date of the disclosure was made, whichever is later. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER AND ADDRESS:

Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Requesters and persons acting on behalf of requesters, FDIC offices and divisions, other Federal agencies having a substantial interest in the determination of the request, and employees processing the requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The FDIC has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) and 12 CFR Part 310.13. During the processing of a Freedom of Information Act or Privacy Act request, exempt records from these other systems of records may become part of the case record in this system of records. To the extent that exempt records from other FDIC systems of records are entered or become part of this system, the FDIC has claimed the same exemptions, and any such records compiled in this system of records from any other system of records continues to be subject to any exemption(s) applicable for the records as they have in the primary systems of records of which they are a part.

FDIC–30–64–0023

SYSTEM NAME:

Affordable Housing Program Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and prospective purchasers of residential properties offered for sale through the FDIC's Affordable Housing Program. **Note:** To be considered a prospective purchaser for purposes of this record system, the individual must have: (1) Completed and signed an FDIC ''Certification of Income Eligibility;'' and (2) delivered the form to an authorized representative of the FDIC's Affordable Housing Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the purchaser's or prospective purchaser's income qualification form and substantiating documents (such as personal financial statements, income tax returns, asset or collateral verifications, appraisals, and sources of income); copies of sales contracts, deeds, or other recorded instruments; intra-agency forms, memoranda, or notes related to the property and purchaser's participation in the FDIC's Affordable Housing Program; correspondence; and other documents related to the FDIC's Affordable Housing Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, 13, and 40 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, 1823, 1831q).

PURPOSE:

The records are collected and maintained to determine and verify eligibility of individuals' to participate in the FDIC Affordable Housing Program and to monitor compliance by individuals with purchaser income restrictions. The information in the system supports the FDIC's liquidation of qualifying residential housing units and the FDIC's goal to provide home ownership for low-income and moderate-income families.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To mortgage companies, financial institutions, federal agencies (such as the Federal Housing Administration, the Housing and Urban Development Agency, the Farm Service Agency, and the Veterans Administration), or state and local government housing agencies where information is determined to be relevant to an application or request for a loan, grant, financial benefit, or other type of assistance or entitlement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are accessible by name of purchaser or prospective purchaser and by address of the property purchased.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system

should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual seeking to participate in the FDIC's Affordable Housing Program. Information pertaining to an individual may, in some cases, be supplemented with reports from credit bureaus and/or similar credit reporting services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0024

SYSTEM NAME:

Unclaimed Deposit Account Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, Field Operations Branch, FDIC, 1910 Pacific Avenue, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals identified as deposit account owners of unclaimed insured deposits of a closed insured depository institution for which the FDIC was appointed receiver after January 1, 1989.

CATEGORIES OF RECORDS IN THE SYSTEM:

Deposit account records, including signature cards, last known home address, social security number, name of insured depository institution, relating to unclaimed insured deposits or insured transferred deposits from closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, and 12 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1822).

PURPOSE:

The information in this system is used to process inquiries and claims of individuals with respect to unclaimed insured deposit accounts of closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989, and to assist in complying with the requirements of the Unclaimed Deposits Amendments Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government; and

(10) To the appropriate State agency accepting custody of unclaimed insured deposits;

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by depository institution name, depositor name, depositor social security number, or deposit account number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

If the appropriate State has accepted custody of unclaimed deposits, a record of the unclaimed deposits will be retained by the FDIC during the custody period of ten years. Such records will subsequently be destroyed in accordance with the FDIC's records retention policy in effect at the time of return of any deposits to the FDIC from the State. If the appropriate State has declined to accept custody of the unclaimed deposits of the closed insured depository institution, the FDIC will retain the unclaimed deposit records and upon termination of the receivership of the closed insured depository institution, the records will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information originates from deposit records of closed insured depository institutions. Records of unclaimed transferred deposits are provided to the FDIC from assuming depository institutions to which the FDIC transferred deposits upon closing of the depository institution.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0025

SYSTEM NAME:

Beneficial Ownership Filings (Securities Exchange Act).

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Supervision and Consumer Protection, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Any director or officer of an FDIC-insured depository institution with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934, and (2) Any person who is directly or indirectly the beneficial owner of greater than 10% of a class of equity securities issued by an FDIC-insured depository institution that are registered under section 12 of the Securities Exchange Act of 1934; including any trust, trustee, beneficiary or settlor required to report pursuant to Securities and Exchange Commission Rule 16a–8.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reporting persons submit electronically or on paper reports on any of the following three forms: ''Initial Statement of Beneficial Ownership of Securities,'' ''Statement of Changes in Beneficial Ownership of Securities'' and ''Annual Statement of Beneficial Ownership of Securities.'' Reporting persons are required to use these forms to disclose ownership and transactional information relative to their beneficial ownership of securities of FDIC-insured depository institutions with securities registered under the Securities Exchange Act of 1934. Under section 403 of the Sarbanes-Oxley Act of 2002, these forms must be submitted in electronic form and must be made available to the public on a Federal agency's external internet Web site. The forms require disclosure of the name of the financial institution, relationship of reporting person to the financial institution, reporting person's name and street address, date of form or amendment, and filer's signature and date. A description of the securities' terms and transactional information including transaction date, type of transaction, amount of securities acquired or disposed, price, aggregate amount of securities beneficially owned, and form and nature of beneficial ownership must also be disclosed on the forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 12(i) and 16(a) of the Securities Exchange Act of 1934 (respectively, 15 U.S.C. 78l(i) and 78p(a)).

PURPOSE:

In accordance with Section 16(a) of the Securities Exchange Act of 1934, as amended by section 403 of the Sarbanes-Oxley Act of 2002, this information is being made available to the public on the FDIC's external internet Web site in order to facilitate the more efficient transmission, dissemination, analysis, storage and retrieval of insider ownership and transaction information in a manner that will benefit investors, filers and financial institution regulatory agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government; and

(10) To the appropriate governmental or self-regulatory organizations when relevant to the organization's regulatory or supervisory responsibilities or if the information is relevant to a known or suspected violation of a law or licensing standard within that organization's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or on paper format in file folders.

RETRIEVABILITY:

Electronically filed reports are indexed and retrieved by the name of the reporting party. Paper-filed reports are indexed by the name of the depository institution issuing the securities being reported, with sub-indexing by the filer's name.

SAFEGUARDS:

Access to the information in this electronic system of records is unrestricted. The filing and amendment of electronic records is restricted to authorized users who have been issued non-transferable user IDs and passwords.

RETENTION AND DISPOSAL:

These records will be maintained for fifteen years from the date of filing, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Accounting & Securities Disclosure Section, Division of Supervision and Consumer Protection, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information originates from (1) any director or officer of an FDIC-insured depository institution with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934; and (2) any beneficial owner of greater than 10% of an FDIC-insured depository institution with a class of equity securities registered under the Securities Exchange Act of 1934, including any trust, trustee, beneficiary or settlor required to report pursuant to SEC Rule 16a–8.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0028

SYSTEM NAME:

Office of the Chairman Correspondence Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who correspond to, or receive correspondence from, the Office of the Chairman; and individuals who are the subject of correspondence to or from the Office of the Chairman.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence, memoranda, E-mail, and other communications with the Office of the Chairman that may include, without limitation, name and contact information supplied by the individual as well as information concerning subject matter, internal office assignments, processing, and final response or other disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to respond to correspondence addressed to the FDIC, Office of the Chairman.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or

suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint; and

(10) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, and subject.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legislative Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who submit correspondence to the FDIC for response, and FDIC personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0029

SYSTEM NAME:

Congressional Correspondence Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of the U.S. Congress and Congressional staff; and individuals whose inquiries relating to FDIC activities are forwarded by Members of Congress or Congressional staff to the FDIC for response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from Members of the U.S. Congress or Congressional staff making inquiries or transmitting inquiries, correspondence or documents from constituents that may include, without limitation, name and contact information as well as information concerning subject matter, internal office assignments, processing, and final response or other disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to document and respond to constituent and other inquiries forwarded by Members of the U.S. Congress or Congressional staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of

liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(10) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint; and

(11) To authorized third-party sources during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, and subject.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legislative Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who submit correspondence to the FDIC for response, and FDIC personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0030

SYSTEM NAME:

Legislative Information Tracking System Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street, NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of the U.S. Congress and Congressional staff; and individuals who contact, or are contacted by the FDIC Office of Legislative Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains memoranda, e-mail and other communications with the Office of Legislative Affairs that may include without limitation, name and contact information supplied by the individual as well as information related to the inquiry that was developed by FDIC staff.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to respond to inquiries regarding FDIC's views on proposed legislation, facilitate Congressional briefings, and coordinate preparation of FDIC responses to constituent inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are

reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(9) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(10) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint; and

(11) To authorized third-party sources during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, and subject.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Legislative Affairs, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to *Privacy@FDIC.Gov* or to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who contact the FDIC for response, and FDIC personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix A

FDIC Atlanta Regional Office, 10 Tenth Street, NE., Suite 800, Atlanta, GA 30309–3906.

FDIC Boston Regional Office, 18 Braintree Hill Office Park, Suite 100, Braintree, MA 02184–8701.

FDIC Chicago Regional Office, 500 West Monroe Street, Suite 3500, Chicago, IL 60661–3097.

FDIC Dallas Regional Office, 1910 Pacific Avenue, 19th floor, Dallas, TX 75201–4586.

FDIC Kansas City Regional Office, 2345 Grand Boulevard, Suite 1200, Kansas City, MO 64108–2638.

FDIC Memphis Area Office, 5100 Poplar Avenue, Suite 1900, Memphis, TN 38157.

FDIC New York Regional Office, 20 Exchange Street, 4th Floor, New York, NY 10005.

FDIC San Francisco Regional Office, 25 Jessie Street at Ecker Square, Suite 2300, San Francisco, CA 94105–2780.

Dated at Washington, DC, this 16th day of October, 2007.

By order of the Board of Directors.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–21167 Filed 10–26–07; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; 60 Day Notice of Intent To Request Clearance for Extension of Collection of Information; Opportunity for Public Comment

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of intent to request from the Office of Management and Budget (''OMB'') clearance for extension of collections of information and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') is soliciting comments on the need for the collection of information contained in 12 CFR Part 1102, Subpart D, Description of Office, Procedures, Public Information. The ASC also requests comments on the practical utility of the collection of information; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Comments on this information collection must be received on or before December 28, 2007.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW., Suite 310, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, at 2000 K Street, NW., Suite 310, Washington, DC 20006 or 202–293–6250.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, subpart D; Description of Office, Procedures, Public Information.

ASC Form Number: None.

OMB Number: 3139–0006.

Expiration Date: Three years from OMB approval date.

Type of Request: Extension of existing collection of information.

Description of Need: The information sets out detailed procedures implementing the Freedom of Information Act, as amended, 12 U.S.C. 552.

Automated Data Collection: None.

Description of Respondents: State, local or tribal government; individuals or households, business or other for-profit institutions; not-for-profit institutions; farms; and Federal government.

Estimated Average Number of Respondents: 11 respondents.

Estimated Average Number of Responses: Once per respondent.

Estimated Average Burden Hours per Response: .5 hours.

Estimated Annual Reporting Burden: 5.5 hours.

Dated: October 24, 2007.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Ben Henson,

Executive Director.

[FR Doc. 07–5364 Filed 10–26–07; 8:45 am]

BILLING CODE 6700–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; 60 Day Notice of Intent To Request Clearance for Extension of Collection of Information; Opportunity for Public Comment

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of intent to request from the Office of Management and Budget (''OMB'') clearance for extension of collections of information and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') is soliciting comments on the need for the collection of information contained in 12 CFR Part 1102, Subpart A, Temporary Waiver Requests. The ASC also requests comments on the practical utility of the collection of information; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Comments on this information collection must be received on or before December 28, 2007.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW., Suite 310, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, at 2000 K Street, NW., Suite 310, Washington, DC 20006 or 202–293–6250.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, subpart A; Temporary Waiver Requests.

ASC Form Number: None.

OMB Number: 3139–0003.

Expiration Date: Three years from OMB approval date.

Type of Request: Extension of existing collection of information.

Description of Need: The information sets out detailed procedures governing temporary waiver proceedings under § 1119(b) of the Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)).

Automated Data Collection: None.

Description of Respondents: State, local or tribal government; individuals or households; and business and other for-profit institutions.

Estimated Average Number of Respondents: 1 respondent.

Estimated Average Number of Responses: Once.

Estimated Average Burden Hours per Response: 10 hours for each proceeding.

Estimated Annual Reporting Burden: 10 hours.

Dated: October 24, 2007.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Ben Henson,

Executive Director.

[FR Doc. 07–5365 Filed 10–26–07; 8:45 am]

BILLING CODE 6700–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; 60 Day Notice of Intent To Request Clearance for Extension of Collection of Information; Opportunity for Public Comment

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of intent to request from the Office of Management and Budget (''OMB'') clearance for extension of collection of information and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Recordkeeping Requirements, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') is soliciting comments on the need for the collection of information contained in 12 CFR part 1102, Subpart C, Rules Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Appraisal Subcommittee. The ASC also requests comments on the practical utility of the collection of information; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Comments on this information collection must be received on or before December 28, 2007.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW., Suite 310, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, at 2000 K Street, NW., Suite 310, Washington, DC 20006 or (202) 293–6250.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, subpart C; Rules Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Appraisal Subcommittee.

ASC Form Number: None.

OMB Number: 3139–0004.

Expiration Date: Three years from OMB approval date.

Type of Request: Extension of existing collection of information.

Description of Need: The information sets out detailed procedures implementing the Privacy Act of 1974, as amended, 12 U.S.C. 552a.

Automated Data Collection: None.

Description of Respondents: State, local or tribal government; individuals or households; not-for-profit institutions; farms; business or other for-profit; and Federal government.

Estimated Average Number of Respondents: 4 respondents.

Estimated Average Number of Responses: Once per respondent.

Estimated Average Burden Hours per Response: 4.25 hours.

Estimated Average Reporting Burden: 17 hours.

Dated: October 24, 2007.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Ben Henson,

Executive Director.

[FR Doc. 07–5366 Filed 10–26–07; 8:45 am]

BILLING CODE 6700–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 2007.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Illinois National Bancorp, Inc., Springfield, Illinois; to acquire 100 percent of the voting shares of First National Bank of Mount Pulaski, Mount Pulaski, Illinois.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. CSB Financial Corporation; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank, both of Miles, Texas.

Board of Governors of the Federal Reserve System, October 23, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.E7–21174 Filed 10–26–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 2007.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Longview Capital Corporation, Newman, Illinois; to merge with BGC Bancorp, Inc., and thereby indirectly acquire Bank of Gibson City, both of Gibson City, Illinois.

Board of Governors of the Federal Reserve System, October 24, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–21221 Filed 10–26–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–NEW; 30-day notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office at (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the OS OMB Desk Officer all comments must be faxed to OMB at 202–395–6974.

Proposed Project

Meeting Request Routing System for *MedicalCountermeasures.gov*—New—

Office of the Assistant Secretary for Preparedness and Response (ASPR)—Office of the Biomedical Advanced Research and Development Authority (BARDA).

Both naturally occurring and intentional public health threats have the potential to cause catastrophic harm in a variety of ways, including economic repercussions and adverse effects on health, in some cases leading to loss of life. To meet these challenges, federal government encourages open communication with its stakeholders in the research and development communities and in industry. One method of improving this communication will be through the *MedicalCountermeasures.gov* Web site. The two key functions of the *MedicalCountermeasures.gov* Web site will be (1) to centrally manage stakeholder requests for meetings with government to present product information related to medical countermeasures against public health disasters, both manmade and naturally occurring; and (2) to provide our stakeholders in industry and academia with information on government sponsored opportunities and events related to medical countermeasures.

In order to route product developers to the most appropriate personnel within the Department of Health and Human Services (HHS), HHS will collect some basic information about the company's product through *MedicalCountermeasures.gov*. Using this information and a routing system that has been developed with input from the participating agencies within HHS, including the Office of the Assistant Secretary for Preparedness and Response (ASPR), the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH), *MedicalCountermeasures.gov* will route the meeting request to the appropriate person within HHS. HHS is collaborating with other agencies in the planning of this project, and hopes to expand this system to other agencies in the future. ASPR is requesting a three year clearance.

HHS expects that the respondents will be made up of developers of medical countermeasures to naturally occurring and intentional public health threats. Participation in this system will be completely voluntary, and the information that is submitted to the system is for information only. We anticipate that the respondents will make a request on average once a year.

The estimate of 225 respondents is based on the number of stakeholders from the target group who signed up for the Public Health Emergency Medical Countermeasures Stakeholders Workshop.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Developers of medical countermeasures to naturally occurring and intentional public health threats.	225	1	8/60	30
Total		225		30

Mary Oliver-Anderson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–21149 Filed 10–26–07; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Ames Laboratory, Ames, Iowa, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On September 12, 2007, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Sheet metal workers, physical plant maintenance and associated support staff (including all maintenance shop personnel), and supervisory staff who were monitored or should have been monitored for potential internal radiation exposures associated with the maintenance and renovation activities of the thorium production areas in Wilhelm Hall (a.k.a. the Metallurgy Building or ''Old'' Metallurgy Building) at the Ames Laboratory from January 1, 1955, through December 31, 1970, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on October 12, 2007, as provided for under 42 U.S.C. 7384*l*(14)(C). Hence, beginning on October 12, 2007, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: October 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–21222 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Hanford Engineer Works, Richland, Washington, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On September 12, 2007, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, or DOE contractors or subcontractors who were monitored or should have been monitored for internal radiological exposures while working at the Hanford Engineer Works in: the 300 Area fuel fabrication and research facilities from October 1, 1943 through August 31, 1946; the 200 Area plutonium separation facilities from November 1, 1944 through August 31, 1946; or the 100 B, D, and F reactor areas from September 1, 1944 through August 31, 1946; for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on October 12, 2007, as provided for under 42 U.S.C. 7384*l*(14)(C). Hence, beginning on October 12, 2007, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: October 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–21177 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health

Decision To Evaluate a Petition To Designate a Class of Employees at Horizons, Inc., Cleveland, OH, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at Horizons, Inc., Cleveland, Ohio, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Horizons, Inc.

Location: Cleveland, Ohio.

Job Titles and/or Job Duties: All workers.

Period of Employment: January 1, 1944 through December 31, 1956; and January 1, 1957 through July 31, 2006 (residual period).

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: October 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–21191 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at Area IV of the Santa Susana Field Laboratory, Santa Susana, CA, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at Area IV of the Santa Susana Field Laboratory, Santa Susana, California, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Area IV of the Santa Susana Field Laboratory.

Location: Santa Susana, California.

Job Titles and/or Job Duties: All workers.

Period of Employment: January 1, 1955 through December 31, 1965.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: October 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–21217 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at the Westinghouse Atomic Power Development Plant, East Pittsburgh, PA, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at the Westinghouse Atomic Power Development Plant, East Pittsburgh, Pennsylvania, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Westinghouse Atomic Power Development Plant.

Location: East Pittsburgh, Pennsylvania.

Job Titles and/or Job Duties: All testers and laboratory researchers (to include research group leaders who worked in the L Building (and K Building as applicable).

Period of Employment: January 1, 1942 through December 31, 1944.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: October 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–21152 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at Combustion Engineering, Windsor, CT, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at Combustion Engineering, Windsor, Connecticut, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Combustion Engineering.

Location: Windsor, Connecticut.

Job Titles and/or Job Duties: All workers.

Period of Employment: January 1, 1965 through December 31, 1972.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: October 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–21220 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–08AA]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam I Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of health communication messages for Infertility Prevention Campaign—New—National Center for HIV, Hepatitis, Sexually Transmitted Disease Prevention, and Tuberculosis Prevent (NCHHSTP), Division of Sexually Transmitted Disease Prevention (DSTDP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Chlamydia is among the leading causes of pelvic inflammatory disease (PID), which can lead to infertility, ectopic pregnancy, and chronic pelvic pain. Most cases of Chlamydia are asymptomatic so infected girls and women are unaware of their infections. CDC estimates that in 2005, young women aged 15 to 19 years had the highest Chlamydia rate, i.e. 2,797 infected persons per 100,000 populations, followed by women aged 20 to 24 where the rate was 2,691 infected persons per 100,000 population. These rates are likely to be underestimates, because many infected persons do not seek medical care and testing. Data at CDC suggest that Chlamydia develops into PID in up to 40% of untreated women and that 12% of women are infertile after their first experience with PID.

CDC plans to obtain public preferences for the framing and dissemination of Chlamydia information that will guide CDC in developing and testing health communication messages about Chlamydia with girls/women in the following age groups: 15–17 year olds who attend school (n = 54) and, 15–17 year olds who do not attend school (n = 18), totaling 72. 18–25 years who are employed (n = 27) and, 18–25 year olds who attend school full time (n = 27), totaling 54. We will also include parents of girls 15–17 years old (n = 72). We will interview 126 respondents from the screened groups. We will recruit participants throughout the United States and conduct interviews by telephone or in person at local pre-determined focus group facility. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Responses per respondent	Average burden per response (in hours)	Total burden hours
Participant Screenings	Ages 15–17 attending school	72	1	5/60	6
	Ages 15–17 not attending school				
	Ages 18–25 employed	54	1	5/60	5
	Ages 18–25 attending school full time				
Parent Screening Interviews	Parent(s) of 15–17 yr olds	72	1	5/60	6
Participant Interviews	Selected 15–25 yr olds	126	1	2	252
Total Burden Hours					269

Dated: October 22, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–21196 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-08–0406]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

State and Local Area Integrated Telephone Survey (SLAITS), (OMB No. 0920–0406)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. The State and Local Area Integrated Telephone Survey (SLAITS) mechanism has been conducted since 1997. NCHS requests 3 years of OMB clearance to continue using this integrated and coordinated survey system. It is specifically designed to collect health and well-being data at the national, state, and local levels (in accordance with the 1995 initiative to increase the integration of surveys within DHHS).

Using the large sampling frame from the ongoing National Immunization Survey (NIS) and Computer Assisted Telephone Interviewing (CATI), SLAITS has quickly collected and produced household and person-level data to monitor many health-related areas. The questionnaire content is drawn from existing surveys within DHHS and other Federal agencies. Depending on the needs of the project sponsor, a new instrument may need to be developed. Examples of topical areas are child and family health and well-being; early childhood health; children with special health care needs (CSHCN); influenza vaccination of children; asthma prevalence and treatment; access to care; program participation; the health and well-being of adopted children; post-adoption support use; knowledge of Medicaid and the State Children's Health Insurance Program (SCHIP); and changes in health care coverage at the national and state levels.

Since its inception the SLAITS mechanism has been used by federal, state, and local government researchers and policymakers; researchers at universities and non-profit groups; and advocates to evaluate content and programmatic health issues. For example, the CSHCN and Children's Health modules have been used by Federal and state Maternal and Child Health Bureau Directors to evaluate programs and service needs. The module on Medicaid and SCHIP was prominently featured in a Congressional report on children's insurance.

There is no cost to respondents other than their time to participate. The total estimated annualized burden hours are 55,190.

ESTIMATED ANNUALIZED BURDEN

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Developmental work—Household screener	14,535	1	3/60
Developmental work—Household screener & survey	6,151	1	28/60
Main implementation—Household screener	515,027	1	3/60
Main implementation—Household screener & survey	59,635	1	26/60

Dated: October 17, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer Centers for Disease Control and Prevention.

[FR Doc. E7–21208 Filed 10–26–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0393]

Draft Guidance for Industry: Blood Establishment Computer System Validation in the User's Facility; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Blood Establishment Computer System Validation in the User's Facility'' dated October 2007. The draft guidance document provides assistance to blood establishments in developing a blood establishment computer system validation program, consistent with recognized principles of software validation, quality assurance, and current good software engineering practices. In the **Federal Register** of March 9, 2005 (70 FR 11679), FDA withdrew the guidance document entitled ''Draft Guideline for the Validation of Blood Establishment Computer Systems,'' issued on September 28, 1993, and is issuing this guidance to reflect our current considerations on this topic.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by January 28, 2008.

ADDRESSES: Submit written requests for single copies of the draft 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 draft 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 draft guidance document.

Submit written comments on the draft 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 either *http://www.fda.gov/dockets/ecomments* or *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda R. Friend, 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 draft document entitled ''Guidance for Industry: Guidance for Industry: Blood Establishment Computer System Validation in the User's Facility'' dated October 2007. This draft guidance provides blood establishments with assistance in developing a blood establishment computer system validation program, consistent with recognized principles of software validation, quality assurance, and current good software engineering practices. This draft guidance addresses blood establishment computer system validation rather than blood establishment computer software (BECS) validation. In the **Federal Register** of March 9, 2005, FDA withdrew the guidance document entitled ''Draft Guideline for the Validation of Blood Establishment Computer Systems,'' issued on September 28, 1993, and is issuing this guidance to reflect our current considerations on this topic.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent 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 requirement of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft 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 606.100(b) and 606.160 have been approved under OMB control number 0910–0116; those in 21 CFR 211.68 have been approved under OMB control number 0910–0139.

III. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft 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 draft 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 draft guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: October 22, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–21268 Filed 10–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0047]

Guidance for Industry: Considerations for Plasmid Deoxyribonucleic Acid Vaccines for Infectious Disease Indications; 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: Considerations for Plasmid DNA Vaccines for Infectious Disease Indications'' dated November 2007. The guidance document is intended to assist manufacturers and sponsors in the development of deoxyribonucleic acid (DNA) vaccines to prevent infectious diseases. The guidance supersedes the guidance document entitled ''Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications'' dated December 1996. In addition, the guidance announced in this notice finalizes the draft guidance of the same title dated February 2005.

DATES: Submit written or electronic comments on agency guidances at any time. 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.

ADDRESSES: 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: Joseph L. Okrasinski, Jr., 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: Considerations for Plasmid DNA Vaccines for Infectious Disease Indications,'' dated November 2007. The guidance is intended to assist manufacturers and sponsors in the development of DNA vaccines to prevent infectious diseases. The document describes the manufacturing information that should be submitted to CBER for a new vaccine product for clinical study under an investigational new drug application (IND). Plasmid DNA products intended for non-infectious therapeutic indications are not addressed in the guidance. This guidance supersedes the guidance document entitled ''Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications'' dated December 1996. In addition, the guidance announced in this notice finalizes the draft guidance dated February 2005.

In the **Federal Register** of February 18, 2005 (70 FR 8378), FDA announced the availability of the draft guidance of the same title dated February 2005. FDA received several comments on the draft guidance, and those comments were considered as the guidance was finalized. In addition, editorial changes were made to improve clarity.

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 collection of information mentioned in the guidance regarding the submission of manufacturer's information in an IND was 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: October 22, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–21266 Filed 10–26–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2416–07; DHS Docket No. USCIS–2007–0052]

RIN–1615–ZA54

Termination of the Designation of Burundi for Temporary Protected Status; Automatic Extension of Employment Authorization Documentation for Burundi TPS Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: Following a review of country conditions and consultations with the Secretary of State and other appropriate Government agencies, the Secretary of Homeland Security has determined that the temporary protected status (TPS) designation for Burundi should be terminated. This termination will not take effect until May 2, 2009, to provide for an orderly transition. This Notice informs the public of the termination of the TPS designation for Burundi and sets forth procedures for nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi)

with TPS to re-register for TPS benefits. Re-registration is limited to persons who have previously registered for TPS under the designation of Burundi and whose application has been granted or remains pending. Burundians (or aliens having no nationality who last habitually resided in Burundi) who have not previously been granted TPS, or who do not already have a pending application for TPS under the designation for Burundi, may not file under Late Initial Filing (LIFs) provisions, which are only allowed during an extension of a designation of TPS.

Given the timeframes involved with processing TPS re-registration applications, the Department of Homeland Security (DHS) recognizes the possibility that re-registrants may not receive a new Employment Authorization Document (EAD) until after their current EAD expires on November 2, 2007. Accordingly, this Notice automatically extends the validity of EADs issued under the TPS designation of Burundi for six months, through May 2, 2008, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended. New EADs with the May 1, 2009, expiration date will be issued to eligible TPS beneficiaries who timely re-register and apply for an EAD.

DATES: The termination of the TPS designation for Burundi is effective 12:01 a.m., local time, May 2, 2009. To maintain TPS benefits for the 18 months leading up to the effective date of the termination, Burundi TPS beneficiaries must comply with the re-registration requirements described in this Notice. The 60-day re-registration period begins October 29, 2007, and will remain in effect until December 28, 2007.

FOR FURTHER INFORMATION CONTACT: Shelly Hock, Status and Family Branch, Office of Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529, telephone (202) 272–1533. This is not a toll-free call. Further information will also be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov*. **Note:** The phone number provided here is solely for questions regarding this notice and the information contained herein. It is not for individual case status inquiries. Applicants seeking information about the status of their individual case can check Case Status Online available at the USCIS Web site listed above, or applicants may call the USCIS National Customer Service Center at 1–800–375–5283 (TTY 1–800–767–1833).

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act
ASC—USCIS Application Support Center
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
USCIS—U.S. Citizenship and Immigration Services

What authority does the Secretary of Homeland Security have to terminate the designation of Burundi for TPS?

Section 244(b)(1) of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a(b)(1), authorizes the Secretary of Homeland Security (Secretary), after consultation with appropriate agencies of the Government, to designate a foreign state (or part thereof) for TPS. The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of the TPS designation, or any extension thereof, the Secretary, after consultations with appropriate agencies of the Government, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, the length of an extension. 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for the TPS designation, he must terminate the designation. Such termination may not take effect earlier than 60 days after the date of Notice of termination is published in the **Federal Register**. 8 U.S.C. 1254a(b)(3)(B). The Secretary may determine the appropriate effective date of the termination for the purpose of providing an orderly transition. 8 U.S.C. 1254a(b)(3)(B); 8 U.S.C. 1254a(d)(3).

Why did the Secretary decide to terminate the TPS designation of Burundi?

On November 4, 1997, the Attorney General published a Notice in the **Federal Register**, at 62 FR 59735, designating Burundi for TPS based upon ongoing armed conflict and extraordinary and temporary conditions within the country. The Attorney General extended the designation finding that the conditions prompting designation continued to exist (63 FR 59334). In November 1999, the Attorney General extended and re-designated TPS for Burundi by publishing a notice in the **Federal Register** at 64 FR 61123. Since that time, TPS for Burundi has been extended seven times based upon a determination that the conditions warranting the designation continued to be met. 65 FR 67404 (November 9, 2000); 66 FR 46027 (August 31, 2001); 67 FR 55875 (August 30, 2002); 68 FR 52405 (September 3, 2003); 69 FR 60165 (October 7, 2004); 70 FR 52425 (September 2, 2005); 71 FR 54300 (September 14, 2006). The most recent extension became effective on November 3, 2006, and is due to expire on November 2, 2007.

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Burundi. Based upon this review, DHS has determined that the TPS designation of Burundi should be terminated because the armed conflict is no longer ongoing and because the extraordinary and temporary conditions that formed the basis of the designation have improved to such a degree that they no longer prevent Burundians (or aliens having no nationality who last habitually resided in Burundi) from returning to their home country in safety.

A comprehensive cease-fire was signed in September 2006 with the final remaining rebel group, the Parti Pour la Liberation du People Hutu-Forces Nationales de Liberation (Party for the Liberation of the Hutu People-National Liberation Forces) (also known as the PALIPEHUTU–FNL or the FNL). The security situation has also improved in the last year. As of December 2006, 21,769 former combatants of the armed forces and former rebel groups have demobilized. Furthermore, since 2002, 319,000 Burundian refugees have returned to their homes. In addition, the Government of Burundi requested that the United Nations Operation in Burundi (ONUB) terminate at the end of 2006, and the United Nations role has changed from peacekeeping to supporting the development process. Since the last extension of TPS for Burundi, the country has shown positive developments in what were then ongoing peace talks with the FNL. This year, the Government of Burundi and the FNL have begun steps to reintegrate former FNL rebels into society. The implementation of a general cease-fire throughout the country, progress in the efforts of reconstruction and rebuilding, and active encouragement of refugees to repatriate indicate that conditions that warranted the initial designation of TPS in 1997 and the re-designation in 1999 no longer continue to be met. There are

approximately 30 nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have been granted TPS.

Based upon this review, the Secretary finds, after consultation with the appropriate Government agencies, that the armed conflict is no longer ongoing, that the extraordinary and temporary conditions that prompted the designation and re-designation of Burundi for TPS no longer prevent Burundians (or aliens having no nationality who last habitually resided in Burundi) from returning in safety, and that the designation of Burundi for TPS should be terminated. See 8 U.S.C. 1254a(b)(3)(A); 8 U.S.C. 1254(b)(3)(B).

Notice of Termination of the Designation of Burundi for TPS

By the authority vested in me under section 244(b)(3) of the Act, and after consulting with the appropriate Government agencies, I have determined that the conditions that prompted designation of Burundi for TPS no longer support the TPS designation. Accordingly, I order as follows:

(1) The designation of Burundi under section 244(b)(1)(C) of the Immigration and Nationality Act is terminated effective 12:01 a.m., local time, May 2, 2009. 8 U.S.C. 1254a(b)(3)(B), (d)(3).

(2) To maintain TPS and related benefits until the effective date of the termination (May 2, 2009), a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who was granted TPS and who has not had TPS withdrawn must re-register during the 60-day re-registration period from October 29, 2007 until December 28, 2007.

(3) To re-register, aliens must follow the filing procedures set forth in this Notice.

Dated: October 11, 2007.

Michael Chertoff,

Secretary.

Temporary Protected Status Filing Guidelines

If I currently have benefits through the TPS designation of Burundi and would like to maintain those benefits until the effective date of the termination (May 2, 2009), do I need to re-register for TPS?

Yes. If you already have received TPS benefits through the TPS designation of Burundi, your benefits will expire at 11:59 p.m. on November 2, 2007. All TPS beneficiaries must comply with the re-registration requirements described in this Notice in order to maintain TPS benefits through May 1, 2009. TPS benefits include temporary protection against removal from the United States and employment authorization during the TPS designation period. 8 U.S.C. 1254a(a)(1). Failure to re-register without good cause will result in the withdrawal of your temporary protected status and possibly your removal from the United States. 8 U.S.C. 1254a(c)(3)(C).

If I am currently registered for TPS or have a pending application for TPS, how do I re-register to renew my benefits until the effective date of the termination (May 2, 2009)?

Please submit the proper forms and fees according to Table 1 below. All applicants are strongly encouraged to pay close and careful attention when filling out the required forms to help ensure that their dates of birth, alien registration numbers, spelling of their names, and other required information are correctly entered on the forms. Aliens who have previously registered for TPS, but whose applications remain pending, should follow these instructions if they wish to renew their TPS benefits. All TPS re-registration applications submitted without the required fees will be returned to the applicant. All fee waiver requests should be filed in accordance with 8 CFR 244.20. If you received an EAD during the most recent registration period, please submit a photocopy of the front and back of your EAD.

TABLE 1.—APPLICATION FORMS AND APPLICATION FEES

If—	And—	Then—
You are re-registering for TPS	You are applying for an extension of your EAD valid through May 1, 2009.	You must complete and file the Form I–765, Application for Employment Authorization, with the fee of $340 or a fee waiver request. You must also submit Form I–821, Application for Temporary Protected Status, with no fee.
You are re-registering for TPS	You are NOT applying for renewal of your EAD.	You must complete and file the Form I–765 with no fee and Form I–821 with no fee. Note: DO NOT check any box for the question "I am applying for" listed on Form I–765, as you are NOT requesting an EAD benefit.
Your previous TPS application is still pending	You are applying to renew your temporary treatment benefits (i.e., an EAD with category "c-19" on its face).	You must complete and file the Form I–765 with the fee of $340 or a fee waiver request. You must also submit Form I–821, Application for Temporary Protected Status, with no fee.

Certain applicants must also submit a Biometric Service Fee (See Table 2).

TABLE 2.—BIOMETRIC SERVICE FEES

If—	And—	Then—
You are 14 years of age or older	1. You are re-registering for TPS, or 2. Your TPS application is still pending and you are applying to renew temporary treatment benefits (i.e., EAD with category "C–19" on its face).	You must submit a Biometric Service fee of $80 or a fee waiver request.
You are younger than 14 years of age	You are applying for an EAD	You must submit a Biometric Service fee of $80 or a fee waiver request.
You are younger than 14 years of age	You are NOT applying for an EAD	You do NOT need to submit a Biometric Service fee.

What edition of the Form I–821 should I submit?

Only the edition of Form I–821 dated November 5, 2004, or later will be accepted. The revision date can be found in the bottom right corner of the form. The proper form can be found on the Internet at *http://www.uscis.gov* or by calling the USCIS forms hotline at 1–800–870–3676.

Where should I submit my application for TPS?

Please reference Table 3 below to see where to mail your specific application.

TABLE 3.—APPLICATION MAILING DIRECTIONS

If—	Then Mail to—	Or, for Non-United States Postal Service (USPS) deliveries, Mail to—
You are applying for re-registration or applying to renew your temporary treatment benefits.	U.S. Citizenship and Immigration Services, Attn: TPS Burundi, P.O. Box 6943, Chicago, IL 60680–6943.	U.S. Citizenship and Immigration Services, Attn: TPS Burundi, 427 S. LaSalle—3rd Floor, Chicago, IL 60605–1029.
You were granted TPS by an Immigration Judge or the Board of Immigration Appeals.	U.S. Citizenship and Immigration Services, Attn: TPS Burundi, P.O. Box 8677, Chicago, IL 60680–8677.	U.S. Citizenship and Immigration Services, Attn: TPS Burundi, [EOIR/Additional Documents], 427 S. LaSalle—3rd Floor, Chicago, IL 60605–1029.

How will I know if I need to submit supporting documentation with my application package?

See Table 4 below to determine if you need to submit supporting documentation.

TABLE 4.—WHO SHOULD SUBMIT SUPPORTING DOCUMENTATION?

If—	Then—
One or more of the questions listed in Part 4, Question 2 of Form I–821 applies to you.	You must submit an explanation, on a separate sheet(s) of paper, and/or additional documentation must be provided. You may NOT file electronically.
You were granted TPS by an Immigration Judge or the Board of Immigration Appeals.	You must include evidence of the grant of TPS (such as an order from the Immigration Judge) with your application package. You may NOT file electronically.

Can I file my application electronically?

If you are filing for re-registration and do not need to submit supporting documentation with your application, you may file your application electronically. To file your application electronically, follow directions on the USCIS Web site at: *http://www.uscis.gov.*

Are certain aliens ineligible for TPS?

Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. *See* 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony or two or more misdemeanors committed in the United States are ineligible for TPS under section 244(c)(2)(B)(i) of the Act, 8 U.S.C. 1254a(c)(2)(B)(i), as are aliens described in the bars to asylum in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A). *See* 8 U.S.C. 1254a(c)(2)(B)(ii).

If I currently have TPS, can I lose my TPS benefits?

An individual granted TPS will have his or her TPS withdrawn if the alien is not in fact eligible for TPS, if the alien fails to timely re-register for TPS without good cause, or if the alien fails to maintain continuous physical presence in the United States. *See* 8 U.S.C. 1254a(c)(3)(A)–(C).

Does TPS lead to lawful permanent residence?

No. TPS is a temporary benefit that does not lead to lawful permanent residence or confer any other immigration status. 8 U.S.C. 1254a(f)(1) and (h). When a country's TPS designation is terminated, TPS beneficiaries will maintain the same immigration status that they held prior to TPS (unless that status has expired or

been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will revert to unlawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation, and who do not hold any other lawful immigration status, are expected to plan for their departure from the United States.

May I apply for another immigration benefit while registered for TPS?

Yes. Registration for TPS does not prevent you from applying for nonimmigrant status, filing for adjustment of status based on an immigrant petition, or applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of status and adjustment of status, an alien is considered as being in, and maintaining, lawful status as a nonimmigrant during the period in which the alien is granted TPS. *See* 8 U.S.C. 1254a(f)(4).

How does an application for TPS affect my application for asylum or other immigration benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. *See* 8 U.S.C. 1158(b)(2)(A)(ii) and 8 U.S.C. 1254a(c)(2)(B)(ii).

Does this Notice allow nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who entered the United States after November 9, 1999, to file for TPS?

No. This Notice terminating the TPS designation for Burundi does not change the required dates of continuous residence and continuous physical presence in the United States. This Notice does not expand TPS eligibility to those who are not currently registered for TPS under the designation of Burundi.

May I register under the late initial registration provisions at this time?

No. Certain nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have not previously applied for TPS cannot establish eligibility for TPS under the ''late initial registration'' provisions. Late initial filings are only permitted during an extension of a TPS designation, pursuant to 8 CFR 244.2(f)(2), not when the TPS designation is being terminated. Thus, Burundians (or aliens having no nationality who last habitually resided in Burundi) who have not previously filed for TPS and been granted, or who do not already have a pending application for TPS under the designation for Burundi, may not file under late initial filing provisions. Late initial registration applications submitted to USCIS under the Burundi designation will be denied.

How does the termination of TPS affect nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who currently receive TPS benefits?

Once the termination of Burundi's TPS designation becomes effective on May 2, 2009, these TPS beneficiaries will maintain the same immigration status they held prior to TPS (unless that status has expired or been terminated), if any, or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will revert to unlawful status upon the effective date of termination of the TPS designation (May 2, 2009).

After termination, former TPS beneficiaries will no longer be eligible for a stay of removal or employment authorization based on TPS. TPS-related EADs issued under the Burundi designation will expire and will not be renewed or extended.

Termination of the TPS designation for Burundi does not necessarily affect pending applications for other forms of immigration relief or protection. Former TPS beneficiaries, however, will begin to accrue unlawful presence as of May 2, 2009, unless they have been granted another immigration status or protection or if they have certain applications pending. An alien is deemed to be unlawfully present if the alien is present in the United States after the expiration of the period of stay authorized or is present in the United States without being admitted or paroled. See 8 U.S.C. 1182(a)(9)(B), (C) (aliens unlawfully present).

Employment Authorization Document Automatic Extension Guidelines

Who is eligible to receive an automatic extension of his or her EAD from November 3, 2007 to May 2, 2008?

To receive an automatic extension of an EAD, an individual must be a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who has applied for and received an EAD under the designation of Burundi for TPS and who has not had TPS withdrawn or denied. This automatic extension is limited to EADs issued on Form I–766, Employment Authorization Document, bearing an expiration date of November 2, 2007. These EADs must also bear the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

If I am currently registered under the designation of Burundi for TPS and am re-registering for TPS, how do I receive an extension of my EAD after the automatic six-month extension?

TPS re-registrants will receive a notice in the mail with instructions as to whether or not they will be required to appear at a USCIS Application Support Center (ASC) for biometrics collection. To increase efficiency and improve customer service, USCIS will reuse previously-captured biometrics, whenever possible, and conduct the security checks using those biometrics, so that you may not be required to appear at an ASC.

Regardless of whether you are required to appear at an ASC, you are required to pay the biometrics fee during this re-registration. The fee will cover the USCIS costs associated with the use of the collected biometrics for FBI and other background checks. If you are required to report to an ASC, you must bring the following documents: (1) your receipt notice for your re-registration application; (2) your ASC appointment notice; and (3) your current EAD. If no further action is required for your case, you will receive a new EAD by mail valid through May 1, 2009. If your case requires further resolution, USCIS will contact you in writing to explain what additional information, if any, is necessary to resolve your case. Once your case is resolved and if your application is approved, you will receive a new EAD in the mail with an expiration date of May 1, 2009.

May I request an interim EAD at my local District Office?

No. USCIS will not be issuing interim EADs to TPS applicants and re-registrants at District Offices.

How may employers determine whether an EAD has been automatically extended for six months through May 2, 2008, and is therefore acceptable for completion of the Form I–9?

An EAD that has been automatically extended for six months by this Notice through May 2, 2008, will be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' and have an expiration date of November 2, 2007, on the face of the card. New EADs or extension stickers showing the May 2, 2008, expiration date of the six-month automatic extension will not be issued. Employers should not request proof of Burundian citizenship.

Employers should accept an EAD as a valid ''List A'' document and not ask for additional Form I–9, Employment Eligibility Verification, documentation if presented with an EAD that has been extended pursuant to this **Federal Register** Notice, and the EAD reasonably appears on its face to be genuine and to relate to the employee. This does not affect the right of an applicant for employment or an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Note to Employers: Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements. For questions, employers may call the USCIS Customer Assistance Office Employer Hotline at 1–800–357–2099. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155. Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

How may employers determine an employee's eligibility for employment once the automatic six-month extension expires on May 2, 2008?

Eligible TPS aliens will possess an EAD with an expiration date of May 1, 2009. The EAD will be a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' and should be accepted for the purposes of verifying identity and employment authorization.

What documents may a qualified individual show to his or her employer as proof of employment authorization and identity when completing Form I–9, Employment Eligibility Verification?

During the first six months of this extension, qualified individuals who have received a six-month automatic extension of their EADs by virtue of this **Federal Register** Notice may present TPS-based EADs to their employers, as described above, as proof of identity and employment authorization through May 2, 2008. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present a copy of this **Federal Register** Notice regarding the automatic extension of employment authorization documentation through May 2, 2008. After May 2, 2008, a qualified individual may present a new EAD valid through May 1, 2009.

In the alternative, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I–9 may be presented as proof of identity and employment eligibility.

[FR Doc. E7–21128 Filed 10–26–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018–0078; Injurious Wildlife; Importation Certification for Live Fish and Fish Eggs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on October 31, 2007. 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 OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before November 28, 2007.

ADDRESSES: Send your comments and suggestions on this ICR 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).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0078.

Title: Injurious Wildlife; Importation Certification for Live Fish and Fish Eggs, 50 CFR 16.13.

Service Form Number(s): 3–2273, 3–2274, and 3–2275.

Type of Request: Extension without change.

Affected Public: Aquatic animal health professionals seeking to be certified Title 50 inspectors; certified Title 50 inspectors who have performed health certifications on live salmonids; and any entity wishing to import live salmonids or their reproductive products into the United States.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
FWS Form 3–2273	16	16	1 hour	16
FWS Form 3–2274	25	50	30 minutes	25
FWS Form 3–2275	25	50	15 minutes	13
Totals	66	116		54

Abstract: The Lacey Act (18 U.S.C. 42)(Act) prohibits the possession or importation of any animal or plant deemed to be and prescribed by regulation to be injurious to:

(1) Human beings;

(2) The interests of agriculture, horticulture, and forestry; or

(3) Wildlife or the wildlife resources of the United States.

The Department of the Interior is charged with enforcement of this Act. The Act and regulations at 50 CFR 16 allow for the importation of animals classified as injurious if specific criteria are met. To effectively carry out responsibilities and protect the aquatic resources of the United States, the Fish and Wildlife Service (we, Service) must gather information on the animals being imported with regard to their source, destination, and health status. It is also imperative that we ensure the qualifications of those individuals who provide the fish health data upon which we base our decision to allow importation.

We use three forms to collect this information:

(1) FWS Form 3–2273 (Title 50 Certifying Official Form). New applicants and those seeking recertification as a Title 50 certifying official provide information so that we can assess their qualifications. Information includes, but is not limited to:

(a) Name, position title, current place of employment (with address) and work phone number, fax number, and e-mail address.

(b) Professional degrees.

(c) Primary duties.

(d) Areas of expertise and related certifications.

(e) Facilities available for diagnostic tests and available equipment.

(2) FWS Form 3–2274 (U.S. Title 50 Certification Form). The certifying official uses this form to affirm the health status of the fish or their reproductive products to be imported. Information includes, but is not limited to:

(a) Certifying official's name and date of most recent certification.

(b) Number, life stage, and species of animals or eggs.

(c) Site and date of sample collection.

(d) Name and address of laboratory conducting the assays.

(e) Site from which the animals or eggs will be shipped.

(f) Dates of the shipment.

(g) Means of shipment and anticipated border crossing.

(3) FWS Form 3–2275 (Title 50 Importation Request Form). We use the information on this form to ensure the safety of the shipment and to track and control importations. Information includes, but is not limited to:

(a) Name and address of company/agency and facility receiving animals or eggs.

(b) Number, life stage, and species of animals or eggs.

(c) Origin of animals or eggs.

(d) Name and address of exporter.

Comments: On July 23, 2007, we published in the Federal Register (72 FR 40165) a notice of our intent to request that OMB renew this information collection. In that notice, we solicited comments for 60 days, ending on September 21, 2007. We did not receive any comments.

We again invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

(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.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: October 15, 2007

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E7–21297 Filed 10–26–07; 8:45 am

Billing Code 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by November 28, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: James A. Serr, Tucson, AZ, PRT–165742

The applicant requests a permit to import one male and one female captive-bred red siskin (*Carduelis cucullata*) for the purpose of enhancement of the survival of the species.

Applicant: Suzanne K. Cromwell, Quantico, VA, PRT–166005

The applicant requests a permit to import one captive-bred blue-throated parakeet (*Pyrrhura cruentata*) for the purpose of enhancement of the survival of the species.

Applicant: Stanley J. Skinner, Tucson, AZ, PRT–165223

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Deborah V. Thames, Buda, TX, PRT–165224

The applicant requests a permit to import the sport-hunted trophy of one

male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Joseph A. Rogoff, Avocado Heights, CA, PRT–165710

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: William J. Muzyl, Gaylord, MI, PRT–165308

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Nick A. Jorae, Laingsburg, MI, PRT–164384

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Gregory S. Peters, Tallmadge, OH, PRT–165696

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Steven M. Mihlhauser, Carthage, TX, PRT–165801

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et. seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Bruce T. Halle, Tucson, AZ, PRT–155074

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Dated: October 5, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–21147 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by November 28, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et. seq.). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Farley R. Daniels, El Paso, TX, PRT–163073.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: James H. Nelson, Jacksonville, FL, PRT–159962.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: William J. Holcomb, Farmington, NM, PRT–158117.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Von D. Faulkner, Austin, TX, PRT–164109.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Roy A. Holdridge, Granbury, TX, PRT–166074.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Dated: October 12, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–21146 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

Marine Mammals

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
148754	Allan S. Gleaton	72 FR 37795; July 11, 2007	October 1, 2007.
155535	Jim Dismukes	72 FR 37039; July 6, 2007	October 9, 2007.
157133	David B. Ball	72 FR 37795; July 11, 2007	October 9, 2007.

Dated: October 12, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–21215 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–2602–1060–PF–24–1A]

Submission to Office of Management and Budget—Information Collection, OMB Control Number 1004–0042

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) has submitted a request for an extension and revision of an approved information collection to the Office of Management and Budget (OMB) for approval.

DATES: The OMB is required to respond to this request within 60 days but may respond after 30 days. Submit your comments to OMB at the address below by November 28, 2007 to receive maximum consideration.

ADDRESSES: Send comments to the OMB, Interior Department Desk Officer (1004–0042), at OMB-OIRA via e-mail *OIRA_DOCKET@omb.eop.gov* or via facsimile at (202) 395–6566. Also please send a copy of your comments to BLM via Internet and include your name, address, and ATTN: 1004–0042 in your Internet message to *comments_washington@blm.gov* or via mail to: U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401LS, 1849 C Street, NW., ATTN: Bureau Information Collection Clearance Officer (WO–630), Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You may contact Ted Hudson to obtain copies and explanatory material on this information collection at (202) 452–5042. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Hudson.

SUPPLEMENTARY INFORMATION: On June 21, 2006, the BLM published a notice in the **Federal Register** (71 FR 35696) requesting comments on the information collection. The comment period closed on August 21, 2006. The BLM did not receive any comments.

We are soliciting comments on the following:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

Title: Protection, Management, and Control of Wild Free-Roaming Horses and Burros (43 CFR part 4700).

OMB Control Number: 1004–0042; Form Number BLM 4710–10.

Abstract: The BLM manages the wild free-roaming horse and burro program on public lands according to the regulations at 43 CFR part 4700. These regulations implement the following authorities:

(1) The Wild Free-Roaming Horse and Burro Act (16 U.S.C. 1331 *et seq.*); and

(2) The Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*).

The BLM uses this information to approve the adoption of wild free-roaming horses and burros from the public lands and to process other transactions involving adopted horses and burros.

Burden Estimate: We estimate the completion time for this form and non-form information that is submitted on occasion to the BLM by individuals and households as follows:

Burden hours information collected	Number of actions per year	Burden hours per action (minutes)	Total annual burden hours
A Application for private maintenance.	14,000	30	7,000
B Supporting information and certification for private maintenance of more than 4 wild horses or burros.	12	10	2

Burden hours information collected	Number of actions per year	Burden hours per action (minutes)	Total annual burden hours
C Request to terminate Private Maintenance and Care Agreement.	320	30	160
D Request for replacement animals.	120	30	60
Total	14,452		7,222

Annual Responses: 14,452.
Application Fee Per Response: 0.
Non-hour Cost Burden: $7,200
Annual Burden Hours: 7,222.

Dated: October 24, 2007.

Ted R. Hudson,

Acting Chief, Division of Regulatory Affairs.

[FR Doc. E7–21261 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[HE–952–9911–EK–24 1A]

Submission to Office of Management and Budget—Information Collection, OMB Control Number 1004–0179

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) has submitted a request for an extension of an approved information collection to the Office of Management and Budget (OMB) for approval.

DATES: The OMB is required to respond to this request within 60 days but may respond after 30 days. Submit your comments to OMB at the address below by November 28, 2007 to receive maximum consideration.

ADDRESSES: Send comments to the OMB, Interior Department Desk Officer (1004–0179), at OMB–OIRA via e-mail *OIRA_DOCKET@omb.eop.gov* or via facsimile at (202) 395–6566. Also please send a copy of your comments to BLM via Internet and include your name, address, and ATTN: 1004–0179 in your Internet message to *comments_washington@blm.gov* or via mail to: U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401LS, 1849 C Street, NW., ATTN: Bureau Information Collection Clearance Officer (WO–630), Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You may contact Ted Hudson to obtain copies and explanatory material on this information collection at (202) 452–5042. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Hudson.

SUPPLEMENTARY INFORMATION: On June 21, 2006, the BLM published a notice in the **Federal Register** (71 FR 35694) requesting comments on the information collection. The comment period closed on August 21, 2006. The BLM did not receive any comments.

We are soliciting comments on the following:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

Title: Helium Contracts (43 CFR part 3195).

OMB Control Number: 1004–0179.

Abstract: The BLM collects and uses the information from entities interested in purchasing and selling Federal helium. The respondents are Federal agencies and helium suppliers (contractors) who purchase major helium requirements and report to the BLM the sales information. The authority for this activity is 50 U.S.C. 167a.

Burden Estimate Per Form: We estimate the completion time for this form and non-form information that is submitted initially and quarterly, respectively, to the BLM by the private sector as follows:

Burden hours information collected	Number of actions per year	Burden hours per action	Total annual burden hours
A In-Kind Crude Helium Sales Contract (Filed once)	8	4	32
B Quarterly Non-form Reporting of Sales Information	32	4	128
Total	40		160

Annual Responses: 40.
Application Fee Per Response: 0.
Annual Burden Hours: 160.

Dated: October 24, 2007.

Ted R. Hudson,

Acting Chief, Division of Regulatory Affairs.

[FR Doc. E7–21262 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; N–83588; 7–08807]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior proposes to withdraw approximately 58.65 acres of public land from location and entry under the United States mining laws for a period of 20 years to protect Porter Spring, in Pershing County, Nevada. This notice segregates the land from location and entry under the United States mining laws for up to 2 years while various studies and

analyses are made to support a final decision on the withdrawal application.

DATES: Comments and requests for a public meeting must be received by January 28, 2008.

ADDRESSES: Comments and meeting requests should be sent to the Field Manager, BLM, Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445.

FOR FURTHER INFORMATION CONTACT: Jacqueline M. Gratton, BLM Nevada State Office, 775–861–6532.

SUPPLEMENTARY INFORMATION: The applicant is the Bureau of Land Management (BLM) at the address stated above. The application requests the Secretary of the Interior to withdraw, for a period of 20 years and subject to valid existing rights, the following described public land from location and entry under the United States mining laws, but not the mineral leasing laws:

Mount Diablo Meridian

T. 29 N., R. 28 E.,
Sec. 5, S½ of lot 3 and SE¼NW¼.

The area described contains approximately 58.65 acres in Pershing County.

The BLM petition/application has been approved by the Assistant Secretary, Land and Minerals Management. Therefore, it constitutes a withdrawal proposal of the Secretary of the Interior (43 CFR 2310.1–3(e)).

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain non-discretionary uses that could irrevocably affect migratory bird habitat.

There are no suitable alternative sites, since the land described contains the resources that need protection.

No water rights will be needed to fulfill the purpose of the withdrawal.

The potential for locatable minerals is considered to be low.

The purpose of the withdrawal is to protect spring water quality and quantity, to preserve the existing trees and riparian vegetation, to maintain and improve migratory bird habitat, and to maintain and encourage use of a valuable recreation site. Porter Spring is an important stopover for migratory birds traveling to and from Central and South America.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

Records relating to the application may be examined by interested parties at the address of the BLM office stated above.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Winnemucca Field Office, at the address noted above. Facsimiles, telephone calls, and electronic mails are unacceptable means of notification.

Comments including names and street addresses of respondents will be available for public review at the Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada, during regular business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comments be advised 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.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM Winnemucca Field Manager no later than January 28, 2008. If the authorized officer determines that a public meeting will be held, a notice of the time, place, and date will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the public land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of the authorized officer of the BLM during the segregative period.

Authority: 43 CFR 2310.3–1(a).

Dated: October 23, 2007.

Michael R. Holbert,

Deputy State Director, Natural Resources, Lands, and Planning.

[FR Doc. E7–21259 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 13, 2007. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 13, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

FLORIDA

Miami-Dade County

Homestead Historic Downtown District, Bounded by NW. 4th St., S. Railroad Ave., SE. 1st Rd. & N Krome Dr., Homestead, 07001199.

Sarasota County

Revere Quality Institute House, (Sarasota School of Architecture MPS) 100 Ogden Ln., Sarasota, 07001200.

GEORGIA

Henry County

McDonough Historic District, Centered on Griffin St. and Keys Ferry St., McDonough, 07001201.

MASSACHUSETTS

Worcester County

Goldberg Building, (Worcester MRA) 97–103 Water St., Worcester, 07001202.

NEW YORK

Erie County

Howell, Edgar W., House, 52 Lexington Ave., Buffalo, 07001203.

Genesee County

Machpelah Cemetery, North St., LeRoy, 07001204.

Schenectady County

Niskayuna Railroad Station, River Rd., Niskayuna, 07001205.

PENNSYLVANIA

Pike County

Metz Ice Plant, Harford St., Milford, 07001206.

SOUTH CAROLINA

Spartanburg County

Pacolet Mills Historic District, Roughly bounded by Brewster, Millikin, Walker, Montgomery & Moore Sts. & Granite Ave., Pacolet, 07001207.

SOUTH DAKOTA

Brookings County

Pioneer Park Bandshell, (Federal Relief Construction in South Dakota MPS) SW corner Jct. U.S. 14 & 1st Ave., Brookings, 07001208.

Charles Mix County

Wagner House, 29649 401st. Ave., Wagner, 07001209.

Clay County

Colton House, 402 S University St., Vermillion, 07001210.

Hand County

Jones, Mack, House, (Lustron Houses in South Dakota MPS) 315 E 3rd Ave., Miller, 07001211.

Kingsbury County

Stark and Blanch Garage, 204 S Main, Arlington, 07001212.

Meade County

Covered Wagon Resort, 14189 Cty.Rd. 79, Piedmont, 07001213.

Minnehaha County

L & A Baking Company, 910 N Main Ave., Sioux Falls, 07001214.

Union County

Nora Store, 30705 475th Ave., Alcester, 07001215.

Yankton County

Hoffman House,
307 Green St., Yankton, 07001216.

VIRGINIA

Emporia Independent City

Hicksford—Emporia Historic District, S Main St. & Brunswick Ave., Emporia (Independent City), 07001217.

WISCONSIN

Door County

JOYS (Shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS), 500 ft. W of Sunset Park, Sturgeon Bay, 07001218.

Racine County

KATE KELLY (Shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS) L. Michigan, 2 mi. E of Wind Pt., Wind Point, 07001219.

A request to MOVE has been made for the following resource:

ARKANSAS

Jefferson County

McDonald's Store #433 Sign, 1300 S Main St., Pine Bluff, 06000411.

A request for REMOVAL has been made for the following resources:

TENNESSEE

Greene County

Wayside, E of Greeneville off U.S. 411, Greeneville, 85003543.

Shelby County

First Methodist Church, 204 N 2nd St., Memphis, 76001804.
Gartley-Ramsay Hospital, 696 Jackson Ave., Memphis, 84003700.
Guthrie Elementary School, 951 Chelsea Ave., Memphis, 82004043.
Hill, A.B., Elementary School, 1372 Latham St., Memphis, 80004044.
Lauderdale Walker Elementary School, 995 S. Lauderdale St., Memphis, 82004046.
Linden Station and Reichman—Crosby Warehouse, 245, 281, 291 Wagner Pl., Memphis, 78002634.
Maury Elementary School, 272 N Bellevue, Memphis, 82004047.
Memphis Street Railway Company Office and Streetcar Complex, 821 Beale St., Memphis, 82004048.
Pope, Leroy, Elementary School, 190 Chelsea Ave., Memphis, 82005397.
Veterans Administration Hospital Complex, No. 88—Memphis, 1025 E.H. Crump Blvd. E., Memphis, 95001371.

[FR Doc. E7–21111 Filed 10–26–07; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–021]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 2, 2007 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–452 and 731–TA–1129–1130 (Preliminary) (Raw Flexible Magnets from China and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determinations to the Secretary of Commerce on or before November 5, 2007; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before November 13, 2007.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 25, 2007.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–21286 Filed 10–26–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0035]

Criminal Justice Information Services Division; National Instant Criminal Background Check System Section; Agency Information Collection Activities: Existing Collection, Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Approval of an existing collection; The National Instant Criminal Background Check System (NICS) State Point of Contact (POC) Final Determination Electronic Submission.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division's NICS Section will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 28, 2007. This process is conducted in accordance with Title 5, Code of Federal Regulations (CFR), Section 1320.10.

If you have comments (especially on the estimated public burden or associated response time), suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Natalie N. Snider, Management and Program Analyst, Federal Bureau of Investigation, Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile at (304) 625–7540.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

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

(2) 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.

Overview of this information:

(1) *Type of Information Collection:* Approval of an Existing Collection.

(2) *Title of the Forms:* The National Instant Criminal Background Check System (NICS) State Point of Contact (POC) Final Determination Electronic Submission.

(3) *Agency Form Number, if any, and the applicable component of the department sponsoring the collection:*

Form Number: 1110–0035.

Sponsor: Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

(4) *Affected Public who will be asked or required to respond, as well as a brief abstract:*

Primary: Full State Points of Contact (POC) , Partial-POCs, Alternate Permit State POCs.

Brief Abstract: This collection is requested of Full State Points of Contact (POCs), Partial POCs, and Alternate Permit State POCs. Per 28 Code of Federal Regulations, Section 25.6(h), POC States are required to transmit electronic determination messages to the Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division's National Instant Criminal Background Check System (NICS) Section of the status of a firearm background check in those instances in which a transaction is ''open'' (transactions unresolved before the end of the operational day on which the transaction was initiated); ''denied'' transactions; transactions reported to the NICS as open and subsequently changed to proceed; and overturned denials. The State POC must communicate this response to the NICS immediately upon communicating their determination to the Federal Firearms Licensee or in those cases in which a response has not been communicated, no later than the end of the operational day in which the transaction was initiated. For those responses that are not received, the NICS will assume the transaction resulted in a ''proceed.''

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

There are 21 State POCs and ten Alternate Permit State POCs who conduct an average of 4,312,811 transactions per year. It is estimated that 26 percent would be affected by this collection and would require electronic messages sent to the NICS. This translates to 1,121,331 transactions, which would be the total number of annual responses. The other 74 percent would not be reported in this collection. It will require one minute (60 seconds) for each POC State to transmit the information per transaction to the NICS. Thus, it is estimated that collectively all respondents will spend 18,689 hours yearly submitting determinations to the NICS. If the number of transactions were distributed evenly among the POC States, then 603 hours would be the estimated time for each of the 31 states to respond. Record keeping time is part of the routine business process and is not part of this calculation.

(6) *An estimate of the total public burden (in hours) associated with the collection:*

The average yearly hour burden for submitting final determinations combined is: (4,312,811 total checks × 26 percent)/60 seconds = 18,689 hours.

If additional information is required, contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: October 23, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–21257 Filed 10–26–07; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0260]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Extension of a currently approved collection: Police Public Contact Survey.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 28, 2007. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Matthew Durose, Bureau of Justice Statistics, 810 Seventh Street, NW., Washington DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Police Public Contact Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Not applicable. Survey will be conducted in computer-assisted personal interviewing (CAPI) environment. Bureau of Justice Statistics, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Eligible respondents to the survey must be age 16 or older. The Police Public Contact Survey fulfills the mandate set forth by the Violent Crime Control and Law Enforcement Act of 1994 to collect, evaluate, and publish data on the use of excessive force by law enforcement personnel. The survey will be conducted as a supplement to the National Crime Victimization Survey in all sample households for a six (6) month period. Other: None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* A total of approximately 74,317 persons will be eligible for the PPCS questions during July through December 2008. Of the 74,317 persons, we expect approximately 80 percent or 59,231 persons will complete a PPCS interview. Of those persons interviewed for the PPCS, we estimate approximately 81.5 percent or 48,272 persons will complete only the first two (contact screener questions) survey questions. The estimated time to read the introductory statement and administer the first two contact screener questions to the respondents is approximately .025 hours (1.5 minutes) per person. Furthermore, we estimate that the remaining 18.5 percent of the interviewed persons or 10,958 persons will report contact with the police. The estimated time required to ask the detailed questions regarding the nature of the contact is estimated to take an average of .167 hours (10 minutes). Respondents will be asked to respond to this survey only once during the six month period.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 3,037 hours.

If Additional Information is Required Contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 23, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E7–21258 Filed 10–26–07; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,277]

Volt Technical Resources, LLC, Loveland, CO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 10, 2007 in response to a petition filed by a company official on behalf of workers of Volt Technical Resources, LLC, Loveland, Colorado.

All workers of the subject firm are covered by a certification of eligibility to apply for worker adjustment assistance and alternative trade adjustment assistance under amended petition number TA–W–60,023, that does not expire until October 27, 2008.

Consequently, further investigation in this case would serve no purpose and the investigation under this petition has been terminated.

Signed at Washington, DC, this 19th day of October 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–21183 Filed 10–26–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Submission for OMB Review: Comment Request

The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 [Pub. L. 104–13, 44 U.S.C. Chapter 35]. Copies of this ICR, with applicable supporting documentation, may be obtained by contacting Sunil Iyengar via telephone at 202–682–5424 (this is not a toll-free number) or e-mail at *research@arts.endow.gov.* Individuals who use a telecommunications device for the deaf (TTY/TDD) may call 202–682–5496 between 10 a.m. and 4 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316, within 30 days from the date of this publication in the **Federal Register**.

The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Agency: National Endowment for the Arts.

Title: The Big Read Audio Guide Distribution Project.

OMB Number: New.

Frequency: One time.

Affected Public: Public libraries.

Estimated Number of Respondents: 13,965.

Estimated Time Per Respondent: 3.5 minutes.

Total Burden Hours: 825.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): 0.

Description: The National Endowment for the Arts plans to conduct an evaluation to assess the Big Read Audio Guide Distribution Project. The *Big Read* is an initiative of the National Endowment for the Arts (NEA), in partnership with the Institute of Museum and Library Services (IMLS) and in cooperation with Arts Midwest, designed to revitalize the role of literature in American popular culture by providing citizens with the opportunity to read and discuss a single

book of fiction within their communities. This evaluation is aimed at assessing the distribution of Big Read Audio Guides to 16,500 public libraries across the U.S. The activities include collecting uniform data from all libraries receiving the audio guides and still keep data collection burdens to a minimum.

ADDRESSES: Sunil Iyengar, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 616, Washington, DC 20506–0001, telephone (202) 682–5424 (this is not a toll-free number), fax 202/682–5677.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. E7–21165 Filed 10–26–07; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–528; 50–529, 50–530; EA–07–162]

In the Matter of Arizona Public Service Company; Palo Verde Nuclear Generating Station; Confirmatory Order Modifying License (Effective Immediately)

I

Arizona Public Service Company (APS) (Licensee) is the holder of reactor operating licenses, License Nos. NPF–41, NPF–51, NPF–74, issued by the Nuclear Regulatory Commission (NRC or Commission), pursuant to 10 CFR Part 50, on June 6, 1985, April 24, 1986, and November 25, 1987. The licenses authorize the operation of Palo Verde Nuclear Generating Station (PVNGS) in accordance with conditions specified therein. The facility is located on the Licensee's site in Buckeye, Arizona. This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on August 27, 2007.

II

On November 20, 2006, the NRC Office of Investigations (OI) began an investigation (OI Case No. 4–2007–009) at PVNGS. As a result of the staff's review of the information, the NRC was concerned that a senior reactor operator (SRO), stationed as a reactor operator, appeared to have engaged in deliberate misconduct. Specifically, on November 8, 2006, the SRO had mistakenly entered an incorrect blowdown constant into the plant computer and subsequently attempted to conceal the mistake by falsifying the blowdown record. The NRC's preliminary findings were discussed in a letter to APS dated July 12, 2007. That letter identified an apparent violation of 10 CFR 50.9 that was being considered for escalated enforcement action, and identified the NRC's concern that the SRO actions may have involved willfulness in the form of deliberate misconduct. A predecisional enforcement conference had been scheduled to discuss the apparent violation. However, prior to the conference, APS requested ADR in an attempt to resolve the issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation.

On August 27, 2007, the NRC and APS met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. At the conclusion of the ADR session, APS and the NRC did reach an Agreement in Principle. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During that ADR session, a preliminary settlement agreement was reached. Pursuant to the NRC's Alternative Dispute Resolution program (ADR), the following are the terms and conditions agreed upon in principle by APS and the NRC relating to the issues described in the NRC's letter to APS dated July 12, 2007.

Whereas, APS and the NRC agree that there were two issues: (1) A licensed operator failed to self-report an error he made in entering data into a plant computer, and subsequently he attempted to conceal his error, and (2) a failure by APS to promptly notify other licensees of a potential access authorization issue with respect to this individual, in violation of NRC requirements;

Whereas, the actions of this licensed operator, though unacceptable, were of very low significance from a nuclear safety perspective;

Whereas, the actions of this licensed operator were identified by APS and APS promptly informed the NRC;

Whereas the access authorization issue is of very low safety significance;

Whereas, APS has completed corrective actions to address the issues described in the July 12, 2007, letter issued by the NRC to APS, including actions to correct the initial error made by the plant licensed operator, to reduce the likelihood of similar errors in the future, to improve Independent Verifications, to further improve the safety culture in the plant Operations Department, and to improve APS' processes for ensuring that pertinent information regarding personnel access authorization is appropriately communicated to other nuclear power plant licensees; and

Whereas, these terms and conditions shall not be binding on either party until memorialized in a confirmatory order issued by the Nuclear Regulatory Commission to APS relating to this matter.

APS planned to complete additional corrective and improvement actions with respect to these issues, and agrees to take the following actions, which will be included in a Confirmatory Order from the NRC to APS:

1. APS will develop training on these issues, using a case study. The training will focus on the importance of self-reporting errors, the importance of performing good independent verifications, and deterring individuals from concealing mistakes. APS will provide this training to its Operations Department within 6 months of the date of the Confirmatory Order.

2. APS will perform assessments of its independent verification processes in the Operations and Maintenance Departments. The assessments will be completed within 12 months of the date of the Confirmatory Order, and applicable actions resulting from the assessment will be tracked for completion. In addition, within this same time period, APS will incorporate in a Quality Assurance (QA) audit plan a follow-up assessment to ensure the actions to improve the independent verification processes were effective.

3. Within 12 months of the date of this Confirmatory Order, APS will provide training on both issues identified above to its leaders and managers. The intent of this training will be to focus leaders and managers on the importance of balancing accountability with encouraging workers to self-report errors and on the importance of communicating this with their workers, and on ensuring that potential access authorization issues are promptly addressed.

4. Within 12 months of the date of the Confirmatory Order, APS will utilize the case study identified in Item 3 in evaluating its training for new leaders with a goal towards ensuring that new leaders are sensitized to balancing accountability with encouraging workers to self-report errors, on the importance of communicating this with their workers, and on ensuring that potential access authorization issues are promptly addressed.

5. Within 6 months of the date of the Confirmatory Order, APS will conduct a follow-up safety culture review of its Operations Department, in order to determine the effectiveness of its actions to improve the safety culture in the Operations Department, and applicable actions resulting from the review will be tracked for completion.

6. Within 30 days of the date of the Confirmatory Order, APS will provide the NRC with written communication regarding the weaknesses found in its process for identifying potential access authorization issues to other licensees through the Personnel Access Data System (PADS). APS will describe its corrective actions in this letter, and will send the letter to the Document Control Desk with a copy to the Regional Administrator, NRC RIV and to the Resident Inspector at the Palo Verde Nuclear Generating Station.

7. Within 6 months of the date of the Confirmatory Order, APS will develop a generic communication for the industry in the form of an Operating Experience report regarding weaknesses it found in its process for informing other licensees of potential access authorization issues concerning individuals who resign from the plant before any disciplinary action is taken against them.

The NRC agrees not to pursue any further enforcement action in connection with the issues described in the NRC's July 12, 2007, letter to APS, including the access authorization issue described in that letter, and will not count these matters as previous enforcement for the purposes of assessing potential future enforcement action civil penalty assessments in accordance with section VI.C of the Enforcement Policy.

The NRC agrees to provide APS with 48 hours notice prior to issuance of the Confirmatory Order described in this agreement.

On October 17, 2007, APS consented to issuing this Order with the commitments, as described in section V below. APS further agreed that this Order is to be affective upon issuance and that it has waived its right to a hearing.

IV

Since APS has agreed to take additional actions to address NRC concerns, as set forth in section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to sections 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202, and 10 CFR Part 50, *It is hereby ordered,* effective immediately, that license Nos. NPF–41, NPF–51, NPF–74 are modified as follows:

1. APS will develop training on the issues described in the apparent violation identified in the NRC's letter to APS dated July 12, 2007, using a case study. The training will focus on the importance of self-reporting errors, the importance of performing good independent verifications, and deterring individuals from concealing mistakes. APS will provide this training to its Operations Department (permanent employees and contractors scheduled to work in the Operations Department for 1-year or more) within 6 months of the date of the Confirmatory Order.

2. APS will perform assessments of its independent verification processes in the Operations and Maintenance Departments. The assessments will be completed within 12 months of the date of the Confirmatory Order, and applicable actions resulting from the assessment will be tracked for completion. In addition, within this same time period, APS will incorporate in a QA audit plan a follow-up assessment to ensure the actions to improve the independent verification processes were effective.

3. Within 12 months of the date of this Confirmatory Order, APS will provide training to its leaders and managers on the two issues in this case: (1) A licensed operator failed to self-report an error he made in entering data into a plant computer, and subsequently he attempted to conceal his error, and (2) a failure by APS to promptly notify other licensees of a potential access authorization issue with respect to this individual, in violation of NRC requirements. The intent of this training will be to focus leaders and managers on the importance of balancing accountability with encouraging workers to self-report errors and on the importance of communicating this with their workers, and on ensuring that potential access authorization issues are promptly addressed.

4. Within 12 months of the date of the Confirmatory Order, APS will utilize the case study identified in Item 3 in evaluating its training for new leaders with a goal towards ensuring that new leaders are sensitized to balancing accountability with encouraging workers to self-report errors, on the importance of communicating this with their workers, and on ensuring that potential access authorization issues are promptly addressed.

5. Within 6 months of the date of the Confirmatory Order, APS will conduct a follow-up safety culture review of its Operations Department, in order to determine the effectiveness of its actions to improve the safety culture in the Operations Department, and applicable actions resulting from the review will be tracked for completion.

6. Within 30 days of the date of the Confirmatory Order, APS will provide the NRC with written communication regarding the weaknesses found in its process for identifying potential access authorization issues to other licensees through the Personnel Access Data System (PADS). APS will describe its corrective actions in this letter, and will send the letter to the Document Control Desk with a copy to the Regional Administrator, NRC RIV, and to the Resident Inspector at PVNGS.

7. Within 6 months of the date of the Confirmatory Order, APS will develop a generic communication for the industry in the form of an Operating Experience report regarding weaknesses it found in its process for informing other licensees of potential access authorization issues concerning individuals who resign from the plant before any disciplinary action is taken against them.

The Regional Administrator, NRC Region IV may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than APS, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, *Attn:* Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies also shall be sent to the Director, Office of Enforcement, U.S.

Nuclear Regulatory Commission, Washington, DC 20555–0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to APS. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309 (d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section V shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 19th day of October 2007.

For the Nuclear Regulatory Commission.

Elmo E. Collins,

Regional Administrator.

[FR Doc. E7–21212 Filed 10–26–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–07–039]

In the Matter of Mr. Mark Sharp; Confirmatory Order (Effective Immediately)

I

Mr. Mark Sharp was previously the holder of a senior operator's license pursuant to 10 CFR Part 55 granted by the Nuclear Regulatory Commission (NRC or Commission). License No. SOP–43795 (Docket No. 55–31662) was granted to Mr. Sharp on December 6, 1996, and it expired, at the request of Arizona Public Service Company, on December 11, 2006. This senior operator license allowed Mr. Sharp to direct the licensed activities of licensed operators at, and to manipulate the controls of the Palo Verde Nuclear Generating Station, Unit Nos. 1, 2 and 3. Under the provisions of 10 CFR Part 55, and while his license was in effect, Mr. Sharp was required to observe all applicable rules, regulations, and orders of the Commission.

II

On November 9, 2006, the managers at Palo Verde Nuclear Generating Station informed the NRC that Mr. Mark Sharp, a qualified senior operator, may have falsified a record related to a steam generator blowdown. Specifically, on November 8, 2006, Mr. Sharp mistakenly entered an incorrect blowdown constant into the plant computer and subsequently attempted to cover up the mistake by falsifying the blowdown record. As a result, the NRC Office of Investigations (OI), Region IV, conducted an investigation into the circumstances surrounding this matter.

Based on the results of the OI investigation, the NRC identified an apparent violation to Mr. Sharp by letter dated July 12, 2007. The letter informed Mr. Sharp that the NRC was considering the apparent violation for escalated enforcement action in accordance with the NRC Enforcement Policy. Specifically, the apparent violation involved Mr. Sharp's failure to observe license condition 10 CFR Part 55.53(d) in that he engaged in deliberate misconduct prohibited by 10 CFR 50.5 when he caused a required plant record to be inaccurate, thereby causing Arizona Public Service Company to be in violation of 10 CFR 50.9.

In the NRC's July 12, 2007, letter to Mr. Sharp, the NRC offered Mr. Sharp a choice to (1) attend a Pre-decisional Enforcement Conference, or (2) request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve any disagreement.

III

In response to the July 12 letter, Mr. Sharp requested ADR to resolve the matter with the NRC. ADR is a process in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute.

An ADR session was conducted between Mr. Mark Sharp and the NRC in Arlington, Texas, on August 21, 2007. During that ADR session, a settlement agreement was reached. The elements of the Agreement in Principle consisted of the following.

Whereas, Mr. Mark Sharp and the NRC agree that Mr. Sharp deliberately violated NRC requirements on November 8, 2006, by falsifying a steam generator blowdown log to cover up a mistake while licensed as a senior reactor operator at Palo Verde Nuclear Generating Station;

Whereas, the NRC has determined that this was an anomalous, isolated incident and is not reflective of his performance in the industry, neither NRC nor Mr. Sharp believe these factors justify or minimize the significance of deliberately falsifying a required record to cover up his mistake. NRC acknowledges Mr. Sharp's 25 years of performance in the nuclear industry without a similar incident; and

Whereas, these terms and conditions shall not be binding on either party until memorialized in a Confirmatory Order issued by the NRC to Mr. Sharp relating to this matter.

Therefore, the parties agree to the following terms and conditions:

1. Mr. Sharp will not participate in activities requiring a 10 CFR Part 55 license until items 2–4 of this agreement are completed. Mr. Sharp is not prohibited from engaging in activities related to training of operators or any other 10 CFR Part 50 regulated activities.

2. Mr. Sharp will submit a letter to the NRC Region IV Regional Administrator, to be docketed, articulating why the NRC should have confidence that he can be trusted to engage in activities under NRC jurisdiction in the future with the integrity such activities demand. This letter will be submitted within 30 days of the date of the Confirmatory Order.

3. Mr. Sharp agrees to submit an article to the ''Communicator'' (a publication of the Professional Reactor Operator Society) articulating lessons learned from this incident and emphasizing the importance of self-reporting and not covering up errors. This article will be submitted within 60 days of the date of the Confirmatory Order with a copy submitted to the NRC at least 7 days earlier.

4. Mr. Sharp agrees to prepare and submit an operating experience report to the Institute for Nuclear Power Operations regarding his actions on November 8, 2006, and the lessons learned from that experience. This report will be submitted within 60 days of the date of the Confirmatory Order

with a copy submitted to the NRC at least 7 days earlier.

5. Mr. Sharp agrees to continue to incorporate his lessons learned into the training opportunities afforded him in the nuclear industry for a minimum period of 1 year from the date of the Confirmatory Order.

6. Mr. Sharp and the NRC agree that Mr. Sharp may share the terms of this Agreement in Principle with his current workplace supervisors prior to the issuance of the Confirmatory Order.

7. The NRC agrees not to pursue any further enforcement action in connection with the NRC's July 12, 2007, letter to Mr. Mark Sharp. This does not prohibit NRC from taking enforcement action in accordance with the NRC Enforcement Policy if Mr. Sharp commits a similar violation in the future or violates this order.

On October 16, 2007, Mr. Mark Sharp consented to issuing this Order with the commitments, as described in Section V below. APS further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since Mr. Sharp has agreed to take actions to address NRC concerns, as set forth in item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Sharp's commitments as set forth in section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Sharp's commitments be confirmed by this Order. Based on the above and Mr. Sharp's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 55, *It is hereby ordered*, effective immediately, that:

1. Mr. Sharp will not participate in activities requiring a 10 CFR Part 55 license until items 2–4 below are completed. Mr. Sharp is not prohibited from engaging in activities related to training of operators or any other 10 CFR Part 50 regulated activities.

2. Mr. Sharp will submit a letter to the NRC Region IV Regional Administrator, to be included in his docket file, articulating why the NRC should have confidence that he can be trusted to engage in activities under NRC jurisdiction in the future with the integrity such activities demand. This letter will be submitted within 30 days of the date of this Confirmatory Order.

3. Mr. Sharp will submit an article to the ''Communicator'' (a publication of the Professional Reactor Operator Society) articulating lessons learned from this incident and emphasizing the importance of self-reporting and not covering up errors. This article will be submitted within 60 days of the date of this Confirmatory Order with a copy submitted to the NRC Region IV Regional Administrator at least 7 days before submission to the ''Communicator.''

4. Mr. Sharp will prepare and submit an operating experience report to the Institute for Nuclear Power Operations regarding his actions on November 8, 2006, and the lessons learned from that experience. This report will be submitted within 60 days of the date of this Confirmatory Order with a copy submitted to the NRC Region IV Regional Administrator at least 7 days before submission to the Institute.

5. Mr. Sharp will continue to incorporate his lessons learned into the training opportunities afforded him in the nuclear industry for a minimum period of one year from the date of this Confirmatory Order.

The Regional Administrator, NRC Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Sharp of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Mark Sharp, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, *Attn:* Chief, Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–4005, and to Mr. Mark Sharp. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than Mr. Sharp requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section V shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 19th day of October 2007.

For the Nuclear Regulatory Commission.

Elmo E. Collins,

Regional Administrator.

[FR Doc. E7–21211 Filed 10–26–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment (PRA) will hold a meeting on November 27, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, November 27, 2007—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the estimation of frequencies of occurrence of loss-of-coolant accidents (LOCAs) through the expert elicitation process and the frequencies of occurrence of LOCAs due to seismically-induced loads. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Officer, Mr. Girija S. Shukla (Telephone: 301–415–6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 26, 2007 (72 FR 54695).

Further information regarding this meeting can be obtained by contacting the Designated Federal Officer between 7:15 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: *October 23, 2007.*

Cayetano Santos,

Chief, Reactor Safety Branch.

[FR Doc. E7–21209 Filed 10–26–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; New Computer Matching Program Between the Office of Personnel Management and Social Security Administration

AGENCY: Office of Personnel Management (OPM).

ACTION: *Notice*—computer matching between the Office of Personnel Management and the Social Security Administration.

SUMMARY: In accordance with the Privacy Act of1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 published June 19, 1989), and OMB Circular No. A–130, revised November 28, 2000, ''Management of Federal Information Resources,'' the Office of Personnel Management (OPM) is publishing notice of its new computer matching program with the Social Security Administration (SSA).

DATES: OPM will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will begin 30 days after the **Federal Register** notice has been published or 40 days after the date of OPM's submissions of the letters to Congress and OMB, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. Subsequent matches will run until one of the parties advises the other in writing of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESSES: Send comments to Sean Hershey, Chief, Management Information Branch, Office of Personnel Management, Room 4316, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: James Sparrow on (202) 606–1803.

SUPPLEMENTARY INFORMATION:

A. General

The Privacy Act (5 U.S.C. 552a), as amended, establishes the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency for agencies participating in the matching programs;

(2) Obtain the approval of the match agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching;

(5) Verify match findings before reducing, suspending, termination or denying an individual's benefits or payments.

B. OPM Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of OPM's computer matching programs comply with the requirements of the Privacy Act, as amended.

Notice of Computer Matching Program, Office of Personnel Management (OPM) With the Social Security Administration (SSA).

A. Participating Agencies

OPM and SSA

B. Purpose of the Matching Program

The purpose of this agreement is to establish the conditions under which SSA agrees to the disclosure of tax return information to OPM. The SSA records will be used in a matching program in which OPM will match SSA's tax return records with OPM's records on disability retirees under age 60, disabled adult child survivors, certain retirees in receipt of a supplemental benefit under the Federal Employees Retirement System (FERS), and certain annuitants receiving a discontinued service retirement benefit under the Civil Service Retirement System (CSRS). By law, these annuitants and survivors are limited in the amount they can earn and still retain benefits paid to them. In the case of the discontinued service annuitants, retirement benefits cease upon re-employment in Federal service. OPM will use the SSA data to determine continued eligibility for benefits being paid.

C. Authority for Conducting the Matching Program

Chapters 83 and 84 of title 5 of the United States Code and 26 United States Code 6103(1)(11).

D. Categories of Records and Individuals Covered by the Match

SSA will disclose data from its MBR file (60–0090, Master Beneficiary Record, SSA/OEEAS) and MEF file (60–0059, Earnings Recording and Self-Employment Income System, SSA/OEEAS). OPM will provide SSA with an electronic finder file from the OPM system of records published as OPM/Central–1 (Civil Service Retirement and Insurance Records) on October 8, 1999 (64 FR 54930), as amended on May 3, 2000 (65 FR 25775). The systems of

records involved have routine uses permitting the disclosures needed to conduct this match.

E. Privacy Safeguards and Security

The Privacy Act (5 U.S.C. 552a(o)(1)(G)), requires that each matching agreement specify procedures for ensuring the administrative, technical and physical security of the records matched and the results of such programs. All Federal agencies are subject to: The Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. 3541, *et seq.*; related Office of Management and Budget circulars and memorandum (*e.g.*, OMB Circular A–130 and OMB M–06–16); National Institute of Science and Technology (NIST) directives; and the Federal Acquisition Regulations (FAR)). These laws, circulars, memoranda directives and regulations include requirements for safeguarding Federal information systems and personally identifiable information used in Federal agency business processes, as well as related reporting requirements. OPM and SSA recognize that all laws, circulars, memoranda, directives and regulations relating to the subject of this agreement and published subsequent to the effective date of this agreement must also be implemented if mandated.

FISMA requirements apply to all Federal contractors and organizations or sources that possess or use Federal information, or that operate, use, or have access to Federal information systems on behalf of an agency. OPM will be responsible for oversight and compliance of their contractors and agents. Both OPM and SSA reserve the right to conduct onsite inspection to monitor compliance with FISMA regulations.

F. Inclusive Dates of the Match

The matching program shall become effective upon the signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. E7–21139 Filed 10–26–07; 8:45 am]

BILLING CODE 6325–38–P

PRESIDIO TRUST

Notice To Terminate the Environmental Impact Statement Process, Public Museum at the Presidio; and Notice of Intent To Prepare a Supplemental Environmental Impact Statement and Conduct Scoping, Proposed Changes to the May 2002 Presidio Trust Management Plan, Main Post District

AGENCY: The Presidio Trust.

ACTION: Notice to terminate an Environmental Impact Statement Process and notice of intent to supplement an Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended (Pub. L. 91–190, 42 U.S.C. 4321 *et seq.*) and in response to public comment, the Presidio Trust (Trust) is notifying interested parties that it will: (1) Terminate the Environmental Impact Statement (EIS) process for the Presidio Museum in the Main Post district of the Presidio of San Francisco, California (Presidio), (2) supplement the final EIS for the May 2002 Presidio Trust Management Plan (PTMP) to consider proposed changes in the actions analyzed for the Main Post district in the original NEPA document; and (3) engage in a scoping process to seek public input on the supplemental EIS. The supplemental EIS will address the environmental impacts of various proposals that would modify previous Trust decisions regarding the Main Post district. The public scoping process will determine the range of actions, alternatives and impacts to be considered in the supplemental EIS.

DATES: Written comments or suggestions to assist in identifying any significant environmental issues and in determining the appropriate scope of the supplemental EIS should be submitted on or before December 15, 2007. A public meeting will be held on November 21, 2007 beginning at 6:30 p.m., at the Presidio Officers' Club (50 Moraga Avenue) to accept comments on the scope of the supplemental EIS.

ADDRESSES: Electronic comments concerning this notice should be sent to *Mainpost@presidiotrust.gov.* Written comments may be faxed to Main Post at 415.561.5308. Written comments may also be submitted to Main Post, Attn: Compliance Coordinator, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Comments previously received regarding the Presidio Museum EIS or the Presidio Lodge Environmental Assessment (EA) need not be repeated; these comments will inform the Trust's preparation of the supplemental EIS. Please be aware that all written comments and information submitted will be made available to the public, including, without limitation, any postal address, e-mail address, phone number, or other information contained in each submission.

SUPPLEMENTARY INFORMATION: In the **Federal Register** notice of August 14, 2007 (72 FR 45469), the Trust notified interested parties it was preparing an EIS for a proposed museum at the Main Post, and that the agency was seeking public input through scoping. On September 24, 2007, the Trust held a public meeting on the scope of the EIS at which 24 members of the public spoke. Before scoping ended on October 15, 2007, the Trust received 86 comment letters and electronic mails, including one petition with over 125 signatures (on file and available for public review in the Trust library). Several of the interested parties urged that the proposed museum, when viewed with other proposed actions, would have cumulatively significant impacts on the environment and should therefore be addressed in a single EIS. The Trust is responding to this public concern in its decision to supplement the final PTMP EIS in which it will assess the cumulative impacts of all reasonably foreseeable Trust actions at the Main Post. The Trust has elected to take a fresh look at this broader scope in order to better meet its NEPA compliance responsibilities and to engage more effectively the public in its decision making.

The Trust will supplement the final PTMP EIS to take into account new circumstances or information that is relevant to the Main Post. The subsequent analysis will provide a procedural framework for dealing with upcoming decisions at the Main Post. Proposed changes in the actions analyzed at the Main Post in the final PTMP EIS that will be reviewed in the supplemental EIS include the Presidio Museum, the Presidio Lodge (the EA for which is also being terminated through this notice), other potential building construction or demolition within the district, the El Presidio site, and parking and circulation improvements. The Trust intends to proceed with the

signature of the Finding of No Significant Impact (FONSI) for the Main Parade EA as well as the International Center to End Violence (Building 100) FONSI as these proposed actions are consistent with the PTMP, are independently justified, do not involve significant impacts, and would not prejudice other decisions on the Main Post.

Alternatives to be considered for analysis in the supplemental EIS include the planning concept set forth in the PTMP for the Main Post (PTMP action), an updated planning concept for the Main Post based on new information arising after the PTMP (proposed action), and minimal planning (no action). Potential impacts to be evaluated in the supplemental EIS include those on parking and traffic, visual resources, those to the National Historic Landmark district, and cumulative impacts. Compliance with Section 106 of the National Historic Preservation Act will be a component of the supplemental EIS utilizing the public input, alternatives development and assessment processes to address historic preservation requirements.

The availability of the draft supplemental EIS (expected to occur in mid 2008) for comment will be announced through an EPA-published notice in the Federal Register, through postings on the Trust's Web site at *http://www.presidio.gov* and regular electronic newsletter (Presidio E-news), as well as direct mailing to the project mailing list and other appropriate means.

FOR FURTHER INFORMATION CONTACT: John Pelka, NEPA Compliance Coordinator, 415.561.5300.

Dated: October 23, 2007.

Karen A. Cook,

General Counsel.

[FR Doc. E7–21277 Filed 10–26–07; 8:45 am]

BILLING CODE 4310–4R–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Financial Disclosure Statement: OMB 3220–0127 Under Section 10 of the Railroad Retirement Act and Section 2(d) of the Railroad Unemployment Insurance Act, the RRB may recover overpayments of annuities, pensions, death benefits, unemployment benefits, and sickness benefits that were made erroneously. An overpayment may be waived if the beneficiary was not at fault in causing the overpayment and recovery would cause financial hardship. The regulations for the recovery and waiver of erroneous payments are contained in 20 CFR parts 255 and 340.

The RRB utilizes Form DR–423, Financial Disclosure Statement, to obtain information about the overpaid beneficiary's income, debts, and expenses if that person indicates that (s)he cannot make restitution for the overpayment. The information is used to determine if the overpayment should be waived as wholly or partially uncollectible. If waiver is denied, the information is used to determine the size and frequency of installment payments. The beneficiary is made aware of the overpayment by letter and is offered a variety of methods for recovery. One response is requested of each respondent. Completion is voluntary. However, failure to provide the requested information may result in a denial of the waiver request. The RRB proposes to revise Form DR–423 to delete items requesting the railroad employee's Social Security Number and their spouses Social Security Number. Non-burden impacting formatting and editorial changes are also proposed.

The estimated annual respondent burden is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form #(s)	Annual responses	Time (Min)	Burden (Hrs)
DR–423	1,200	85	1,700

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–21201 Filed 10–26–07; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

Title and Purpose of information collection:

Representative Payee Parental Custody Monitoring: OMB 3220–0176. Under Section 12(a) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) is authorized to select, make payments to, and to conduct transactions with, a beneficiary's relative or some other person willing to act on behalf of the beneficiary as a representative payee. The RRB is responsible for determining if direct payment to the beneficiary or payment to a representative payee would best serve the beneficiary's interest. Inherent in the RRB's authorization to select a representative payee is the responsibility to monitor the payee to assure that the beneficiary's interests are protected. The RRB utilizes Form G–99d, Parental Custody Report, to obtain information needed to verify that a parent-for-child representative payee still has custody of the child. One response is required from each respondent. The RRB proposes no changes to Form G–99d.

The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (min)	Burden (hrs)
G–99d	1,030	5	86

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–21205 Filed 10–26–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56686; File No. SR–NYSE–2007–53]

Self-Regulatory Organizations; The New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendments Nos. 1 and 2 Thereto, To Amend NYSE Rule 342.13 (''Acceptability of Supervisors'')

October 23, 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 June 20, 2007, The New York Stock Exchange LLC (''NYSE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by NYSE. On September 27, 2007, NYSE filed Amendment No. 1 to the proposed rule change.[3] On October 15, 2007, NYSE filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing this proposed rule change to amend NYSE Rule 342.13 (''Acceptability of Supervisors'') to eliminate the current requirement in that rule that the General Securities Principal Examination (''Series 24 Examination'') be passed after July 1, 2001 in order to be recognized by the Exchange as an acceptable alternative to the General Securities Sales Supervisor Qualification Examination (''Series 9/10 Examination'').

The text of the proposed rule change is available on NYSE's Web site (*http://www.nyse.com*), at NYSE, and at the Commission's public reference room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE 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 342 (''Offices—Approval, Supervision and Control'') prescribes the Exchange's general supervisory requirements for member organizations. Among these requirements, Rule 342.13 (''Acceptability of Supervisors'') prescribes the Exchange's qualification standards for personnel delegated supervisory responsibility. Prior to 2001, this provision provided, in part, that a person delegated supervisory responsibility must pass the General Securities Sales Supervisor Qualification Examination (''Series 9/10 Examination'') or an historical equivalent (*e.g.*, the Series 8 Examination).

In 2002, the Exchange amended Rule 342.13[5] to recognize the National Association of Securities Dealers, Inc. (''NASD'')'s[6] General Securities Principal Examination (''Series 24 Examination''), if taken and passed after July 1, 2001, as an alternative to the Series 9/10 Examination requirement for persons whose duties do not include supervision of options or municipal securities sales activities.[7] When proposing this amendment, the Exchange represented that NASD, as of July 2, 2001, had enhanced the Series 24 Examination by including test questions sufficient to provide appropriate coverage of the NYSE Rules. The Commission approved the proposed rule change on October 17, 2002.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

[5] *See* Securities Exchange Act Release No. 46425 (August 28, 2002), 67 56863 (September 5, 2002) (SR–NYSE–2002–24).

[6] NASD is now know as the Financial Industry Regulatory Authority, Inc. (''FINRA'').

[7] The Series 24 Examination does not address these activities.

[8] *See* Securities Exchange Act Release No. 46631 (October 9, 2002), 67 FR 64187 (October 17, 2002)

Continued

The Exchange is now proposing to amend Rule 342.13 to eliminate the requirement that the Series 24 Examination be passed after July 1, 2001 in order for it to be recognized by the Exchange as an acceptable alternative to the Series 9/10 Examination. The proposed amendment to Rule 342.13 would simply provide that ''[t]he General Securities Principal Examination (Series 24) is an acceptable alternative for persons whose duties do not include the supervision of options or municipal securities sales activity.'' [9]

The Exchange's rationale for the proposed amendment is that persons who took the Series 24 Examination prior to July 1, 2001 have been subject to regulatory and firm element continuing education,[10] which the Exchange believes provides ongoing practical training with respect to current regulatory requirements, including NYSE Rules, applicable to duties and responsibilities of those persons. Further, the NYSE and the NASD rulebooks have converged significantly in the last six years. Thus, the persons who took the Series 24 prior to July 1, 2001 have been subject to regulatory standards that have, to a large degree, been harmonized.[11] Therefore, the July 1, 2001 cut-off date is no longer necessary or appropriate as FINRA works towards achieving a single rulebook.

The proposed amendment is consistent with the Exchange's and FINRA's continuing Rule Harmonization Initiative [12] in that it would more closely align the requirements under Rule 342.13 with the corresponding supervisory requirements under FINRA's regulatory scheme.[13] The purpose of the Rule Harmonization Initiative is to achieve, to the extent practicable, substantive harmonization of the two regulatory schemes in an effort to reduce regulatory duplication and streamline regulation of self-regulatory organizations.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act [14] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public interest.

NYSE believes the proposed amendment would bring the NYSE regulatory scheme into greater harmony with that of FINRA, consistent with the goal of reducing regulatory duplication, by eliminating the requirement that the Series 24 Examination be passed after July 1, 2001 in order to be recognized by the Exchange as an acceptable alternative to the Series 9/10 Examination for persons whose duties do not include supervision of options or municipal securities sales activities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

While no comments were solicited or received in response to this filing, it is noted that the Commission received a comment letter in response to SR–NYSE–2007–41, which eliminated the Securities Manager Examination (Series 12).[15] The comment letter raised the issue as to why July 1, 2001 is used as the starting point for recognition by the NYSE of the Series 24 Examination. As more fully discussed in the Purpose section of this filing, the proposed rule change responds to this issue by eliminating the date demarcation, since the Exchange believes it no longer serves a compelling regulatory purpose.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–53. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

(order approving SR–NYSE–2002–24). *See also* NYSE Information Memo 02–51 (November 12, 2002).

[9] Prospectively, persons may continue to qualify to supervise options or municipal securities sales activity by taking and passing the Series 24 Examination and also taking and passing the Registered Options Principal (Series 4) and/or Municipal Securities Principal (Series 53) Examinations.

[10] *See* NYSE Rule 345A.

[11] Convergence between the NYSE Rules and FINRA Rules has included, in part, standards relating to anti-money laundering, supervision, research and internal controls, etc.

[12] In anticipation of the approval of the NYSE-Archipelago Holdings, Inc. (''Arca'') merger by the Commission, the Exchange agreed to initiate a comparison of its ''non-unique'' regulatory requirements to corresponding NASD regulatory provisions. *See* Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11253 (March 6, 2006) (order approving SR–NYSE–2005–77 relating to the NYSE's Business Combination with Arca). *See also* the Exchange's recent ''Omnibus Filing'' with the Commission, Securities Exchange Act Release No. 56142 (July 26, 2007), 72 FR 42195 (SR–NYSE–2007–22). *See also,* the Report by the Exchange on the Process of Reconciling Inconsistent Rules (February 27, 2007).

[13] *See* FINRA Rule 1022(a).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Securities Exchange Act Release No. 55670 (April 25, 2007), 72 FR 24350 (May 2, 2007).

Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–53 and should be submitted on or before November 19, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–21219 Filed 10–26–07; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0454]

Emergence Capital Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and § 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Emergence Capital Partners SBIC, L.P. proposes to provide equity/debt security financing to Krugle, Inc., 200 Middlefield Road, Suite 201, Menlo Park, CA 94025. The financing is contemplated for working capital and general corporate purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Emergence Capital Partners, L.P. and Emergence Capital Associates, L.P., all Associates of Emergence Capital Partners SBIC, L.P., own more than ten percent of Krugle, Inc., and therefore Krugle, Inc. is considered an Associate of Emergence Capital Partners SBIC, L.P. as detailed in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A. Joseph Shepard,

Associate Administrator for Investment.

[FR Doc. E7–21203 Filed 10–26–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Telegraph Hill Partners SBIC, L.P., License No. 09/79–0453; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Telegraph Hill Partners SBIC, L.P., 360 Post Street, Suite 601, San Francisco, CA 94108, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings Which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Telegraph Hill Partners SBIC, L.P. proposes to provide debt security financing to AngioScore, Inc., 5055 Brandin Court, Fremont, CA 94538. The financing is contemplated to provide AngioScore, Inc. with working capital to support the company's current operating plan.

The financing is brought within the purview of § 107.730(a) of the Regulations because Telegraph Hill Partners, L.P., Telegraph Hill Partners II, L.P. and affiliates of Telegraph Hill Partners II, L.P., Associates of Telegraph Hill Partners SBIC, L.P., collectively own more than ten percent of AngioScore, Inc., and therefore AngioScore, Inc. is considered an Associate of Telegraph Hill Partners SBIC, L.P. as defined in § 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: October 10, 2007.

A. Joseph Shepard,

Associate Administrator for Investment.

[FR Doc. E7–21210 Filed 10–26–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11076 and # 11077]

Texas Disaster # TX–00267

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas dated 10/22/2007.

Incident: Hurricane Humberto.

Incident Period: 09/12/2007 through 09/13/2007.

DATES: *Effective Date:* 10/22/2007.

Physical Loan Application Deadline Date: 12/21/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 07/22/2008.

ADDRESSES: Submit completed loan applications to U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Galveston, Jefferson.

Contiguous Counties: Texas: Brazoria, Chambers, Hardin, Harris, Liberty, Orange.

Louisiana: Cameron.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	6.250
Homeowners Without Credit Available Elsewhere	3.125
Businesses With Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11076 8 and for economic injury is 11077 0.

The States which received an EIDL Declaration # are Texas; Louisiana.

[16] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 22, 2007.

Steven C. Preston,

Administrator.

[FR Doc. E7–21246 Filed 10–26–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5913]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

SUMMARY: The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 ''C'' Street, NW., Washington, DC, December 3–4, 2007, in Conference Room 1498. Prior notification and a valid government-issued photo ID (such as driver's license, passport, U.S. government or military ID) are required for entrance into the building. Members of the public planning to attend must notify Steven Galpern, Office of the Historian (202–663–1130) no later than November 29, 2007 to provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the enumerated forms of ID, please consult with Steven Galpern for acceptable alternative forms of picture identification.

The Committee will meet in open session from 1:30 p.m. through 3 p.m. on Monday, December 3, 2007, in the Department of State, 2201 ''C'' Street, NW., Washington, DC, in Conference Room 1498, to discuss declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the *Foreign Relations* series. The remainder of the Committee's sessions from 3:15 p.m. until 4:30 p.m. on Monday, December 3, 2007, and 8 a.m. until 12 p.m. on Tuesday, December 4, 2007, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series and other declassification issues. These are matters not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663–1123, (e-mail *history@state.gov*).

Dated: October 17, 2007.

Marc Susser,

Executive Secretary, Department of State.

[FR Doc. E7–21260 Filed 10–26–07; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 5964]

Shipping Coordinating Committee; Notice of Meeting

The Subcommittee on IMO Administration and Budgeting of the Shipping Coordinating Committee (SHC) will conduct an open meeting from 9:30 to noon on Friday, 9 November 2007, in Room 6103, at U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593. The purpose of the meeting is to finalize preparations for the 24th Extraordinary Session of Council, 99th Session of Council and 25th Session of the Assembly of the International Maritime Organization (IMO), which are scheduled for 15–30 November 2007, in London. Discussion will focus on papers received and draft U.S. positions.

Agenda items of particular interest include: Reports of IMO Committees; Reports on Diplomatic Conferences; IMO Work Program and Budget for 2008–2009; and Election of Members of IMO Council.

Members of the public may attend this SHC meeting up to the seating capacity of the room. Interested persons may seek information by writing: Director, National and International Standards, U.S. Coast Guard Headquarters, Commandant (CG–52), Room 1304, 2100 2nd St., SW., Washington, DC 20593 or by contacting LCDR Kevin Ferrie at (202) 372–1357 or *Kevin.B.Ferrie@uscg.mil.*

Dated: October 18, 2007.

Mark W. Skolnicki,

Executive Secretary, Shipping Coordinating, Committee, Department of State.

[FR Doc. 07–5373 Filed 10–26–07; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST—07–28901]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, 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 renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice, with a 60-day comment period soliciting comments on the following collection of information, was published on August 8, 2007 {FR Vol 72, No. 152, page 44605}. No comments were received.

DATES: Comments on this notice must be received by November 28, 2007 to: Attention DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number OST–07–28901) 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 20590–0001.
- *Hand Delivery:* West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change

to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Business Policy Division, M–61, Office of the Senior Procurement Executive, Office of the Secretary, (202) 366–4268.

SUPPLEMENTARY INFORMATION:

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

OMB Control Number: 2105–0531.

Affected Public: Schools, Hospitals and other Nonprofit Organizations applying for or receiving assistance from the Department of Transportation.

Annual Estimated Burden: 10,500 hours. There is no change to the annual estimated burden.

Abstract: The requested extension of the approved control number covers only those DOT programs that utilize the standard OMB forms SF 269, SF 270, SF 271, 272 and SF 424.

Comments are invited on: (a) 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; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) 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. All responses to this notice will be summarized and included in the request for OMB approval.

Issued in Washington, DC, on October 23, 2007.

David J. Litman,

Senior Procurement Executive.

[FR Doc. E7–21253 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–07–28902]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, 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 renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice, with a 60-day comment period soliciting comments on the following collection of information, was published on August 8, 2007 {FR Vol 72, No. 152, page 44606}. No comments were received.

DATES: Comments on this notice must be received by November 28, 2007 to: Attention DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number OST–07–28902) 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 20590–0001.
- *Hand Delivery:* West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Business Policy Division, M–61, Office of the Senior Procurement Executive, Office of the Secretary, (202) 366–4268.

SUPPLEMENTARY INFORMATION:

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

OMB Control Number: 2105–0520.

Affected Public: Schools, Hospitals and other Nonprofit Organizations applying for or receiving assistance from the Department of Transportation.

Annual Estimated Burden: 10,500 hours. There is no change to the annual estimated burden.

Abstract: The requested extension of the approved control number covers only those DOT programs that utilize the standard OMB forms SF 269, SF 270, SF 271, 272 and SF 424.

Comments are invited on: (a) 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; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) 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. All responses to this notice will be summarized and included in the request for OMB approval.

Issued in Washington, DC, on October 24, 2007.

David J. Litman,

Senior Procurement Executive.

[FR Doc. E7–21255 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–62–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 August 15, 2007, vol. 72, no. 157, page 45863. The FAA needs this information to allocate slots and maintain accurate record of slot transfers at the High Density Traffic Airports.

DATES: Please submit comments by November 28, 2007

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: High Density Traffic Airports; Slot Allocation and Transfer Methods.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0524.

Form(s): There are no forms associated with this collection.

Affected Public: An estimated 14 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 33 minutes per response.

Estimated Annual Burden Hours: An estimated 770.5 hours annually.

Abstract: The FAA needs this information to allocate slots and maintain accurate record of slot transfers at the High Density Traffic Airports. The information will be provided by air carrier and commuter operators or other persons holding slots at High Density Traffic Airports.

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 October 22, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5318 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

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 August 15, 2007, vol. 72, no. 157, page 45864. 49 U.S.C. Sections 44702 and 44703 authorizes the issuances of airman certificates. FAR Part 65 prescribes requirements for mechanics, repairman, parachute riggers, and inspection authorizations.

DATES: Please submit comments by November 28, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certificate: Mechanic, Repairman, Parachute Rigger, and Inspection Authorization—FAR Part 65.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0022.

Forms(s): FAA form 8610–1 and FAA Form 8610–2.

Affected Public: An estimated 41,750 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 46 minutes per response.

Estimated Annual Burden Hours: An estimated 31,838 hours annually.

Abstract: 49 U.S.C. Sections 44702 and 44703 authorizes the issuances of airman certificates. FAR Part 65 prescribes requirements for mechanics, repairman, parachute riggers, and inspection authorizations. Information collection shows applicant eligibility.

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.

Dated: Issued in Washington, DC, on October 22, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5319 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Medical Standards and Certification

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 current information collection. The DOT/FAA certification

program is implemented by Title 14 CFR parts 61 and 67. The Parts prescribes minimum airman medical standards, and duration of a medical certificate.

DATES: Please submit comments by December 28, 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: Medical Standards and Certification.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0034.

Form(s): FAA Forms 8500–7, 8500–8, 8500–14, 8500–20.

Affected Public: A total of 438,682 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.46 hours per response.

Estimated Annual Burden Hours: An estimated 661,170 annually.

Abstract: The DOT/FAA certification program is implemented by Title 14 CFR parts 61 and 67. The Parts prescribes minimum airman medical standards, and duration of a medical certificate. Information collected substantiates the applicant's eligibility.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5355 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Aviation Maintenance Technical Schools

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 current information collection. The information collected is needed to determine applicant eligibility and compliance for certification of civil aviation mechanic and operation of aviation mechanic school.

DATES: Please submit comments by December 28, 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: Aviation Maintenance Technical Schools.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0040.

Form(s): FAA Form 8310–6.

Affected Public: A total of 174 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 380 hours per response.

Estimated Annual Burden Hours: An estimated 66,134 annually.

Abstract: The information collected is needed to determine applicant eligibility and compliance for certification of civil aviation mechanic and operation of aviation mechanic school.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprise Business Services Division, AES–200.

[FR Doc. 07–5356 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Flight Engineers and Flight Navigators

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 current information collection. Information collected is used to determine certification eligibility of Flight Engineers and Flight Navigators.

DATES: Please submit comments by December 28, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney6@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Flight Engineers and Flight Navigators.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0007.

Form(s): FAA form 8400–3.

Affected Public: A total of 1,036 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 30 minutes per response.

Estimated Annual Burden Hours: An estimated 505 annually.

Abstract: Information collected is used to determine certification eligibility of Flight Engineers and Flight Navigators.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5357 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Commuter Operations and General Certification and Operations Requirements

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 current information collection. The FAA will use the information collected to ensure compliance and adherence to FAR Part 135 and 121 regulations.

DATES: Please submit comments by December 28, 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: Commuter Operations and General Certification and Operations Requirements.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0593.

Form(s): FAA Form 8400–6.

Affected Public: A total of 2,445 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 4.9 hours per response.

Estimated Annual Burden Hours: An estimated 8,869 annually.

Abstract: The respondents to this information collection are FAR Part 135 and 121 operators. The FAA will use the information collected to ensure compliance and adherence to regulations.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5358 Filed 10–26–07; 8:45am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Special Federal Aviation Regulation No. 71

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 current information collection. SFAR 71 requires that part 121 and 135 air tour operators verbally brief passengers on safety, particularly related to overwater operations before each air tour flight.

DATES: Please submit comments by December 28, 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: Special Federal Aviation Regulation No. 71.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0620.

Forms(s): There are no forms associated with this collection.

Affected Public: A total of 38 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 4 minutes per response.

Estimated Annual Burden Hours: An estimated 6,667 annually.

Abstract: Special Federal Aviation Regulation (SFAR) No. 71 applies to air tour operators in Hawaii. SFAR 71 requires that part 121 and 135 air tour operators verbally brief passengers on safety, particularly related to overwater operations before each air tour flight.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5359 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Criteria for Internet Communications of Aviation Weather, Notam, and Aeronautical Data

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 current information collection. An Advisory Circular (AC) establishes criteria for Qualified Internet Communications Providers (QICP), who provide access to aviation weather, Notice to Airmen (NOTAM), and aeronautical data via the Public Internet.

DATES: Please submit comments by December 28, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

Federal Aviation Administration (FAA)

Title: Criteria for Internet Communications of Aviation Weather, Notam, and Aeronautical Data.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0672.

Forms(s): There are no forms associated with this collection.

Affected Public: A total of 10 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 274 hours per response.

Estimated Annual Burden Hours: An Estimated 2,740 annually.

Abstract: An Advisory circular (AC) establishes criteria for Qualified Internet Communications Providers (QICP), who provide access to aviation weather, Notice to Airmen (NOTAM), and aeronautical data via the Public Internet. The AC describes procedures for a provider to become and remain an FAA approved QICP, and the information collected is used to determine the provider's eligibility.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5360 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; FAA Form 1200–5, NAS Data Release Request

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 current information collection. This information enables the FAA to evaluate the validity of the user's request for National Airspace Data (NAS) data from FAA systems and equipment.

DATES: Please submit comments by December 28, 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: FAA Form 1200–5, NAS Data Release Request.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0668.

Forms(s): FAA Form 1200–5.

Affected Public: A total of 9 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 3 hours per response.

Estimated Annual Burden Hours: An estimated 27 annually.

Abstract: This information enables the FAA to evaluate the validity of the user's request for National Airspace Data (NAS) data from FAA systems and equipment.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5361 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Information

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) approval of a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 3, 2007, vol. 72, no. 127, page 36542–36543. The FAA issues Special Airworthiness Information Bulletins (SAIBs to alert, educate, and make recommendations to the aviation community and individual aircraft owners and operators about ways to improve the safety of a product.

DATES: Please submit comments by November 28, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Reporting of Information Using Special Airworthiness Information Bulletins.

Type of Request: Approval of a new collection.

OMB Control Number: 2120–XXXX.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 1,120 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 933 hour annually.

Abstract: The FAA issues Special Airworthiness Information Bulletins (SAIBs) to alert, educate, and make recommendations to the aviation community and individual aircraft owners and operators about ways to improve the safety of a product. It contains non-regulatory information and guidance that is advisory; recommended actions or inspections; and may include a request for voluntary reporting of results from those actions/inspections. This reported information is used to help the FAA assess whether a potential unsafe condition warrants issuance of an airworthiness directive (AD).

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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5362 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

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) approval of a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 9, 2007, vol. 72, no. 130, page 37305. This project involves collecting data from individual applicants who have recently taken, for the first time, and passed an oral and/or practical Airframe and/or Powerplant (A and/or P) Mechanic Certification test.

DATES: Please submit comments by November 28, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: 2008 Newly Certificated Airframe and/or Powerplant Mechanics: Assessment of the Mechanic's Practical Test Program.

Type of Request: Approval of a new collection.

OMB Control Number: 2120–XXXX.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 2,200 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 2,200 hours annually.

Abstract: This project involves collecting data from individual applicants who have recently taken, for the first time, and passed an oral and/or practical Airframe and/or Powerplant (A and/or P) Mechanic Certification test. The goal of this effort is ''to reduce the number of fatal accidents in general aviation'' by identifying areas of concerns so that the FAA may affect corrections in FAA policy, guidance material, and FAA-sponsored programs in order to improve the overall quality of the designated mechanic examiner oral and/or practical test program.

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.cop.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 October 23, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 07–5363 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership Availability in the National Parks Overflights Advisory Group Aviation Rulemaking Committee—Representatives of Environmental Concerns

ACTION: Notice.

SUMMARY: The National Park Service (NPS) and the Federal Aviation Administration (FAA), as required by the National Parks Air Tour Management Act of 2000, established the National Parks Overflights Advisory Group (NPOAG) in March 2001. The NPOAG was formed to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks. This notice informs the public of two vacancies (due to completion of membership on May 30, 2008), on the

NPOAG (now the NPOAG Aviation Rulemaking Committee (ARC)) for representatives of environmental concerns and invites interested persons to apply to fill the vacancies.

DATES: Persons interested in serving on the NPOAG ARC should contact Mr. Barry Bryer in writing and postmarked or e-mailed on or before December 5, 2007.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, AWP–1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3800, e-mail: *Barry.Brayer@faa.gov* or Karen Trevino, National Park Service, Natural Sounds Program, 1201 Oakridge Dr., Suite 100, Fort Collins, CO 80525, telephone (970) 225–3563, e-mail: *karen_Trevino@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Members of the advisory group may be allowed certain travel expenses as authorized by Section 5703 of Title 5, United States Code, for intermittent Government service.

By FAA Order No. 1110–138, signed by the FAA Administrator on October 10, 2003, the NPOAG became an Aviation Rulemaking Committee (ARC). FAA Order No. 1110–138, was amended and became effective as FAA Order No. 1110–138A, on January 20, 2006.

The current NPOAG ARC is made up of one member representing general aviation, three members representing the air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG ARC are: Heidi Williams, Aircraft Owners and Pilots Association; Alan Stephen, fixed-winged air tour operator representative; Elling Halvorson, Papillon Airways, Inc.; Matthew Zuccaro, Helicopters Association International.; Chip Dennerlein, Siskiyou Project; Greg Miller, American Hiking Society; Mark Peterson, National Audubon Society; Don Barger, National Parks Conservation Association; Rory Majenty, Hualapai Nation; and Richard Deertract, Taos Pueblo.

Public Participation in the NPOAG ARC

In order to retain balance within the NPOAG ARC, the FAA and NPS invite persons interested in serving on the ARC to represent environmental concerns, to contact Mr. Barry Brayer (contact information is written above in **FOR FURTHER INFORMATION CONTACT**). Requests to serve on the ARC must be made to Mr. Brayer in writing and postmarked or e-mailed on or before December 5, 2007. The request should indicate whether or not you are a member of an association or group related to environmental issues or concerns or have another affiliation with issues relating to aircraft flights over national parks. The request should also state what expertise you would bring to the NPOAG ARC as related to environmental concerns. The term of service for NPOAG ARc members is 3 years.

Issued in Hawthorne, CA on October 22, 2007.

Barry Brayer,

Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 07–5322 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at Klamath Falls Airport, Klamath Falls, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at Klamath Falls Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before November 28, 2007.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98057–3356.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Derek Martin, Airport Director, at the following address: Klamath Falls Airport, 6775 Arnold Avenue, Klamath Falls, OR 97603.

FOR FURTHER INFORMATION CONTACT: Ms. Trang D. Tran, Civil Engineer, Federal Aviation Administration, Northwest Mountain Region, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98057–3356.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Klamath Falls Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On October 16, 2007, the FAA determined that the request to release property at Klamath Falls Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than November 28, 2007.

The following is a brief overview of the request: Klamath Falls Airport is proposing the release of approximately 7.89 acres of airport property to the State of Oregon. The revenue generated from the land release will be used to fund Airport Improvement Projects.

Any person may inspect, by appointment, the request in person at

the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at Klamath Falls Airport.

Dated: Issued in Renton, Washington on October 16, 2007.

Trang D. Tran,

Seattle Airports District Office.

[FR Doc. 07–5321 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at Seattle Tacoma International Airport, Seattle, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at Seattle Tacoma International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before November 28, 2007.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, 1601 Lind Ave., SW., Renton, Washington 98057–3356.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Mark Reis, Airport Director, Port of Seattle, P.O. Box 68727, Seattle, Washington 98409–7322.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Johnson, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98057–3356.

This request to release property may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Seattle Tacoma International Airport, under the provisions of the AIR 21.

The Port of Seattle requests the release of 24.6 acres of airport property to the Washington Department of Transportation (WSDOT) needed for their SR 509 project alignment in exchange for 24.08 acres of WSDOT property. WSDOT has identified these properties as essential for the alignment of the planned SR 509 extension and desires to enter into an exchange agreement for land it owns near the airport.

Any person may inspect the request in person at the FAA office listed above under: **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application, in person at the Port of Seattle, Acquisition and Relocation Office, 19639 28th Ave., S., Bldg. E, SeaTac, Washington 98118–16715.

Issued in Renton, Washington on October 9, 2007.

Paul Johnson,

Compliance Specialist, Seattle Airports District Office.

[FR Doc. 07–5323 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifteenth Meeting: RTCA Special Committee 207/Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 207 Meeting, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 207, Airport Security Access Control Systems.

DATES: The meeting will be held November 16, 2007 from 9:30 a.m.–4 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 207 meeting. The agenda will include:

- *November 16:*
  - Opening Plenary Session (Welcome, Introductions, and Administrative Remarks).
  - Review of Meeting Summary.
  - Review of Workgroup Leaders Meetings.
  - Workgroups Reports.
  - *Workgroup 2:* Introduction.
  - *Workgroup 3:* Local Identity Management System.
  - *Workgroup 4:* Physical Access Control.
  - *Workgroup 5:* Intrusion Detection Systems.
  - *Workgroup 6:* Video Systems.
  - *Workgroup 7:* Security Operating Center.
  - *Workgroup 8:* Communications Infrastructure.
  - *Workgroup 9:* General Considerations.
  - *Workgroup 10:* Appendices.
  - Closing Plenary Session (Other Business, Establish Agenda, Date and Place of Following Meetings).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 22, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–5320 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 2007, there were nine applications approved. This notice also includes information on five applications, approved in August 2007, inadvertently left off the August 2007 notice. Additionally, 19 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of

the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Lebanon, New Hampshire.
Application Number: 07–05–C–00–LEB.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $140,625.
Earliest Charge Effective Date: October 1, 2007
Estimated Charge Expiration Date: April 1, 2010.
Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators—nonscheduled/on-demand commercial operators.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lebanon Municipal Airport.
Brief Description of Projects Approved for Collection and Use:
Pavement maintenance.
Preliminary design and permitting for south apron and taxiway.
Reconstruct west ramp, taxiways A and B.
Construct south apron.
PFC administration.
Decision Date: August 15, 2007.
For Further Information Contact: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: County of Montrose, Montrose, Colorado.
Application Number: 07–04–C–00–MTJ.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $914,008.
Earliest Charge Effective Date: February 1, 2008.
Estimated Charge Expiration Date: August 1, 2010.
Classes of Air Carriers Not Required to Collect PFC's: Air/taxi/commercial operators filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Montrose Regional Airport.
Brief Description of Projects Approved for Collection and Use:
Reconstruct airport access road.
PFC administration.
Decision Date: August 20, 2007.
For Further Information Contact: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Bert Mooney Airport Authority, Butte, Montana.
Application Number: 07–08–C–00–BTM.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in This Decision: $146,916.
Earliest Charge Effective Date: November 1, 2007.
Estimated Charge Expiration Date: April 1, 2009.
Class of Air Carriers Not Required to Collect PFC's: On demand, non-scheduled air taxi/commercial operators.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bert Mooney Airport.
Brief Description of Projects Approved for Collection and Use:
Rehabilitate south general aviation ramp.
Master plan update, phase IV.
Airfield sign replacement, phase II.
Drainage/erosion improvements.
South general aviation ramp expansion.
Rehabilitate air carrier taxiways (maintenance).
Rehabilitate portion of apron near aircraft rescue and firefighting building (maintenance).
Rehabilitate terminal access and loop roads (maintenance).
Decision Date: August 29, 2007.
For Further Information Contact: Dave Stelling, Helena Airports District Office, (406) 449–5257.

Public Agency: Dubuque Regional Airport Commission, Dubuque, Iowa.
Application Number: 07–09–C–00–DBQ.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $885,694.
Earliest Charge Effective Date: March 1, 2008.
Estimated Charge Expiration Date: January 1, 2013.
Class of Air Carriers Not Required To Collect PFC's: On-demand air taxi/commercial operations.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Dubuque Regional Airport.
Brief Description of Projects Approved for Collection and Use:
New terminal development—site work.
New terminal development—utility improvements.
Pavement condition index.
PFC administration.
Decision Date: August 30, 2007.
For Further Information Contact: Todd Madison, Central Region Airports Division, (816) 329–2640.

Public Agency: Gillette-Campbell County Airport Board, Gillette, Wyoming.
Application Number: 07–06–C–00–GCC.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $167,238.
Earliest Charge Effective Date: July 1, 2008.
Estimated Charge Expiration Date: March 1, 2010.
Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Gillette-Campbell County Airport.
Brief Description of Projects Approved for Collection and Use:
Construct apron.
Acquire development land.
PFC administration.
Decision Date: August 30, 2007.
For Further Information Contact: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: City of Chicago Department of Aviation, Chicago, Illinois.
Application Number: 06–19–C–00–ORD.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $1,290,509,174.
Earliest Charge Effective Date: June 1, 2016.
Estimated Charge Expiration Date: May 1, 2024.
Class of Air Carriers Not Required To Collect PFC's: Air taxi.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class

accounts for less than 1 percent of the total annual enplanements at Chicago O'Hare International Airport (ORD).

Brief Description of Project Approved for Collection at ORD and Use at ORD at a $4.50 PFC Level: Northwest and southwest land acquisition.

Brief Description of Projects Partially Approved for Collection at ORD and Use at ORD at a $4.50 PFC Level: New runway 9L/27R—construction.

Determination: The FAA concluded that the City of Chicago did not provide enough information for the FAA to determine the eligibility of the ''Balance'' line item and the north airfield facilities and American Airlines parking lot relocations. Therefore, the FAA disapproved those elements of the project.

Extension of future runway 10L/28R.

Determination: The FAA concluded that the City of Chicago did not provide enough information for the FAA to determine the eligibility of the ''Balance'' line item. Therefore the FAA disapproved that element of the project.

Future runway 10C/28C—construction.

Determination: The FAA concluded that the City of Chicago did not provide enough information for the FAA to determine the eligibility of the ''Balance'' line item and the United Airlines cargo facility, Federal Express cargo facility, El Al cargo simulator, and south airfield fueling satellite relocations. Therefore, the FAA disapproved those elements of the project.

Brief Description of Project Approved for Collection at ORD and Use at Gary/Chicago International Airport at a $3.00 PFC level: Railroad relocation and runway extension.

Decision Date: September 4, 2007.

For Further Information Contact: Amy Hanson, Chicago Airports District Office, (847) 294–7354.

Public Agency: Allegheny County Airport Authority, Pittsburgh, Pennsylvania.

Application Number: 07–05–C–00–PIT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $129,507,500.

Earliest Charge Effective Date: November 1, 2017.

Estimated Charge Expiration Date: March 1, 2023.

Class of Air Carriers Not Required To Collect PFC's: Non-scheduled, on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Pittsburgh International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Airfield pavement rehabilitation/replacement—runways 14/32 and 10R/28L; taxiways, F, F4, F5, A, Q, P, C, E, N, N4, R, S, and AA; deicing pad C, and main apron.

Airfield/terminal security upgrades phase III.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Terminal rehabilitation/upgrades, phase I.

Snow removal equipment storage building, phase II.

Fixed base operator/cargo A jet blast fence.

Decision Date: September 4, 2007.

For Further Information Contact: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

Public Agency: City of Waco, Texas.

Application Number: 07–03–C–00–ACT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $668,255.

Earliest Charge Effective Date: January 1, 2008.

Estimated Charge Expiration Date: February 1, 2010.

Class of Air Carriers Not Required To Collect PFC's: Non-scheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Waco Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate apron.

Rehabilitate parking lot.

Acquire aircraft rescue and firefighting vehicle.

Improve aircraft rescue and firefighting building.

Improve runway safety area;

Improve access road.

Improve airport drainage.

Install runway visual guidance system.

Improve passenger terminal.

Expand apron.

Strengthen runway.

Enhance airport security.

Miscellaneous planning studies.

PFC application.

Decision Date: September 12, 2007.

For Further Information Contact: Guillermo Villalobos, Texas Airports District Office, (817) 222–5657.

Public Agency: Yuma County Airport Authority, Yuma, Arizona.

Application Number: 07–02–C–00–YUM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,155,674.

Earliest Charge Effective Date: November 1, 2007.

Estimated Charge Expiration Date: January 1, 2013.

Classes of Air Carriers Not Required To Collect PFC's: (1) Non-scheduled, on-demand air carriers filing FAA Form 1800–31; (2) non-scheduled large certificated air carriers filing Research and Special Programs Administration Form T–100 with less than 500 annual enplanements at Yuma Marine Corps Air Station/Yuma International Airport (YUM).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at YUM.

Brief Description of Projects Approved for Collection and Use:

Terminal building modification (baggage screening area).

Purchase power sweeper.

Conduct environmental assessment for land acquisition.

Rehabilitate connecting taxiway F.

Construct parallel taxiway Y (runway 3L/21R).

Decision Date: September 13, 2007.

For Further Information Contact: Darlene Williams, Los Angeles Airports District Office, (301) 725–3625.

Public Agency: County of San Luis Obispo, San Luis Obispo, California.

Application Number: 07–08–C–00–SBP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $2,028,190.

Earliest Charge Effective Date: July 1, 2019.

Estimated Charge Expiration Date: January 1, 2022.

Class of Air Carriers Not Required To Collect PFC's: Non-scheduled, on-demand air carriers filing FAA Form 1800–31 (unscheduled Part 135 air taxi operators).

Determination: Approved. Based on information contained in the public

agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at San Luis County Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Environmental assessment and environmental impact report.

Runway 11/29 extension.

Land acquisition for runway 11/29 approach protection.

Engineering materials arresting system at each end of runway 11/29.

Update airport layout plan.

Aircraft rescue and firefighting mass casualty vehicle.

Decision Date: September 13, 2007.

For Further Information Contact: Ron Bianco, San Francisco Airports District Office, (650) 876–2778, extension 626.

Public Agency: Lawton Metropolitan Airport Authority, Lawton, Oklahoma.

Application Number: 07–05–C–00–LAW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $357,888.

Earliest Charge Effective Date: November 1, 2007.

Estimated Charge Expiration Date: November 1, 2009.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Drainage improvements.

Master plan update.

Fire suits.

Rehabilitate T-hanger taxiways.

Reconstruct taxiway G.

Extend taxiway G.

Rehabilitate south 2,400 feet of runway 17/35.

Rehabilitate runway 17/35.

Decision Date: September 13, 2007.

For Further Information Contact: Bill Bell, Oklahoma Airports District Office, (817) 222–5664.

Public Agency: City of Des Moines, Iowa.

Application Number: 07–10–C–00–DSM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $7,662,500.

Earliest Charge Effective Date: August 1, 2015.

Estimated Charge Expiration Date: August 1, 2017.

Class of Air Carriers Not Required To Collect PFC's: Part 135 air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Des Moines International Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal modifications for explosive detection system deployment.

Full-depth replacement—north Elliott apron.

Security gate expansion.

Master plan update/part 150 update.

Terminal enhancements.

Airport common use terminal system.

Decision Date: September 19, 2007.

For Further Information Contact: Todd Madison, Central Region Airports Division, (816) 329–2640.

Public Agency: Kenton County Airport Board, Covington, Kentucky.

Application Number: 07–11–C–00–CVG.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in This Decision: $6,478,000.

Earliest Charge Effective Date: July 1, 2015.

Estimated Charge Expiration Date: November 1, 2015.

Classes of Air Carriers Not Required To Collect PFC's: (1) Part 121 supplemental operators, which operate at the airport without an operating agreement with the Kenton County Airport Board and enplane less than 1,500 passengers a year; (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Cincinnati/Northern Kentucky International Airport.

Brief Description of Projects Approved for Collection and Use:

Upgrade terminal 2 paging/sound system.

Apron/taxiway lanes pavement rehabilitation phase 2.

Security equipment.

Deice pad 8 construction.

Decision Date: September 21, 2007.

For Further Information Contact: Cynthia Wills, Memphis Airports District Office, (901) 322–8190.

Public Agency: Jackson Municipal Airport Authority, Jackson, Mississippi.

Application Number: 07–05–C–00–JAN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $25,073,400.

Earliest Charge Effective Date: November 1, 2007.

Estimated Charge Expiration Date: March 1, 2015.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Jackson-Evers International Airport (JAN).

Brief Description of Projects Approved for Collection and Use:

Passenger jet bridges (gates 17 and 19).

Access control security project.

Rehabilitation of primary utility services.

Rehabilitation of energy management system and emergency power sources.

Rehabilitation of storm water infrastructure.

Master plan updates for JAN and Hawkins Field.

Pavement rehabilitation.

Rehabilitation of air carrier apron.

Interactive education training system upgrade.

Airfield lighting improvement.

Airfield signage inventory and assessment.

PFC development and implementation assistance.

Brief Description of Disapproved Project: Environmental planning and compliance actions.

Determination: The work elements contained in this project are airport operational requirements for compliance with the Federal Water Pollution Control Act of 1972. Therefore, this project is not PFC eligible.

Decision Date: September 24, 2007.

For Further Information Contact: Rans Black, Jackson Airports District Office, (601) 664–9892.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
04–07–C–03–MSY, New Orleans, LA	8/14/07	$54,339,312	$75,182,406	7/01/18	10/01/17
01–03–C–04–LIT, Little Rock, AR	8/15/07	20,988,973	18,382,528	05/01/06	07/01/05
06–05–C–01–LIT, Little Rock, AR	08/15/07	7,913,333	5,113,333	10/01/07	05/01/06
02–04–C–04–LBB, Lubbock, TX	08/28/07	1,912,978	1,429,731	11/01/04	02/01/05
06–10–C–01–PHL, Philadelphia, PA	09/05/07	83,250,000	198,950,000	02/01/21	09/01/17
93–01–C–05–EUG, Eugene, OR	09/06/07	6,256,888	4,959,717	01/01/01	01/01/01
96–02–U–02–EUG, Eugene, OR	09/07/07	NA	NA	01/01/01	01/01/01
01–04–C–01–PSC, Pasco, WA	09/17/07	1,059,136	583,057	04/01/04	11/01/03
02–05–C–01–PSC, Pasco, WA	09/18/07	1,409,000	1,222,976	02/01/06	05/01/04
00–06–C–03–COS, Colorado Springs, CO	09/19/07	3,374,865	3,299,290	09/01/03	09/01/03
02–07–C–02–COS, Colorado Springs, CO	09/19/07	5,620,814	5,583,870	11/01/04	11/01/04
00–05–C–04–PBI, West Palm Beach, FL	09/19/07	8,924,000	6,975,897	04/01/04	04/01/04
02–06–U–01–PBI, West Palm Beach, FL	09/19/07	NA	NA	04/01/04	04/01/04
06–04–C–01–CID, Cedar Rapids, IA	09/09/07	8,884,708	7,137,708	07/01/10	11/01/09
00–04–C–01–MLB, Melbourne, FL	09/20/07	592,944	824,676	11/01/01	11/01/01
95–02–C–03–LEX, Lexington, KY	09/24/07	1,082,324	500,557	12/01/03	12/01/03
07–05–C–01–PIT, Pittsburgh, PA	09/25/07	129,507,500	134,901,500	03/01/23	06/01/23
96–02–C–05–JAX, Jacksonville, FL	09/26/07	20,213,839	19,643,843	08/01/99	08/01/99
01–06–U–01–JAX, Jacksonville, FL	09/26/07	NA	NA	08/01/99	08/01/99

Issued in Washington, DC, on October 23, 2007.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 07–5352 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–0009]

Agency Information Collection Activities: Notice of Request for Renewal of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of a previously approved 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 December 28, 2007.

ADDRESSES: You may submit comments identified by Docket ID Number FHWA–2007–0009 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann Shemaka, 202–366–1575, Federal Highway Administration, 1200 New Jersey Avenue, SE., Office of Bridge Technology, HIBT–30, Washington, DC 20590, between 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highway Bridge and National Bridge Inspection Programs previously titled National Bridge Inspection Standards.

OMB Control #: 2125–0501.

Background: The Highway Bridge and National Bridge Inspection Programs require bridge inspection and reporting at regular intervals for all highway bridges greater than 20 feet in length located on public roads. Title 23, U.S.C., Section 144 defines the Highway Bridge Program. Title 23, U.S.C., Section 151 defines the National Bridge Inspection Program. They are further defined in regulation, 23 CFR 650 C, National Bridge Inspection Standards, and 23 CFR 650 D, Highway Bridge Program. Inspections of fracture critical bridges and underwater inspections are also required at prescribed intervals. The bridge inspection information that is provided to the FHWA on an annual basis is summarized on the Structure Inventory and Appraisal (SI&A) Sheet. The inspection information is used for multiple purposes, including: (1) The determination of the condition of the Nation's bridges; (2) as a basis for setting initial priorities for the replacement or rehabilitation of bridges under the Highway Bridge Program (HBP); and (3) for apportioning HBP funds to the States for bridge replacement or rehabilitation. In order to apportion funds for the HBP, the law requires that a cost to replace or rehabilitate each bridge needs to be determined. In order to determine that cost, the FHWA collects data on new and replaced bridges from the States annually. In addition, the information is used for strategic national defense needs and for preparing an annual report to Congress on the status of the Nation's highway bridges.

Respondents: 52 State highway agencies including the District of Columbia and Puerto Rico, and Federal agencies.

Estimated Average Burden per Response: The estimated average burden for each inspection is 8 hours. The estimated average burden for each cost collection report is 90 hours.

Estimated Total Annual Burden Hours: The annual burden associated with the inspection is 2,289,600 hours. The annual burden associated with the cost report is 4,680 hours for a combined annual burden of 2,294,280 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: October 23, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–21249 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Intent (for NEPA EIS); Environmental Impact Statement: Erie County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for proposed highway project: NYS Route 198 (Scajaquada Expressway) Corridor, PIN 5470.22, I–190 to NYS Route 33, City of Buffalo, Erie County, New York.

FOR FURTHER INFORMATION CONTACT: Alan E. Taylor, Regional Director, NYSDOT Region 5; 100 Seneca Street, Buffalo NY 14203, Telephone: 716–847–3238; or Amy Jackson-Grove, Acting Division Administrator, Federal Highway Administration, New York division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) will prepare an environmental impact statement (EIS) on a proposal to improve NYS Route 198 in Erie County, New York. The proposed improvement would involve the rehabilitation or reconstruction of the existing route between Interstate 190 and NYS Route 33 in the City of Buffalo for a distance of about 3.3 miles.

NYS Route 198 (the Scajaquada Expressway) is an Urban Principal Arterial Expressway on the National Highway System connecting Interstate 190 and NYS Route 33 with traffic volumes between 34,000 and 54,000 vehicles per day, a design speed of 55 mph, and grade separated interchanges. The expressway is subject to congestion (a poor Level of Service at several intersections) and accidents (higher than expected rates), with a portion of the corridor identified as having ''severe safety needs.'' There are also areas of poor pavement conditions and failing drainage systems. The expressway facility is at odds with the context of the surrounding culturally rich community resources, including a nationally renowned art gallery, an historic Olmsted-designed park, an historic cemetery, historic buildings, higher education institutions and residential neighborhoods. The expressway acts as a barrier, dividing the park and hindering the use of these resources by the community including pedestrians and bicyclists. A transportation facility is needed that balances the need to be in harmony with the surrounding community character with the need to provide safe and efficient transportation service for all modes of transportation through the affected area.

The range of alternatives will include no action and give consideration to design components derived from a previous study that investigated changing the expressway character of the existing facility by eliminating grade separated interchanges and providing design elements appropriate to an arterial including at-grade intersections with signals or roundabouts. Alternatives studied may include rehabilitation of the existing roadway, as well as full reconstruction including new curbs, highway drainage, sidewalks, bicycle paths and shared-use facilities, improved highway lighting and signing, and landscape enhancements. Areas of concern emphasized in the study will include potential environmental impacts upon the adjacent neighborhoods, parks, cultural resources, air quality and surface waters from construction, traffic and traffic noise. Additional input from Participating and Cooperating Agencies, and from the public, will be necessary before a final decision will be made regarding the full range of alternatives to be studied.

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. A series of public information meetings will be held in the City of Buffalo between November 2007 and February 2010. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comment. A formal NEPA scoping meeting will be held in the lecture hall of the main building at Medaille College, 18 Agassiz Circle, Buffalo, NY 14214 on November 28 at 6 p.m.

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 NYSDOT or FHWA at the addresses 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.

Issued on: October 17, 2007.

Amy Jackson-Grove,

Acting Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. E7–21214 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139 (I)(1). The actions relate to a proposed highway project, Wilmington Bypass, from U.S. 17 to U.S. 421 in New Hanover and Brunswick Counties, Wilmington, North Carolina. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139 (I)(1). A claim seeking judicial review of the

Federal agency actions on the highway project will be barred unless the claim is filed on or before April 28, 2008. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Clarence W. Coleman, P. E., Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Ste 410, Raleigh, North Carolina, 27601–1418; Telephone: (919) 856–4350 extension 133; e-mail: *clarence.coleman@fhwa.dot.gov.* FHWA North Carolina Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). You may also contact Gregory J. Thorpe, Ph.D., Project Development and Environmental Analysis Branch Manager, North Carolina Department of Transportation (NCDOT), 1 South Wilmington Street (Delivery), 1548 Mail Service Center, Raleigh, North Carolina 27699–1548; Telephone (919) 733–3141, *gthorpe@dot.state.nc.us.* NCDOT—Project Development and Environmental Analysis Branch Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of North Carolina: Wilmington Bypass, Federal Aid No. STPNHF–17(1), New Hanover and Brunswick Counties, North Carolina. The proposed action will construct 12.9 miles of a four-lane facility on new location from U.S. 17 to U.S. 421 in Wilmington, North Carolina. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on April 17, 2007, in the FHWA Record of Decision (ROD) issued on October 18, 2007, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA or NCDOT at the addresses provided above. The FHWA FEIS and ROD can be viewed at the NCDOT—Project Development and Environmental Analysis Branch, 1 South Wilmington Street, Raleigh, North Carolina; NCDOT—Division 3 Construction Engineers Office, 124 Division Drive, Wilmington, North Carolina and the Wilmington MPO Office, 305 Chestnut Street, Floor 4, Wilmington, North Carolina.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].
8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].
9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

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

Authority: 23 U.S.C. 139 (I)(1).

Issued on: October 23, 2007.

Clarence W. Coleman,

Operations Engineer, Raleigh, North Carolina.

[FR Doc. E7–21207 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping 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 June 21, 2007 [72 FR 34348].

DATES: Comments must be submitted on or before November 28, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck at the National Highway Traffic Safety Administration, Office of International Policy, Fuel Economy and Consumer Programs, 1200 New Jersey Avenue, SE., West Building, Room W43–443, Washington, DC 20590. Ms. Mazyck's telephone number is (202–366–4139).

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR Part 583-Automobile Parts Content Labeling.

OMB Number: 2127–0573.

Type of Request: Request for public comment on a previously approved collection of information.

Abstract: Part 583 establishes requirements for the disclosure of information relating to the countries of origin of the equipment of new passenger motor vehicles. This information will be used by NHTSA to determine whether manufacturers are complying with the American Automobile Labeling Act (49 U.S.C. 32304). The American Automobile Labeling Act requires all new passenger motor vehicles (including passenger cars, certain small buses, all light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or less), to bear labels providing information about domestic and foreign content of their equipment. With the affixed label on the new passenger motor vehicles, it serves as an aid to potential purchasers in the selection of new passenger motor vehicles by providing them with information about the value of the U.S. Canadian and foreign parts of each vehicle, the countries of origin of the engine and transmission, and the site of the vehicle's final assembly.

NHTSA anticipates approximately 22 vehicle manufacturers will be affected by these reporting requirements. NHTSA does not believe that any of these 22 manufacturers are a small business (*i.e.*, one that employs less than 500 persons) since each manufacturer employs more than 500 persons. Manufacturers of new passenger motor vehicles, including passenger cars, certain small buses, and light trucks with a gross vehicle weight rating of 8,500 pounds or less, must file a report annually.

Affected Public: Vehicle manufacturers.

Estimated Total Annual Burden: NHTSA estimates that the vehicle manufacturers will incur a total annual reporting hour and cost burden of 2,522 hours and $2,467,300. The amount includes annual burden hours incurred by multi-stage manufacturers and motor vehicle equipment suppliers.

There is an increase in the annual reporting and recordkeeping hour burden from 47,918 to 55,484 because the number of respondents increased from 20 to 22. There is an increase in annual reporting and recordkeeping cost burden from 2,130,850 to 2,467,300 because there will be more responses. The hour burden and cost burden published in the **Federal Register** are different due to errors in the preliminary information provided.

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 Departments 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: October 22, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–21141 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1003X]

Mohall Central Railroad, Inc.—Abandonment Exemption—in Nelson, Ramsey, and Cavalier Counties, ND

Mohall Central Railroad, Inc. (MCR), has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a 44.44-mile rail line (the Line),[1] extending from milepost 3.75, approximately 3.75 miles north of Lakota, to milepost 48.19, approximately 4.0 miles south of Munich, in Nelson, Ramsey, and Cavalier Counties, ND.[2] The line traverses United States Postal Service Zip Codes 58321, 58330, 58338, 58344, 58345, and 58352.

MCR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that would have to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 28, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

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[1] In its verified notice of exemption filed under STB Finance Docket No. 34759, *Mohall Central Railroad, Inc.—Acquisition and Operation Exemption—Rail Line of BNSF Railway Company,* MCR stated that, pursuant to an operating agreement between it and Northern Plains Railroad, Inc. (NPR), NPR would operate a 69.15-mile rail line, which includes the 44.44-mile Line, and that a track connection between NPR and the acquired line would be constructed. *In Mohall Central Railroad, Inc.—Acquisition and Operation Exemption—Rail Line of BNSF Railway Company,* STB Finance Docket No. 34759 (STB served Oct. 25, 2005) (*Mohall Central*), NPR was informed that it would need to file a request for operating authority prior to commencing operations over the line and obtain construction authority under 49 U.S.C. 10901 before building connecting track. *In Northern Plains Railroad, Inc.—Operation Exemption—Rail Line of Mohall Central Railroad, Inc.,* STB Finance Docket No. 34780 (STB served Dec. 29, 2005), NPR filed a notice of exemption to operate the line. The exemption became effective on January 28, 2006. Generally, NPR would be required to obtain discontinuance authority before MCR could abandon the Line at issue here. However, MCR provides, in its verified notice in this proceeding, a date of last service over the Line that is prior to the date that NPR obtained operating authority, which suggests that NPR never began service over the Line. Therefore, because operating authority is permissive, and NPR did not appear to begin service, MCR does not need NPR to obtain discontinuance authority before MCR seeks abandonment here.

[2] Pursuant to section 402 of the Department of Transportation and Related Agencies Appropriation Act of 1982 (Pub. L. No. 97–102, 95 Stat. 1442, 1465), the Burlington Northern Railroad Company (BN) and its successors in interest, including BNSF Railway Company (BNSF), generally are prohibited from abandoning in excess of 350 miles of rail line in North Dakota, a mileage total that has already been reached. This limitation also applies to third-party purchasers of BNSF rail lines that are subject to the limitation. Because MCR purchased the Line from BNSF, the Line normally would be subject to the 350-mile limitation. *See Mohall Central.* However, Congress amended section 402 in the Department of Transportation and Related Agencies Appropriations Act, 1992, Pub. L. 102–143, *section* 343, 105 Stat. 917, 948 (1991), narrowing the restriction on processing BNSF (or third-party purchasers of BNSF rail lines) abandonment applications so that the 350–mile limitation no longer applies to exemptions for out-of-service rail lines under 49 CFR 1152.50 in North Dakota.

issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 8, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 19, 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 MCR's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

MCR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 2, 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), MCR 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 MCR's filing of a notice of consummation by October 29, 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.*

[3] 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.

[4] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

Decided: October 23, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–21181 Filed 10–26–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Notice of Rate for Use in Federal Debt Collection and Discount and Rebate Evaluation

AGENCY: Financial Management Service, Fiscal Service, Treasury.

SUMMARY: Pursuant to section 11 of the Debt Collection Act of 1982, as amended, (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts owed to the Government. Treasury's Cash Management Requirements (TFM Volume I, Part 6, Chapter 8000) prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. In addition, 5 CFR 1315.8 of the Prompt Payment rule on ''Rebates'' requires that this rate be used in determining when agencies should pay purchase card invoices when the card issuer offers a rebate. Notice is hereby given that the applicable rate is 5.00 percent for calendar year 2008.

DATES: The rate will be in effect for the period beginning on January 1, 2008, and ending on December 31, 2008.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Agency Enterprise Solutions Division, Financial Management Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227 (Telephone: 202–874–6650).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Public Law 95–147, 91 Stat. 1227. Computed each year by averaging Treasury Tax and Loan (TT&L) investment rates for the 12-month period ending every September 30, rounded to the nearest whole percentage, for applicability effective each January 1, the rate is subject to quarterly revisions if the annual average, on a moving basis, changes by 2 percentage points. The rate in effect for the calendar year 2008 reflects the average investment rates for the 12-month period that ended September 30, 2007.

Dated: October 23, 2007.

Shery Morrow,

Assistant Commissioner, Federal Finance.

[FR Doc. 07–5368 Filed 10–26–07; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[TD 9249]

Proposed Collection; Comment Request for Regulation Project; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice and request for comments.

SUMMARY: This document contains corrections to a notice and request for comments (TD 9249) that was published in the **Federal Register** on Monday, September 17, 2007 (72 FR 52954) inviting the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

FOR FURTHER INFORMATION CONTACT: Robert Black at (202) 622–6665 (not a toll-free number), or through the internet at *Robert.G.Black@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that is the subject of the correction is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Need for Correction

As published, the comment request for TD 9249 contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the comment request for TD 9249, which was the subject of FR Doc. E7–18285, is corrected as follows:

1. On page 52954, column 2, in the preamble, under the caption ''Summary:'', lines thirteen through nineteen, the language ''existing notice of proposed rulemaking, REG–209619–93, Escrow Funds and Other Similar Funds (§§ 1.469B–1(k)(2), 1.468B–1(k)(3)(iv), 1.468B–6(e)(1), 1.468B–6(f), 1.468B–7(d), 1.468B–8(f), 1.468B–8(g)(1), 1.468B–9(c)(1), and 1.468B–9(f)(3).'' is corrected to read ''existing

notice of TD 9249, Escrow Funds and Other Similar Funds.''.

2. On page 52954, column 3, in the preamble, under the caption ''Supplementary Information:'', fourth line, the language ''*Regulation Project Number:* REG–209619–93.'' is corrected to read ''*Regulation Project Number:* TD 9249.''.

3. On page 52954, column 3, in the preamble, under the caption ''Supplementary Information:'', sixth line, the language ''*Abstract*: These regulations would amend the final regulations for qualified settlement funds (QFSs) and would provide new rules for qualified escrows and qualified trusts used in deferred section 1031 exchanges; pre-closing escrows; contingent at-closing escrows; and disputed ownership funds.'' is corrected to read ''*Abstract:* This document contains final regulations relating to the taxation and reporting of income earned on qualified settlement funds and certain other escrow accounts, trusts, and funds, and other related rules. The final regulations affect qualified settlement funds, escrow accounts established in connection with sales of property, disputed ownership funds, and the parties to these escrow accounts, trusts, and funds.''.

LaNita Van Dyke,

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

[FR Doc. E7–21138 Filed 10–26–07; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 72, No. 208
Monday, October 29, 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.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0612242886-7464-03; I.D. 041307D]

RIN 0648-AU68

Fisheries of the Exclusive Zone Off Alaska; Allocating Bering Sea/Aleutian Islands Fishery Resources; American Fisheries Act Sideboards

Correction

In rule document 07–4358 beginning on page 52668 in the issue of Friday, September 14, 2007, make the following correction:

PART 679—[AMENDED]

On page 52740, Table 33 to Part 679 is being reprinted in its entirety to read as follows:

TABLE 33 TO PART 679.—ANNUAL APPORTIONMENT OF AMENDMENT 80 SPECIES ITAC BETWEEN THE AMENDMENT 80 AND BSAI TRAWL LIMITED ACCESS SECTORS (EXCEPT YELLOWFIN SOLE)

Fishery	Management area	Year	Percentage of ITAC allocated to the Amendment 80 sector	Percentage of ITAC allocated to the BSAI trawl limited access sector
Atka Mackerel	543	All years	100	0
	542	2008	98	2
		2009	96	4
		2010	94	6
		2011	92	8
		2012 and all future years	90	10
	541/EBS	2008	98	2
		2009	96	4
		2010	94	6
		2011	92	8
		2012 and all future years	90	10
Aleutian Islands Pacific ocean perch	543	All years	98	2
	542	2008	95	5
		2009 and all future years	90	10
	541	2008	95	5
		2009 and all future years	90	10
Pacific cod	BSAI	All years	13.4	N/A

TABLE 33 TO PART 679.—ANNUAL APPORTIONMENT OF AMENDMENT 80 SPECIES ITAC BETWEEN THE AMENDMENT 80 AND BSAI TRAWL LIMITED ACCESS SECTORS (EXCEPT YELLOWFIN SOLE)—Continued

Fishery	Management area	Year	Percentage of ITAC allocated to the Amendment 80 sector	Percentage of ITAC allocated to the BSAI trawl limited access sector
Rock sole	BSAI	All years	100	0
Flathead sole	BSAI	All years	100	0

[FR Doc. C7–4358 Filed 10–26–07; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

Correction

In notice document E7–20848 beginning on page 60396 in the issue of Wednesday, October 24, 2007, make the following correction:

The above document should not have printed in the **Federal Register** of Wednesday, October 24, 2007.

[FR Doc. Z7–20848 Filed 10–26–07; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Request for Public Comments on the Review and Renegotiation of the United States–Israel Agreement on Trade in Agricultural Products

Correction

In notice document E7–20374 beginning on page 58688 in the issue of Tuesday, October 16, 2007, make the following correction:

On page 58688, in the second column, under the **ADDRESSES** heading, in the third line, ''*FR0802ustr.eop.gov*'' should read ''*FR0802@ustr.eop.gov*''.

[FR Doc. Z7–20374 Filed 10–26–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
October 29, 2007

Part II

Social Security Administration

20 CFR Parts 404, 405, and 416

Amendments to the Administrative Law Judge, Appeals Council, and Decision Review Board Appeals Levels; Proposed Rule

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2007–0044]

20 CFR Parts 404, 405, and 416

RIN 0960–AG52

Amendments to the Administrative Law Judge, Appeals Council, and Decision Review Board Appeals Levels

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to include in parts 404 and 416 of our rules many of the hearing level procedures now in place for disability cases in the Boston region. This change will expand those rules nationwide and apply them to hearings on both disability and non-disability matters. We expect these rules will make the hearings process more efficient and help us reduce the hearings backlog, which has reached historic proportions, thereby benefiting all individuals requesting a hearing. We also propose to amend our rules governing the final level of the administrative review process to make proceedings at that level more like those used by a Federal appellate court when it reviews the decision of a district court, to establish procedures for appeals to that level, and to change the name of the body that will hear such appeals from the ''Appeals Council,'' or the ''Decision Review Board'' in the Boston region, to the ''Review Board.'' Consistent with the change to a more truly appellate process, we suggest limiting the circumstances in which new evidence may be added to the record during the appeals process. We also propose circumscribing the time period covered in any subsequent administrative hearing on remand from the Review Board or a Federal court to the time period covered by the first administrative law judge's (ALJ) hearing decision in the case.

DATES: To be sure that we consider your comments, we must receive them no later than December 28, 2007.

ADDRESSES: You may submit comments by any of the following methods. Regardless of which method you choose, to ensure that we can associate your comments with the correct regulation for consideration, you must state that your comments refer to Docket No. SSA–2007–0044:

- Federal eRulemaking Portal at *http://www.regulations.gov.* (This is the preferred method for submitting your comments.) In the Search Documents section, select ''Social Security Administration'' from the agency drop-down menu, then click ''submit''. In the Docket ID Column, locate SSA–2007–0044 and then click ''Add Comments'' in the ''Comments Add/Due By'' column.
- Telefax to (410) 966–2830.
- Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703.
- Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days.

Comments are posted on the Federal eRulemaking portal, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

FOR FURTHER INFORMATION CONTACT: Brent Hillman, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041–3260, (703) 605–8280 for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

Introduction

As part of our ongoing commitment to improve the way we process claims for benefits under the old age, survivors, and disability insurance programs under title II of the Social Security Act (Act) and the supplemental security income (SSI) program under title XVI of the Act, we propose to revise the procedures at the ALJ hearing level to improve the decision-making process and change the final step in our four-tiered administrative structure for adjudicating claims for benefits. Our workloads at the ALJ hearing level have continued to grow, as have requests for review of those hearing decisions. We expect even further increases in those workloads as the baby boom generation advances through their disability-prone years. Along with our electronic disability (eDib) process, we anticipate that these changes will help us conduct hearings and issue decisions more effectively. We are continually reviewing our processes to find ways to handle these workloads more effectively, and this proposal is another step toward better service.

Our administrative procedures in parts 404 and 416 generally provide three levels of administrative review for individuals dissatisfied with the initial determination on their claims for Social Security benefits or SSI payments. First, the individual may request reconsideration, in which the State agency takes a fresh look at the initial determination. Second, the individual may request a hearing before an ALJ. Third, if the individual remains dissatisfied after the ALJ's hearing decision, our longstanding rules give the individual the right to request review of that decision by the Appeals Council. If the individual requests such a review, the Appeals Council may grant the request and issue the Agency's final decision in the case, grant the request and remand the case to an ALJ for further proceedings, or deny the request for review. If the Appeals Council denies the individual's request that it review the decision of the ALJ, the decision of the ALJ becomes our final decision.

In March 2006, we issued final rules that implemented a new administrative structure for adjudicating claims for disability benefits in the Boston region. Under those final rules in part 405 of our regulations, we provide two levels of administrative review of State agency initial determinations for individuals in the Boston region who are dissatisfied with the initial determination on their claims for Social Security benefits or SSI payments. First, the individual may request review by a Federal reviewing official. Second, if dissatisfied with the decision of the Federal reviewing official, the individual may request a hearing before an ALJ. Unless the ALJ's decision is selected for review by the Decision Review Board, as discussed below, the decision of the ALJ is our final decision in these cases.

The March 2006 final rules also implemented new ALJ hearing level procedures in the Boston region and included a new approach, the Decision Review Board, for the final level of our adjudicative structure. 70 FR 16424 (March 31, 2006). We received numerous public comments on our proposal for these new procedures, and we made various changes based on the public comments. For a discussion of the comments and our changes, see 71 FR 16424, 16428 and 16434–16437.

Our experience has been that some aspects of the new procedures have been beneficial, while others have not worked as well as we had anticipated. Having thoroughly reviewed our entire administrative adjudicative procedure, we believe that we need to modify some aspects of those procedures, extend what is working well to the rest of the country, and make changes where we

can make our processes better. In this proposed rule, we propose to retain many of the March 2006 changes we made to the hearing level because we still believe they will make the hearings more efficient and allow us to provide better service to the increasing number of individuals who have requested ALJ hearings.

On the other hand, we propose to transform the Decision Review Board and the Appeals Council into the Review Board. Although we have limited experience with the Decision Review Board at this time because it has been in operation only in the Boston region and only for the past year, we are concerned that we will have to test it for many years before we are able to determine whether to roll it out nationwide. This concern arises primarily because of the difficulties in designing a predictive model that will identify the most problematic cases. In the Boston region, we committed to 100% review of all ALJ decisions by the Decision Review Board, which we obviously would not be able to sustain in a nationwide rollout, especially at a time when the number of cases pending at the hearing level exceeds 700,000, which is higher than it has ever been in our history. Consequently, we propose to end the Decision Review Board experiment in favor of allowing traditional appeals.

In this document, we address the ALJ hearing level and the final level of our administrative adjudicative process. If we finalize these rules, we plan to use these procedures nationwide and remove the corresponding provisions in part 405 of our regulations. (Part 405 describes the disability service improvement initiative that was implemented in our March 31, 2006 final rules.)

We propose to apply to all disability and non-disability cases nationwide many of the hearing level procedures we adopted for disability claims received after July 31, 2006 in the Boston region. We also propose to replace both the Appeals Council and the Decision Review Board with a new adjudicative body to be named the ''Review Board.'' In this notice of proposed rulemaking, we have included proposed regulation language that would accomplish the substantive changes we propose. We also have included the conforming changes we believe are needed in subpart J of part 404 and subpart N of part 416 of our regulations. We recognize that additional changes of a technical or ''housekeeping'' nature will be required throughout our regulations such as replacing references to the ''Appeals Council'' with references to the ''Review Board,'' and if we adopt these proposed changes as final rules, we will make those additional changes at that time.

Submitting Evidence to the ALJ

One of the major changes that we are proposing addresses the time frames for submitting evidence to the ALJ. Our current rule states that, if possible, an individual should submit the evidence, or a summary of the evidence, within 10 days after filing the request for a hearing. In many cases, however, individuals submit evidence to us well after that time frame.

Our program experience has convinced us that the late submission of evidence to the ALJ significantly impedes our ability to issue hearing decisions in a timely manner. When new and voluminous medical evidence is presented at the hearing or shortly before the hearing, the ALJ and any other person who will be participating in the hearing, such as a medical or vocational expert, do not have the time needed to review the record and adequately prepare for the hearing. We often must reschedule the hearing, which not only delays the decision on that case, but also delays the hearings of other individuals.

To ensure individuals have adequate time in which to prepare for the hearing and meet the deadlines for submitting evidence, we propose requiring ALJs to notify an individual of the time and place of the hearing at least 75 days before the date of the hearing, unless the individual agrees to a shorter notice period. The notice of hearing also will specify the issues to be decided at the hearing. This proposed rule provides that if an individual objects to the time or place of the hearing, the individual should notify the ALJ in writing as soon as possible after receiving the notice of hearing, but no later than 30 days after receiving that notice. If the individual objects to the issues to be decided at the hearing, the individual would be required to notify the ALJ in writing at least 5 business days prior to the hearing date.

Individuals would be encouraged to submit evidence as soon as possible after they file their request for a hearing. Nevertheless, no later than 5 business days before the hearing, they must submit all of the evidence to be relied upon in a case. We believe this deadline is reasonable because we also propose to require the ALJ to notify the individual of the hearing date at least 75 days before the hearing.

The 5-day time limit for submitting evidence would be subject to exceptions, depending on when the individual attempts to present the additional evidence. If the individual requests to submit evidence within the 5 business days immediately preceding the hearing, the ALJ would accept and consider the evidence if:

1. Our action misled the individual (for example, if the wrong notice was accidentally sent to you, or you were provided misinformation over the phone);

2. The individual had a physical, mental, educational, or linguistic limitation(s) that prevented him or her from submitting the evidence earlier; or

3. Some other unusual, unexpected, or unavoidable circumstance beyond the individual's control prevented the individual from submitting the evidence earlier.

If the individual requests to submit evidence after the hearing but before the hearing decision is issued, the ALJ would accept and consider the evidence if the individual makes one of the three showings above and there is a reasonable possibility that the evidence would affect the outcome of the case.

Requesting an ALJ Hearing

Our proposed rule slightly amends the list of things we request when an individual files a written request for a hearing. Our proposed rule provides that, if disability is an issue in the case, the individual should include a statement of the medically determinable impairment(s) that he or she believes prevents him or her from working. The proposed rule also specifies that the individual should include his or her name and social security number. Like the current rule, the proposed rule provides that the individual should include the name and social security number of the wage earner under whose account the claim is filed, any evidence that is available to the individual; and the name and address of the individual's representative, if any.

Prehearing Statements and Conferences

Our proposed rule adds a provision for prehearing statements. At any time before the hearing begins, an individual could submit, or the ALJ could request the individual to submit, a prehearing statement on the issues arising in the case. In this statement, the individual should briefly discuss the issues; describe the supporting facts; identify witnesses; explain the evidentiary and legal basis upon which he or she believes the ALJ should find in his or her favor; and provide any other comments, suggestions, or information that might assist in preparing for the hearing.

Our proposed rule continues to provide for prehearing conferences. As under the current rule, the ALJ could decide on his or her own initiative or at an individual's request to conduct a prehearing conference if the ALJ believes that such a conference would facilitate the hearing or the decision in a case.

During these conferences, the ALJ would consider matters that may expedite the hearing, such as simplifying or amending issues or obtaining and submitting evidence. The ALJ would summarize in writing, or on the record at the hearing, the actions taken or to be taken as a result of the conference. The proposed rule also states that if neither the individual nor the representative appears for the prehearing conference and there is not a good reason for the failure to appear, such as a death or serious illness in your immediate family or the destruction of important records by fire or other accidental cause, the individual's hearing request might be dismissed.

The purpose of these provisions would be to ensure that each individual's hearing is as fair, timely, and comprehensive as possible. Both individuals and the Agency would have the responsibility to work toward this objective.

The main differences between our current rule on prehearing conferences and the proposed rule are the provisions for conference by telephone and the notice requirement. The proposed rule provides that prehearing conferences normally would be held by telephone, unless the ALJ were to decide that it would be more efficient and effective to conduct the prehearing conference in a different manner. Additionally, we propose to change the notice requirement to ''reasonable notice.'' It has been our experience that the current requirement (7 days notice unless the parties indicate in writing that they do not wish to receive written notice of the conference) is too rigid to accommodate many situations where a conference would be beneficial and the parties agree to the time and place of the conference.

Appearing at the ALJ Hearing

Like the current rule, this proposed rule provides that, when setting the time and place of the hearing, the ALJ would determine whether an individual would appear at the hearing in person or by video teleconference. Also like the current rule, this proposed rule provides that, if the individual who requested the hearing objects to appearing by video teleconference, the ALJ would reschedule the hearing to allow that individual to appear in person. The proposed rule differs from the current rule in that it specifies that the ALJ may direct a witness, other than the individual who requested the hearing, to appear by video teleconference if: (1) Video teleconference is available, (2) use of the technology would be more efficient than conducting an examination of a witness in person, and (3) the ALJ determines that there is no other reason why a video hearing should not be conducted. We believe that the ability to conduct hearings via video teleconference would provide us with greater flexibility in scheduling and holding hearings, improve hearing process efficiency, and extend another service delivery option to individuals requesting a hearing. Greater efficiency would be achieved through savings in ALJ travel time, faster case processing, and higher ratios of hearings held to hearings scheduled.

Our proposed rule also differs from the current rule by providing that the ALJ may direct the individual who requested the hearing to appear at the hearing by telephone under extraordinary circumstances where appearing in person is not possible and video teleconference is not available. For example, an ALJ may direct an individual who is incarcerated to appear at the hearing by telephone if the facility in which the individual is incarcerated will not allow a hearing to be held at the facility and the facility does not have video teleconference technology. The proposed rule also provides that, if the individual who requested the hearing objects to any other person appearing by telephone, the ALJ could overrule the objection.

Posthearing Conferences

Our proposed rule continues to provide for posthearing conferences. The individual could request, or the ALJ could decide, to hold a posthearing conference to facilitate the hearing decision. Like the prehearing conference proceedings, if neither the individual nor the representative were to appear at the posthearing conference and there was no good reason for failing to appear, the ALJ would make a decision based on the hearing record.

As in the prehearing conference provisions discussed above, the main differences between our current rule and the proposed rule are the provisions for conference by telephone and the notice requirement. The proposed rule provides that posthearing conferences normally would be held by telephone, unless the ALJ were to decide that it would be more efficient and effective to conduct the posthearing conference in a different manner. Additionally, we propose to change the notice requirement to ''reasonable notice,'' for the reasons discussed earlier in the section on prehearing statements and conferences.

Holding the Record Open

In addition, this proposed rule specifies that the ALJ would retain discretion at the time of the hearing to hold the record open for the submission of additional evidence. If an individual were aware of any additional evidence that the individual was unable to obtain and submit before or at the hearing or if the individual were scheduled to undergo additional medical evaluation after the hearing for any impairment that forms the basis of the case, the individual should inform the ALJ of the circumstances during the hearing. If the individual were to request additional time to submit the evidence, the ALJ could exercise discretion and choose to keep the record open for a defined period of time to give the individual the opportunity to obtain and submit the additional evidence. Once the additional evidence was received, or if no evidence was received during the defined period, the ALJ would close the record and issue a decision. The ALJ may also take other necessary action, such as holding a supplemental hearing to receive further testimony. These procedures are not new. The proposed rule merely formalizes them in our rules.

The ALJ Decision

Under our current rule, the ALJ must issue a written decision that gives the findings of fact and the reasons for the decision, may enter a wholly favorable oral decision into the record under certain circumstances, and may send a recommended decision to the Appeals Council. Our proposed rule would specify that the ALJ must explain, in clear and understandable language, the reasons for his or her decision. It would continue to allow the ALJ to enter a wholly favorable oral decision into the record under certain circumstances. It would remove the provision for recommended decisions, except on remand by direction of the Review Board. In our experience, issuance of a recommended decision is only rarely appropriate, and therefore its use should be permitted only where the Review Board directs.

The Review Board's Role

Our current regulations in parts 404 and 416 provide that an individual who is dissatisfied with the decision of the ALJ on the claim can file a request

asking the Appeals Council to review the ALJ's decision. Those regulations further provide that the Appeals Council will grant the claimant's request and review the case if there appears to be an abuse of discretion by the ALJ, if there is an error of law, if the actions, findings, or conclusions of the ALJ are not supported by substantial evidence, or if there is a broad policy or procedural issue that may affect the general public. If the Appeals Council does review the case, it may issue a decision affirming, modifying, or reversing the ALJ's decision, or it may vacate the ALJ's decision and remand the case for further proceedings. If the Appeals Council determines that the criteria for granting review are not met, however, the Appeals Council may simply deny the claimant's request for review and allow the ALJ's decision to become the final decision of the Commissioner. The Appeals Council is composed of administrative appeals judges.

Our regulations in part 405 (governing the new process applicable to certain claims in the Boston region) replaced that Appeals Council step with a new body called the Decision Review Board. A claimant has no right to ask the Decision Review Board to review the ALJ decision in his or her case. Rather, the Decision Review Board selects the decisions it will review, with an emphasis on claims where there is an increased likelihood of error or that involve the application of new policies, rules, or procedures. (Because the procedures in part 405 are so new, however, the Decision Review Board initially has been selecting all ALJ hearing decisions for review.) If the Decision Review Board selects a case for review, it may either affirm the ALJ's decision, issue a new decision that affirms, reverses, or modifies the decision of the ALJ, or remand the case to an ALJ for further proceedings. Additionally, if the Decision Review Board does not complete its action on a case within 90 days of the date the claimant received notice that the ALJ's decision would be reviewed, the decision of the ALJ becomes the final decision of the Commissioner. The Decision Review Board is composed of both administrative appeals judges and ALJs.

We propose to replace both the Appeals Council and the Decision Review Board with a new body, the Review Board. Like the Appeals Council, the Review Board members will be administrative appeals judges (as defined in 20 CFR 405.5). In contrast to our current rules for the Appeals Council and the Decision Review Board, we propose to give any party who receives a hearing decision that is unfavorable, in whole or in part, or whose request for hearing was dismissed, the right to appeal that decision or dismissal to the Review Board and have the Review Board review their case. However, we are proposing changes to make the nature of the review at that level more like the review an appellate court would give to a district court decision that has been appealed to it. These changes would focus Agency resources on correcting significant errors that change the outcome of a case and avoid further administrative proceedings that serve only to correct harmless errors in an otherwise appropriate denial of benefits.

Specifically, we propose to extend the additional evidence requirements we are proposing for the hearing level to the Review Board level, with a further restriction that additional evidence offered by the individual may be accepted by the Review Board only if there is a reasonable probability that it, alone or when considered with the other evidence of record, would change the outcome of the decision.

We also propose that the Review Board will review the factual findings of the ALJ using the substantial evidence test. Under that test, the Review Board will accept a finding of fact made by the ALJ if a reasonable mind might accept that finding as adequately supported by the evidence in the case, even if a different conclusion of fact might also be supported by the evidence. We propose that the Review Board will review any purely legal questions, such as the proper interpretation of Agency regulations or policy, as if it were considering the question for the first time, without any deference to the ALJ's conclusion on the issue. We also propose a harmless error rule the Review Board would apply when considering error either in the admission or exclusion of evidence, or error, defect, or omission in any ruling or decision of the ALJ. Under this rule, no such error would be grounds for vacating, modifying, or reversing an otherwise appropriate ruling or decision of the ALJ unless, in the opinion of the Review Board, there is a reasonable probability that the error, alone or when considered with other aspects of the case, changed the outcome of the decision. The Review Board would notify the parties in writing of its action on the appeal and would explain the basis for its action in that notice.

In any case appealed to the Review Board, we propose that the Review Board will consider that appeal and either (1) issue a new decision affirming, modifying, or reversing the decision of the ALJ, (2) remand the matter to an ALJ for further proceedings, or (3) where the Review Board has concluded that there is no significant error in the ALJ's decision and no significant legal or factual issues that warrant additional discussion, summarily affirm the decision and analysis of the ALJ without issuing a separate opinion of its own. This differs from our current rules for the Appeals Council in that, unlike the Appeals Council, the Review Board may not simply decline the individual's request that it review the ALJ's decision. In these proposed rules, we describe the procedures for appealing an ALJ's hearing decision or dismissal to the Review Board, the procedures the Review Board will follow during the appeal, the possible actions the Review Board may take, and the effect of those actions.

Our intent with these changes is to make the Review Board's role more analogous to that of an appellate court reviewing the decision of the trial court. We believe that this approach will provide individuals a full opportunity to have the Review Board address any significant error by the ALJ that the individual believes led to a wrong decision in the case, while still giving appropriate deference to the ALJ's factual findings. Because this approach would allow the Review Board to focus its efforts on significant errors that may have affected the outcome of the case, we believe this approach represents the best use of the Review Board's limited resources. Toward that end, our proposed rules encourage, but do not require, parties to include with their appeal a written statement that identifies the errors the party believes were made by the ALJ, explains why the alleged errors warrant action by the Review Board under the standards of review described above, and cites applicable law or facts to support the party's position.

Closing the Evidentiary Record at the Time of the ALJ Decision

We propose to limit a party's ability to submit new evidence to the Review Board to the same extent the final rules published March 31, 2006 limited submission of new evidence following the first ALJ decision. Specifically, we propose that following the first ALJ decision in a case (whether that decision is subsequently overturned or not), we will accept additional evidence from a party only if:

- The evidence relates to the period on or before the date of that first decision by an ALJ;

• The party shows that there is a reasonable probability that the evidence, alone or when considered with the other evidence of record, would change the outcome of the decision; and

• Either our action misled the party, the party had a physical, mental, educational, or linguistic limitation that prevented the party from submitting the evidence earlier, or some other unusual, unexpected, or unavoidable circumstance beyond the party's control prevented the earlier submission of the evidence.

The proposed rules differ somewhat from our current rules for submitting evidence to the Appeals Council. Under our current rules, the Appeals Council will accept new evidence only if it relates to the period on or before the date of the ALJ decision. The proposed rules contain the same restriction that the evidence must relate to the period on or before the date of the ALJ decision, but they also require the individual to show that there is a reasonable probability that the evidence would change the outcome of the decision and that there was some good reason, as described above, that the individual could not have submitted the evidence earlier.

This limitation would apply only to evidence offered by a party. Should the Review Board believe additional evidence is needed to decide the issues in the case, it will be able to obtain that evidence itself or remand the case to an ALJ to obtain the evidence, and any evidence so obtained would be made part of the evidentiary record.

Also, we propose to revise our rules on reopening to make them consistent with these proposed limits on an individual's ability to submit new evidence after a hearing decision or dismissal. Specifically, we propose to remove ''new and material evidence'' as a basis for reopening any decision made at the hearing or Review Board levels on a claim for benefits based on disability. We believe this change is necessary because without it, a claimant who submits additional evidence to the Review Board that does not meet the standard described above for admitting the evidence would be able to circumvent our limits simply by asking to have our final decision reopened based on the additional evidence we declined to admit.

Limiting the Period of Time Covered by the Review Board's Adjudication and Adjudication Following Administrative or Court Remands

When cases are remanded for further proceedings, either from a Federal court or the Appeals Council, our current rules allow ALJs and the Appeals Council to consider changes in the individual's condition after the date of the first ALJ decision on the claim, such as an increase in severity of the claimant's original impairment(s) or the development of a new impairment. Under our current rules, for example, when the Appeals Council grants an individual's request that it review the decision made by an ALJ and finds reasons to reverse that decision and remand the case for further proceedings, it has typically ''vacated'' the decision of the ALJ. As a result, we consider the case during the subsequent proceedings on remand as if the earlier ALJ's decision had not been issued. This same situation may arise where a Federal court remands a case for further proceedings. In practical terms, this approach allowed individuals to continue to submit evidence freely throughout the subsequent proceedings or to attempt to establish an onset of disability even after the date of the first hearing decision.

It became possible, therefore, for the final decision on remand to be based on evidence submitted well after the evidentiary record should have closed, on evidence that related to a period of time after the date of the hearing decision that was reviewed, or even on evidence of a physical or mental impairment that did not begin until after the date of the hearing decision that was reviewed. This open-ended approach is administratively very inefficient, as we often are reviewing ALJ decisions based on evidence not presented to the ALJ.

The approach we are proposing in this rule would modify that process. We believe that the first ALJ hearing decision on a claim for benefits, regardless of whether that decision becomes our final decision, generally must close both the evidentiary record (as discussed above) and the period of time within which the claimant must establish entitlement to the benefits sought. Therefore, we propose in these rules that throughout any appeal to the Review Board, and during any subsequent administrative proceedings on remand from the Review Board or a Federal court, the proceedings will consider only the claimant's eligibility for benefits on or before the date of that first ALJ hearing decision on the claim for benefits.

We believe this proposed closing of the record will not unduly disadvantage claimants. Consistent with existing policy, claimants applying for disability benefits who experience a worsening of condition or new impairments during the intervening time between the ALJ decision and the Review Board's decision—or while the case is pending on remand—may file a new claim for benefits. The average processing time for initial determinations by State agencies is currently faster than the average processing time for Appeals Council review, particularly when cases are remanded. If these proposed rules become final, we plan to modify the notices we send to claimants when their cases are denied or remanded to ensure that claimants are aware that they can file new applications. We welcome comments from the public about how we can best ensure that claimants understand their right to file new applications while prior applications are pending review.

The changes we are proposing are consistent with the governing statute. Specifically, sections 202(j) and 223(b) of the Act provide that an individual's claim for benefits may be allowed only if the claimant satisfies the requirements for ''before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Commissioner of Social Security).'' This proposed approach would be consistent with the role we envision for the Review Board, which would be to review a decision that has already been made, based on a record that has already been developed, for the precise period of time considered by the ALJ who made the decision that is being reviewed.

Removal of Special Provision for Cases Remanded by a Court

Our current rules (§§ 404.984 and 416.1484) contain a separate process for further administrative review of hearing decisions made after a remand by a Federal court. Under those rules, when a Federal court has remanded a case to the Commissioner for further proceedings, and the Appeals Council in turn has remanded the case to an ALJ, the ALJ's decision on remand becomes the final decision of the Commissioner unless, within 30 days of the date the claimant receives notice of the decision, the claimant files written exceptions asking the Appeals Council to review the ALJ's decision or, within 60 days of the date of the ALJ's decision, the Appeals Council notifies the claimant that it has taken jurisdiction of the case. That procedure replaced earlier procedures which generally required ALJs to issue recommended decisions in all court remands, even when the ALJ's decision on remand was favorable to the claimant. Our intent when we adopted the current process in 1989 was primarily to eliminate the requirement that ALJs issue recommended decisions

and thus permit favorable ALJ decisions on remand to be effectuated more quickly.

In the interests of administrative efficiency, we believe it is better to have one uniform appeal process for all of our cases. As discussed earlier, we are proposing to eliminate the option for ALJs to issue recommended decisions, except on remand by direction of the Review Board. Therefore, the rationale for our current special procedure for cases remanded by a Federal court no longer applies in cases where the ALJ's decision is favorable to the claimant. Those favorable decisions would be effectuated promptly under our proposed procedures, without the need for action by the Review Board. However, cases where the ALJ's decision on remand is unfavorable and the claimant continues to disagree are ones we believe the Review Board should see before the case goes back to court. We believe it is important to ensure that our policies have been applied consistently and that the problems identified by the court have been addressed before the case returns to Federal court. Therefore, we propose to remove §§ 404.984 and 416.1484, and instead channel any further review of these hearing decisions through the Review Board appeal process described above.

Advisory Function for Review Board

The Review Board's primary function will be to adjudicate the cases that come before it pursuant to an appeal by the claimant or when the Review Board selects the case for review on its own initiative under the procedure described in proposed §§ 404.970 and 416.1470. We anticipate that the Review Board's work also will provide its members with a unique and valuable perspective on the issues, policies, or procedures that may tend to impede the efficient and consistent adjudication of cases at all levels of our administrative adjudicative process. Therefore, we propose as an additional function of the Review Board that it may from time to time make recommendations for changes in policy or procedure that it believes may improve the efficiency and consistency of our adjudicative process. We do not intend to establish a specific process for this advisory function in the regulations themselves, as we believe the structure for such internal deliberations must be kept as flexible as possible. We currently anticipate that the Review Board would make such recommendations through the Deputy Commissioner for Disability Adjudication and Review or her designee, and would consider in its recommendations any anecdotal case experiences and any relevant statistical information that is available to the Review Board. However, we would welcome any suggestions as to how this advisory function might best be implemented.

Comparison of Current and Proposed Policy

The table below summarizes the changes we are proposing to make to the hearings and appeals provisions discussed above. In the table, we first summarize the current process and then describe the proposed process.

Topic	Current policy (outside the Boston region)	Proposed policy
Three Levels of Disability Appeals.	1. Reconsideration (except in prototype states where no reconsideration). 2. ALJ Hearing—Notify claimant at least 20 days prior to hearing. Claimant makes any ''time, place or issue'' objections ''at the earliest possible opportunity''. 3. Appeals Council.	1. Reconsideration (unchanged). 2. ALJ hearing—Notify claimant at least 75 days prior to hearing. ''Time and place'' objections no later than 30 days after receipt of notice. ''Issues'' objections at least 5 days before hearing. 3. Review Board.
Requesting an ALJ Hearing	Request must be in writing and should include the name, SSN of the wage earner; the reasons you disagree with the previous determination or decision; a statement of additional evidence to be submitted and the date it will be submitted; and the name and address of any designated representative. The request must be filed within 60 days after the date claimant receives notice of the previous determination or decision. The time can be extended. Good cause applies. The ALJ may decide case without an oral hearing if claimant waives right to appear.	Request must be in writing and should include claimant's name and SSN, the name and SSN of the wage earner if the case concerns benefits under another person's account, the specific reasons you disagree with the reconsidered determination, description of impairment (if disability), any available evidence, name and address of representative, if any. The request must be filed within 60 days after the date claimant receives notice of the reconsidered determination. The time can be extended. Good cause applies. The ALJ may decide case without an oral hearing if claimant waives right to appear.
Submitting Evidence	ALJ accepts evidence up to and including day of hearing. ALJ may choose at hearing to hold record open for a defined time period if claimant advises additional material evidence forthcoming. ALJ may hold supplemental hearing or take other action. In proceedings on remand from the Appeals Council or a Federal court, ALJ accepts evidence relating to period following first ALJ decision. Appeals Council accepts new and material evidence relating to the period on or before the date of the ALJ hearing decision.	ALJ will accept evidence submitted at least 5 business days before the hearing. ALJ will accept evidence submitted within the 5 business days before the hearing if there is good cause for late submission. ALJ will accept evidence submitted after the hearing but before the hearing decision is issued if there is good cause for late submission and there is a reasonable possibility that the evidence would affect the outcome of the case. ALJ may choose at hearing to hold record open for a defined time period if claimant advises additional material evidence forthcoming. ALJ may hold supplemental hearing or take other action. In proceedings on remand from the Review Board or a Federal court, ALJ will not accept evidence relating to period following first ALJ decision. Review Board will accept evidence only if it relates to the period on or before the date of the first ALJ decision, there is a reasonable probability that the evidence would change the outcome of the case, and there is good cause for late submission.

Topic	Current policy (outside the Boston region)	Proposed policy
Prehearing Statements and Conferences.	Claimant can submit a written summary of the case or written statements about the facts and law material to the case. ALJ can decide on his or her own, or at the request of any party, to hold a prehearing conference. The ALJ generally must tell the parties of the time, place, and purpose of the conference at least 7 days in advance. There is no sanction if the claimant/representative does not appear. Current regulation is silent as to whether the conference is held in person or by telephone. A record of the conference is made.	Claimant can submit, or ALJ can request that claimant submit, a prehearing statement describing why the claimant disagrees with the reconsidered determination. Statement should discuss briefly issues involved in the proceeding, facts, witnesses, the evidentiary and legal basis upon which claimant believes the ALJ should decide the case in claimant's favor, and any other comments, suggestions, or information that might assist the ALJ in preparing for the hearing. ALJ can decide on his or her own, or at the claimant's request, to conduct a prehearing conference if the ALJ finds that a conference would facilitate the hearing or the decision. The ALJ will give claimant reasonable notice of the time, place, and manner of the conference. If neither claimant nor representative appears, hearing might be dismissed. Good cause applies. The conference will normally be held by telephone. The ALJ will summarize in writing, or on the record at the hearing, the actions taken or to be taken as a result of the conference.
Appearance at Hearing	ALJ determines whether claimant and any other witness will appear in person or by video teleconference (VCT). Claimant can object to time or place of the hearing. Objection must be made at the earliest possible opportunity before the hearing. ALJ will change time or place of hearing if there is good cause to do so. If claimant objects to appearing by VCT, ALJ will reschedule hearing for in-person appearance.	ALJ determines whether claimant or any other witness will appear in person, by VCT, or by telephone. ALJ will only direct claimant to appear by telephone if claimant's appearance in person is not possible (e.g., claimant is incarcerated and facility will not allow a hearing at the facility) and VCT is not available. Claimant can object to time or place of the hearing. Objection must be in writing and made no later than 30 days after receipt of notice of hearing. ALJ will consider claimant's reasons for requesting change and the impact of the proposed change on the efficient administration of the hearing process. If claimant objects to appearing by VCT, ALJ will reschedule hearing for in-person appearance. If claimant objects to another witness appearing by VCT or telephone, ALJ will decide whether to have that person appear in person, by VCT, or by telephone.
Posthearing Conferences	ALJ can decide on his or her own, or at the request of any party, to hold a posthearing conference. The ALJ generally must tell the parties of the time, place, and purpose of the conference at least 7 days in advance. Current regulation is silent as to whether the conference is held in person or by telephone. A record of the conference is made.	ALJ can decide on his or her own, or at the claimant's request, to hold a posthearing conference to facilitate the hearing decision. The ALJ will give claimant reasonable notice of the time, place, and manner of the conference. If neither claimant nor representative appears and there is no good cause for failure to appear, ALJ will decide on record.
The ALJ Decision	The ALJ must issue a written decision which gives the findings of fact and the reason for the decision; made part of the record. Exception is oral (bench) fully favorable decision issued at the hearing; claimant receives a notice incorporating the oral decision. Notice advises claimant can appeal to Appeals Council.	ALJ must issue a written decision that explains in clear and understandable language the reason for decision; made part of record. Exception is oral (bench) fully favorable decision issued at hearing; claimant receives a notice incorporating the oral decision. Notice advises claimant can appeal to Review Board.
Appeal to Review Board	Appeals Council can deny claimant's request that it review the ALJ's decision. Appeals Council applies ''substantial evidence'' test to ALJ fact finding; considers any question of law as if it were considering it for the first time; applies ''abuse of discretion'' test to ALJ exercise of discretion. Claimant may submit ''new and material evidence'' which relates to the period on or before the date of ALJ decision. The AC will consider the entire record including any new and material evidence related to the period on or before the date of ALJ decision and will review the case if ALJ's action, findings, or conclusion is contrary to the ''weight of the evidence.''	Review Board must consider and issue a decision in any case that is appealed to it timely. Review Board will use ''substantial evidence'' test, consider any question of law as if it were considering it for the first time, apply ''harmless error'' test; applies ''abuse of discretion'' test to ALJ exercise of discretion. Additional evidence requirements similar to those at hearing level, with the added requirement that evidence will be accepted only if the Review Board determines that there is a reasonable probability that the new evidence, alone or in consideration with other evidence of record, would change the outcome of the decision. Review Board can: • Issue new decision • Remand to ALJ • Summarily affirm ALJ decision.

Topic	Current policy (outside the Boston region)	Proposed policy
Removal of Special Provision in Court Remands.	When a case is remanded by a court, the ALJ decision becomes the final decision after remand unless the Appeals Council assumes jurisdiction. The Appeals Council may assume jurisdiction based on a claimant's written exceptions or on its own motion. If no exceptions are filed, or the Appeals Council does not assume jurisdiction based on exceptions or on its own motion, a claimant may seek court review of the final decision after remand.	Remove current process. Claimant who is dissatisfied with the hearing decision would have to appeal to the Review Board.

Transitional Rules

Our goal is to move as many cases to these new procedures as quickly as possible. Therefore, if we adopt these proposed rules, we plan to follow them with regard to any (1) cases for which a request for an ALJ hearing is made on or after the effective date of the final rules and (2) further review of ALJ hearing decisions or dismissals on or after the effective date of the final rules. On the effective date of the final rules, we also plan to transfer to the Review Board any cases then pending before the Decision Review Board or the Appeals Council, and to treat any pending request for review by the Appeals Council as a notice of appeal to the Review Board.

We recognize, however, that on the date the final rules become effective there will be pending cases in which the first ALJ decision on the claim had been issued prior to the effective date of these rules, perhaps even several years prior to the date the new rules take effect. We believe it would be unfair to those claimants if we were to apply strictly the new provision in these proposed rules that limits the period of time covered by the claim to the date of the first ALJ decision.

Therefore, for cases pending on the effective date of the final rules in which the first decision by an ALJ on the claim was issued prior to the effective date of the final rules, we propose to apply the new provision on limiting the period of time covered by the application for benefits in a different manner. For such cases, we will use the date of the first hearing or Review Board decision on the claim that is issued on or after the effective date of the final rules as the date by which entitlement must be established. For those cases, during the period between the effective date of the final rules and the date of the first hearing decision or dismissal or Review Board decision issued thereafter, we propose to apply the rest of these proposed rules to the extent practicable, but will accord the claimant the benefit of the prior procedures where necessary to avoid disadvantaging the claimant or any other party. For example, if the claimant has new evidence to submit that would not be admitted under the new rules we are proposing here, but would have been admissible under the rules previously in effect, we will accord the claimant the benefit of those earlier rules and accept the evidence.

Clarity of These Proposed Rules

Executive Order 12866, as amended, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

When Will We Start To Use These Rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

Regulatory Procedures

Executive Order 12866, as Amended

We have consulted with the Office of Management and Budget (OMB) and determined that this proposed rule is subject to OMB review because it meets the criteria for an economically significant regulatory action under Executive Order 12866, as amended. The Office of the Chief Actuary estimates that this proposed rule, if finalized, would reduce the program costs of the Old Age, Survivors, and Disability Insurance (OASDI) and the SSI programs by $1.5 billion. That Office estimates that there would be a small increase in program costs in the first year, followed by savings that increase at first but then begin to decrease in 2013. Specifically, that Office estimates that program costs would be reduced by the following amounts ($ in millions) if this proposed rule were adopted in a final rule.

TABLE 1.—ESTIMATED EFFECT ON OASDI AND FEDERAL SSI BENEFIT PAYMENTS OF A PROPOSED REGULATION MAKING AMENDMENTS TO THE ADMINISTRATIVE LAW JUDGE, APPEALS COUNCIL, AND DECISION REVIEW BOARD APPEALS LEVELS, FISCAL YEARS 2008–17

[In millions]

Fiscal year	OASDI	SSI	Total
2008	$15	$6	$21
2009	−32	−14	−46
2010	−117	−48	−166
2011	−138	−63	−201
2012	−154	−60	−215

TABLE 1.—ESTIMATED EFFECT ON OASDI AND FEDERAL SSI BENEFIT PAYMENTS OF A PROPOSED REGULATION MAKING AMENDMENTS TO THE ADMINISTRATIVE LAW JUDGE, APPEALS COUNCIL, AND DECISION REVIEW BOARD APPEALS LEVELS, FISCAL YEARS 2008–17—Continued

[In millions]

Fiscal year	OASDI	SSI	Total
2013	−171	−70	−241
2014	−159	−69	−228
2015	−142	−65	−206
2016	−101	−59	−160
2017	−48	−42	−90
Totals:			
2008–2012	−427	−180	−607
2008–2017	−1,047	−484	−1,531

(Totals may not equal the sum of components due to rounding.)

Regarding the estimates in the above table, we note that this NPRM would have two principal effects relative to the baseline under current rules. First, the closing of the record after the initial decision by an ALJ would be accelerated relative to the baseline. Under the baseline in the FY 2008 Budget and the Mid-Session Review, we assumed that DSI would be phased in one region per year over a 10-year period. Included in that implementation is a closing of the record that is very similar to that in the NPRM. The difference is that the NPRM would implement this change for all regions immediately. This acceleration of the closure of the record is estimated to provide significant reductions in cost through reduced allowances over the next 10 years or so.

The second principal effect would be from establishing immediately the Review Board (RB) for all regions. Under current rules, the Appeals Council (AC) is assumed to be replaced one region at a time by the Decision Review Board (DRB) over the 10-year period. Thus, implementing the RB essentially immediately would at first largely replace the AC with RB, but over the next 10 years, it would be the DRB that would be effectively replaced by the RB. We estimate that the RB would not function much differently from the AC. But because we have assumed the DRB would be more restrictive than the current AC in the future, replacing the DRB with the RB would be less restrictive and would thus result in more allowances and cost. But this cost would only gradually grow through the next 10 years.

The combination of these two principal effects would initially reduce allowances (via immediate closure of the record). But this initial effect would gradually diminish because the current rule would also affect closure of the record, but more gradually. However, just as the reduction in allowances from the first effect is diminishing, the increase in allowances from having the RB instead of the DRB would be gradually rising. By the end of 10 years, the net annual reductions in costs would have diminished substantially.

There is substantial uncertainty associated with estimated effects of the provisions in this NPRM. We have attempted to develop estimates reflecting the most likely outcome. We believe we are very likely to have properly assessed the direction of change from each of the principal changes. But the magnitude of the effect could be different. It may be useful to think in terms of a plausible range where the impact of all provisions were either 50 percent higher or 50 percent lower than assumed for our estimate. In this case, the overall annual costs estimated would be 50 percent higher or 50 percent lower, respectively. While it is not possible to assign a specific probability that actual program cost effects will fall in this range, we believe the probability is high.

As indicated above, the two principal effects of this NPRM would tend to have opposite impacts on program cost. The effect of lowering program cost by accelerating the implementation of closure of the record would be temporary, lasting for only a short time after the end of the 10-year budget period. However, the effect of changing ultimately from the Decision Review Board in current rules to the Review Board in this NPRM would have persistent effects beyond 10 years, resulting in sustained small increases in allowances and thus in program cost. The magnitude of this persistent effect on long-range program cost is expected to be negligible (i.e., less than 0.005 percent of taxable payroll).

TABLE 2.—ACCOUNTING STATEMENT: ESTIMATED ECONOMIC IMPACT OF AMENDING THE ADMINISTRATIVE LAW JUDGE, APPEALS COUNCIL AND DECISION REVIEW BOARD APPEALS LEVEL FROM 2008–2017 IN 2007 DOLLARS

Category	Transfers
Annualized Monetized Transfers	$127.3 million (7% discount rate). $131.1 million (3% discount rate).
From Whom To Whom?	From SSA beneficiaries to the Social Security trust fund and the general fund.

Regulatory Flexibility Act

We certify that this proposed rule, if published in final, will not have a significant economic impact on a substantial number of small entities as it affects only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

We propose to include in parts 404 and 416 of our rules many of the hearing level procedures now in place for disability cases in the Boston region.

This change will expand those rules nationwide and apply them to hearings on both disability and non-disability matters. We also propose to amend our rules governing the final level of the administrative review process to make proceedings at that level more like those used by a Federal appeals court when it reviews the decision of a lower court that has been appealed to it, to establish procedures for appeals to that level, and to change the name of the body that will hear such appeals from the ''Appeals Council,'' or the ''Decision Review Board'' in the Boston region, to the ''Review Board.''

Requests for information from the public for the hearings process and the associated collection of evidence/documents are paperwork burdens that require clearance under the Paperwork Reduction Act of 1995. The chart below outlines those sections in this proposed rule that contain the paperwork burdens. The changes to the majority of the sections are minor. Also, most of the paperwork burdens for these rules have already been cleared by OMB and are accounted for under separate OMB numbers. Consequently, we show a 1-hour placeholder for these burdens. Respondents to these collections are individuals who request an appeal of a hearing decision or an unfavorable decision on their claims.

Part 404—Federal Old-Age, Survivors and Disability Insurance

Part 416—Supplemental Security Income for the Aged, Blind, and Disabled

Title/section & collection description	Annual number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.933(a)–(d), 416.1433(a)–(d). How to request a hearing—you must request a hearing by filing a written request.	.....	.....	.....	1 hour place holder burden (covered by OMB No. 0960–0269, Request for Hearing by Administrative Law Judge, 20 CFR 404.967–.981, 416.1467–.1481).
404.933(a)(4), 416.1433(a)(4). If disability is an issue, a statement of the medically determinable impairment should be included in the written request for a hearing.	493,155	1	5	41,096.
404.933(d), 416.1433(d). Extension of time to request a hearing—you may ask us for more time to request a hearing.	10,959	1	10	1,827.
404.933(e), 416.1433(e). Waiver of right to appear—you may ask the administrative law judge to decide your case without a hearing.	.....	.....	.....	1 hour place holder burden (covered by OMB No. 0960.0284, Waiver of your right to a personal appearance before an administrative law judge).
404.935(a)–(c), 416.1435(a)–(c). Submitting evidence to an administrative law judge.	547,950	1	60	547,950.
404.935(d)(1) & (2), 416.1435(d)(1) & (2). Subpoena—you must file a written request for a subpoena.	3,750	1	30	1,875.
404.935(d)(4), 416.1435(d)(4). Subpoena—you may ask the administrative law judge to withdraw or limit the scope of the subpoena.	10	1	30	5.
404.938(c), 416.1438(c). Acknowledging the notice of hearing—we will ask you to return a form to let us know that you received the notice.	.....	.....	.....	1 hour placeholder burden (covered by OMB No. 0960–0671, Acknowledgement of Receipt (Notice of Hearing), Part 404, Subpart J, 404.936, .938, .950, Part 416, Subpart N.
404.939(a), 416.1439(a). Objections—you should notify the administrative law judge in writing if you object to the time and place of your hearing.	18,265	1	30	9,132.
404.939(b), 416.1439(b). Objections—you should notify the administrative law judge in writing if you believe that issues in the hearing notice are incorrect.	10	1	30	5.
404.948(b), 416.1448(b). Deciding a case without a hearing before and administrative law judge—You state in writing that you do not wish to appear at a hearing.	.....	.....	.....	1 hour place holder burden (covered by OMB No. 0960.0284, Waiver of your right to a personal appearance before an administrative law judge).
404.950(a), 416.1450(a). Presenting evidence at a hearing before an administrative law judge.				1 hour placeholder burden (covered by OMB No. 0960–0671, Acknowledgement of Receipt (Notice of Hearing), Part 404, Subpart J, 404.936, .938, .950, Part 416, Subpart N.
404.961(b), 416.1461(b). Prehearing and posthearing proceedings—you may submit a prehearing statement describing why you disagree with the reconsidered determination.	36,500	1	30	18,250.

Title/section & collection description	Annual number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.969(a)–(b), 416.1469(a)–(b). How to appeal to the Review Board—to begin your appeal you must file a notice of appeal.				1 hour placeholder burden (covered by OMB NO. 0960–0277, Request for Review of Hearing Decision/Order, 20 CFR 404.967–.981, 416.1467–.1481).
404.969(b)(2), 416.1469(b)(2). How to appeal to the Review Board—you may ask that the time for filing a notice of appeal be extended.	2,000	1	10	334.
404.969(c), 416.1469(c). Contents of the Appeal—you should include with your notice of appeal a written statement.	93,461	1	60	93,461.
404.974(a), 416.1474(a). Procedures before the board, obtaining copies of evidence—you may request and receive copies or a statement of documents and other written evidence.	45,000	1	10	7,500.
404.974(b), 416.1474(b). Filing briefs with the Review Board—you may file a brief or other written statement.	45,000	1	60	45,000.
404.974(e), 416.1474(e). Oral arguments—you may ask to appear before the review board to present an oral argument.	300	1	10	50.
404.976(a)(4), 416.1476(a)(4). Dismissal by Review Board—you may file a written request for dismissal.	600	1	10	100.
404.976(a)(5), 416.1476(a)(5). Dismissal by Review Board—a person other than the claimant may file a written appeal.	20	1	20	7.
404.977(d)(1), 416.1477(d)(1). Filing briefs with the Review Board—you may file briefs or other written statements with the Review Board.	20	1	60	20.
404.982(b), 416.1482(b). Review of final decisions in Federal District Court—you may request an extension in time for filing an action in Federal District Court.	1,475	1	10	245.
Total	805,320			725,761.

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be sent to OMB by fax or by e-mail to:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

Comments on the paperwork burdens associated with this rule can be received for up to 60 days after publication of this notice and will be most useful if received within 30 days of publication. This does not affect the deadline for the public to comment to SSA on the proposed regulations. These information collection requirements will not become effective until approved by OMB. When OMB has approved these information collection requirements, SSA will publish a notice in the **Federal Register**. To receive a copy of the OMB clearance package, please contact the Reports Clearance Officer at *OPLM.RCO@ssa.gov.*

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 405

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Public assistance programs; Reporting and recordkeeping requirements; Social Security; Supplemental Security Income (SSI).

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits, Public Assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: October 15, 2007.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart J of part 404, part 405, and subpart N of part 416 as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

2. Amend § 404.900 by revising paragraphs (a)(4) and (b) to read as follows:

§ 404.900 Introduction.

(a) * * *

(4) *Appeal to the Review Board.* If you are dissatisfied with the decision of the administrative law judge, you may appeal that decision to the Review Board.

* * * * *

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversarial manner. Subject to the limitations in §§ 404.935 and 404.973 on submitting evidence at the administrative law judge and Review Board levels, you may present any information you feel may be helpful to your case. You may present the information yourself or have someone represent you, including an attorney. At each step of the review process, we will consider all relevant evidence that has been made part of the record. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review unless you can show us that there was good cause for your failure to pursue the next step of our review process in a timely manner.

§ 404.901 [Amended]

3. Amend § 404.901 by removing the words ''Appeals Council'' and adding, in their place, the words ''Review Board''.

4. Amend § 404.911 by revising paragraph (b)(5) to read as follows:

§ 404.911 Good cause for missing the deadline to request review.

* * * * *

(b) * * *

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you filed a notice of appeal to the Review Board or filed a civil suit.

* * * * *

5. Amend § 404.924 by revising paragraph (a) to read as follows:

§ 404.924 When the expedited appeals process may be used.

* * * * *

(a) We have made an initial and a reconsidered determination; an administrative law judge has made a hearing decision; or a decision has been appealed to the Review Board, but a final decision has not been issued.

* * * * *

6. Amend § 404.925 by revising paragraph (a)(4) to read as follows:

§ 404.925 How to request expedited appeals process.

(a) * * *

(4) At any time after you have filed a timely notice of appeal to the Review Board, but before the Review Board has issued a decision.

* * * * *

§ 404.928 [Amended]

7. Amend § 404.928 by removing the words ''Appeals Council review'' and adding, in their place, the words ''a notice of appeal to the Review Board''.

8. Revise § 404.929 to read as follows:

§ 404.929 Hearing before an administrative law judge-general.

(a) If you are dissatisfied with one of the determinations or decisions listed in § 404.930 you may request a hearing. We will appoint an administrative law judge to conduct the hearing proceedings. If circumstances warrant after making the appointment (for example, if the administrative law judge becomes unavailable), we may assign your case to another administrative law judge.

(b) You may examine the evidence used in making the reconsidered determination, submit evidence, appear at the hearing, and present and question witnesses. The administrative law judge may ask you questions and will issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file, on any new evidence that is timely submitted, and on any evidence that the administrative law judge obtains.

9. Revise § 404.933 to read as follows:

§ 404.933 How to request a hearing before an administrative law judge.

(a) *Written request.* You must request a hearing by filing a written request. You should include in your request—

(1) Your name and social security number,

(2) If your case concerns your benefits under an account other than your own, the name and social security number of the wage earner under whose account you are filing,

(3) The specific reasons you disagree with the reconsidered determination,

(4) If disability is an issue in your case, a statement of the medically determinable impairment(s) that you believe prevents you from working,

(5) Additional evidence that you have available to you, and

(6) The name and address of your representative, if any.

(b) *Time limit for filing request.* An administrative law judge will hear your case if you request a hearing in writing no later than 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (d) of this section). The administrative law judge may decide your case without an oral hearing under the circumstances described in § 404.948.

(c) *Place for filing request.* You should submit a written request for a hearing at one of our offices. In addition, if you have a disability claim, you may also file the request at the Veterans Affairs regional office in the Philippines, or if you have 10 or more years of service, or at least 5 years of service accruing after December 31, 1995, in the railroad industry, an office of the Railroad Retirement Board.

(d) *Extension of time to request a hearing.* You may ask us for more time to request a hearing. Your request for an extension of time must be in writing and must give the reasons the hearing request was not filed, or cannot be filed, in time. If you show us that you have good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 404.911 of this part.

(e) *Waiver of the right to appear.* After you submit your request for a hearing, you may ask the administrative law judge to decide your case without a hearing, as described in § 404.948(b). The administrative law judge may grant the request unless he or she believes that a hearing is necessary. You may withdraw this waiver of your right to appear at a hearing any time before notice of the hearing decision is mailed to you, and we will schedule a hearing as soon as practicable.

10. Revise § 404.935 to read as follows:

§ 404.935 Submitting evidence to an administrative law judge.

(a) *General.* You should submit with your request for hearing any evidence that you have available to you. All documents prepared and submitted by

you (i.e., not including medical or other evidence that is prepared by someone other than you or your representative) should clearly designate your name and the last four digits of your social security number. All such documents must be clear and legible to the fullest extent practicable and delivered or mailed to the administrative law judge within the time frames in paragraph (b) of this section, unless the administrative law judge allows additional time for submitting evidence.

(b) *Time for submitting evidence.* Any documents that you wish to have considered at the hearing must be submitted no later than 5 business days before the date of the scheduled hearing. If you do not comply with this requirement, the administrative law judge may decline to consider the evidence unless the circumstances described in paragraph (c) of this section apply.

(c) *Late submission of evidence.* (1) If you miss the deadline described in paragraph (b) of this section and you wish to submit evidence during the 5 business days before the hearing or at the hearing, the administrative law judge will accept the evidence if you show that:

(i) Our action misled you;

(ii) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or

(iii) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(2) If you miss the deadline described in paragraph (b) of this section and you wish to submit evidence after the hearing and before the hearing decision is issued, the administrative law judge will accept the evidence if you show that there is a reasonable possibility that the evidence, alone or when considered with the other evidence of record, would affect the outcome of your case, and:

(i) Our action misled you;

(ii) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or

(iii) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge may, on his or her own initiative or at your request, issue subpoenas for the appearance and testimony of witnesses and for the production of any documents that are relevant to an issue at the hearing.

(2) To have documents or witnesses subpoenaed, you must file a written request for a subpoena with the administrative law judge at least 20 days before the hearing date. The written request must:

(i) Give the names of the witnesses or describe the documents to be produced;

(ii) Describe the address or location of the witnesses or documents with sufficient detail to find them;

(iii) State the important facts that the witness or document is expected to show; and

(iv) Indicate why these facts could not be shown without that witness or document.

(3) We will pay the cost of issuing the subpoena and pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(4) Within 5 days of receipt of a subpoena, but no later than the date of the hearing, the person against whom the subpoena is directed may ask the administrative law judge to withdraw or limit the scope of the subpoena and must set forth the reasons why the subpoena should be withdrawn or why it should be limited in scope.

(5) Upon failure of any person to comply with a subpoena, the Office of the General Counsel may seek enforcement of the subpoena under section 205(e) of the Act.

11. Revise § 404.936 to read as follows:

§ 404.936 Time and place for a hearing before an administrative law judge.

(a) *General.* The administrative law judge sets the time and place for the hearing. The administrative law judge will notify you of the time and place of the hearing at least 75 days before the date of the hearing, unless you agree to a shorter notice period. If it is necessary, the administrative law judge may change the time and place of the hearing. If the administrative law judge changes the time and place of the hearing, he or she will send you reasonable notice of the change.

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(c) *Determination regarding in-person, telephonic, or video teleconference appearance of witnesses at the hearing.* (1) In setting the time and place of the hearing, the administrative law judge will determine whether you will appear at the hearing in person or by video teleconference or, under certain extraordinary circumstances, by telephone. If you object to appearing personally by video teleconference, we will re-schedule the hearing to a time and place at which you may appear in person before the administrative law judge. The administrative law judge may direct you to appear by telephone when:

(i) Your appearance in person is not possible, such as if you are incarcerated and the facility will not allow a hearing to be held at the facility, and

(ii) Video teleconference is not available.

(2) In setting the time and place of the hearing, the administrative law judge will determine whether any other person will appear at the hearing in person, by telephone, or by video teleconference. If you object to any other person appearing by telephone or video teleconference, the administrative law judge will decide whether to have that person appear in person, by telephone, or by video teleconference. The administrative law judge will direct a person, other than you if you object to your appearing by video teleconference, to appear by video teleconference when:

(i) Video teleconference technology is available,

(ii) Use of video teleconference technology would be more efficient than conducting an examination of a witness in person, and

(iii) The administrative law judge determines that there is no other reason why video teleconference should not be used.

12. Revise § 404.938 to read as follows:

§ 404.938 Notice of a hearing before an administrative law judge.

(a) *Issuing the notice.* After the administrative law judge sets the time and place of the hearing, we will mail notice of the hearing to you at your last known address or give the notice to you by personal service. We will mail or serve the notice at least 75 days before the date of the hearing, unless you agree to a shorter notice period.

(b) *Notice information.* The notice of hearing will tell you:

(1) The specific issues to be decided,

(2) That you may designate a person to represent you during the proceedings,

(3) How to request that we change the time or place of your hearing,

(4) That your hearing request may be dismissed if you fail to appear at your scheduled hearing without good reason under § 404.911,

(5) Whether your appearance will be in person or by video teleconference (or, in exceptional circumstances, by

telephone) and whether any witness's appearance will be in person, by telephone, or by video teleconference, and

(6) That you must submit all evidence that you wish to have considered at the hearing no later than 5 business days before the date of the scheduled hearing, unless you show that your circumstances meet the conditions described in § 404.935(c) for missing the deadline.

(c) *Acknowledging the notice of hearing.* In the notice of hearing, we will ask you to return a form, within 5 days of the date you receive the notice, to let us know that you received the notice. If you or your representative does not acknowledge receipt of the notice of hearing, we will attempt to contact you to see if you received it. If you let us know that you did not receive the notice of hearing, we will send you an amended notice by certified mail.

13. Revise § 404.939 to read as follows:

§ 404.939 Objections.

(a) *Time and Place.* (1) If you object to the time or place of your hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the date set for the hearing, but no later than 30 days after receiving notice of the hearing. You must state the reason(s) for your objection and propose a time and place you want the hearing to be held.

(2) The administrative law judge will consider your reason(s) for requesting the change and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether we previously granted to you any changes in the time or place of your hearing.

(b) *Issues.* If you believe that the issues contained in the hearing notice are incorrect, you should notify the administrative law judge in writing at the earliest possible opportunity, but must notify him or her no later than 5 business days before the date set for the hearing. You must state the reason(s) for your objection. The administrative law judge will make a decision on your objection either at the hearing or in writing before the hearing.

§ 404.940 [Amended]

14. Amend § 404.940 by removing the words ''Associate Commissioner for Hearings and Appeals'' and adding, in their place, the word ''we'', and by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

§ 404.943 [Removed and Reserved]

15. Remove and reserve § 404.943.

16. Revise § 404.944 to read as follows:

§ 404.944 Administrative law judge hearing procedures—general.

(a) *General.* A hearing is open only to you and to other persons the administrative law judge considers necessary and proper. The administrative law judge will conduct the proceedings in an orderly and efficient manner. At the hearing, the administrative law judge will look fully into all of the issues raised in your case, will question you and the other witnesses, and will accept any evidence relating to your case that you submit in accordance with § 404.935.

(b) *Conducting the hearing.* The administrative law judge will decide the order in which the evidence will be presented. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she decides that there is evidence missing from the record that must be obtained before the hearing may continue. At any time before the notice of the decision is sent to you, the administrative law judge may hold a supplemental hearing in order to receive additional evidence, consistent with the procedures described in §§ 404.946 through 404.961.

17. Revise § 404.946 to read as follows:

§ 404.946 Issues before an administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues raised in your case, regardless of whether or not the issues may have already been decided in your favor.

(b) *New issues.* Any time after receiving the hearing request and before mailing notice of the hearing decision, the administrative law judge may consider a new issue if he or she, before deciding the issue, provides you an opportunity to address it. The administrative law judge or any party may raise a new issue. An issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination.

(c) *Collateral estoppel—issues previously decided.* We already may have decided a fact that is an issue before the administrative law judge in one of our previous and final determinations or decisions involving you, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision, unless he or she has reason to believe that it was wrong, or reopens the previous determination or decision under § 404.987.

18. Revise § 404.948 to read as follows:

§ 404.948 Deciding a case without a hearing before an administrative law judge.

(a) *Decision wholly favorable.* If the evidence in the record supports a decision wholly in your favor, the administrative law judge may issue a decision without holding a hearing. However, the notice of the decision will inform you that you have the right to a hearing and that you have a right to examine the evidence on which the decision is based.

(b) *You do not wish to appear.* The administrative law judge may decide a case on the record and not conduct a hearing if—

(1) You state in writing that you do not wish to appear at a hearing, or

(2) You live outside the United States and you do not inform us that you want to appear.

(c) When a hearing is not held, the administrative law judge will make a record of the evidence, which, except for the transcript of the hearing, will contain the material described in § 404.951. The decision of the administrative law judge must be based on this record.

§ 404.949 [Removed and Reserved]

19. Remove and reserve § 404.949.

20. Revise § 404.950 to read as follows:

§ 404.950 Presenting evidence at a hearing before an administrative law judge.

(a) *The right to appear and present evidence.* You have a right to appear before the administrative law judge, either in person or, when the administrative law judge determines that the conditions in § 404.936(c) exist, by telephone or video teleconference, to present evidence and to state your position. You also may appear by means of a designated representative.

(b) *Admissible evidence.* Subject to § 404.935, the administrative law judge may receive any evidence at the hearing that he or she believes relates to your case.

(c) *Witnesses at a hearing.* Witnesses may appear at a hearing in person, by telephone, or by video teleconference.

Witnesses who appear at a hearing shall testify under oath or by affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or making an affirmation. The administrative law judge, you, or your representative may ask the witnesses any questions relating to your case.

(d) *Closing statements.* You or your representative may present a closing statement to the administrative law judge—

(1) Orally at the end of the hearing,

(2) In writing after the hearing and within a reasonable time period set by the administrative law judge, or

(3) By using both methods under paragraphs (d)(1) and (2).

21. Revise § 404.951 to read as follows:

§ 404.951 Official record.

(a) All hearings will be recorded. All evidence upon which the administrative law judge relies for the decision must be contained in the record, either directly or through administrative notice, if appropriate. The official record will include the applications, written statements, certificates, reports, affidavits, medical records, and other documents that were used in making the determination under review and any additional evidence or written statements that the administrative law judge admits into the record under §§ 404.935 and 404.944. All admitted evidence must be incorporated into the record. The official record of your case will contain all of the admitted evidence and a verbatim recording of all testimony offered at the hearing. It also will include any prior initial determinations or decisions relevant to your case. Subject to § 404.973, the official record closes once the administrative law judge issues his or her decision, regardless of whether it becomes our final decision.

(b) The recording of the hearing will be prepared as a typed copy of the proceedings if—

(1) The case is sent to the Review Board without a decision, or with a recommended decision as ordered by the Review Board, by the administrative law judge;

(2) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(3) An administrative law judge or the Review Board asks for a written record of the proceedings in cases remanded by a Federal district court.

22. Revise § 404.952 to read as follows:

§ 404.952 Consolidated hearing before an administrative law judge.

(a) *General.* (1) We may hold a consolidated hearing if—

(i) You have requested a hearing to decide your case, and

(ii) One or more of the issues to be considered at your hearing is the same as an issue involved in another case you have pending before us.

(2) If the administrative law judge consolidates the cases, he or she will decide both cases, even if we have not yet made an initial determination or a reconsidered determination in the other case.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced at the hearing becomes the evidence of record in each case adjudicated. The administrative law judge may issue either a consolidated decision or separate decisions for each case.

23. Revise § 404.953 to read as follows:

§ 404.953 Decision by the administrative law judge.

(a) The administrative law judge will make a decision based on all of the evidence, including the testimony at the hearing. The administrative law judge will prepare a written decision that explains in clear and understandable language the reasons for the decision.

(b) During the hearing, in certain categories of cases that we identify in advance, the administrative law judge may orally explain in clear and understandable language the reasons for, and enter into the record, a wholly favorable decision. The administrative law judge will include in the record a document that sets forth the key data, findings of fact, and narrative rationale for the decision. Within 5 days after the hearing, if there are no subsequent changes to the analysis in the oral decision, we will send you a written decision that incorporates such oral decision by reference and that explains why the administrative law judge agrees or disagrees with the substantive findings and overall rationale of the reconsidered determination. If there is a change in the administrative law judge's analysis or decision, we will send you a written decision that is consistent with paragraph (a) of this section. Upon written request, we will provide you a record of the oral decision.

24. Revise § 404.955 to read as follows:

§ 404.955 The effect of the administrative law judge's decision.

The decision of the administrative law judge is binding on all parties to the hearing unless—

(a) You or another party to the hearing appeals the decision to the Review Board;

(b) The Review Board decides to review the decision on its own motion, as provided in § 404.970; or

(c) The decision is a recommended decision to the Review Board as ordered by the Review Board; or

(d) The decision is revised by an administrative law judge or the Review Board under the procedures explained in § 404.987.

§ 404.956 [Amended]

25. Amend § 404.956 by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

26. Revise § 404.957 to read as follows:

§ 404.957 Dismissal of a request for a hearing before an administrative law judge.

An administrative law judge may dismiss a request for a hearing:

(a) At any time before notice of the hearing decision is mailed, when you withdraw the request orally on the record at the hearing or in writing;

(b)(1) If neither you nor the person you designate to act as your representative appears at the hearing or at the prehearing conference, we notified you previously that your request for hearing may be dismissed if you did not appear, and you do not give a good reason for failing to appear; or

(2) If neither you nor the person you designate to act as your representative appears at the hearing or at the prehearing conference, we had not notified you previously that your request for hearing may be dismissed if you did not appear, and within 10 days after we send you a notice asking why you did not appear, you do not give a good reason for failing to appear.

(3) In determining whether you had a good reason under this paragraph, we will consider the factors described in § 404.911 of this part.

(4) If neither you nor the person you designate to act as your representative appears at the prehearing conference but the provisions of § 404.948(b) apply, the administrative law judge will issue a decision without holding a hearing.

(c) If the doctrine of res judicata applies because we have made a previous determination or decision in your case on the same facts and on the same issue or issues, and this previous determination or decision has become final;

(d) If you have no right to a hearing under § 404.930;

(e) If you did not request a hearing in time and we have not extended the time for requesting a hearing; or

(f) If you die and your estate or any person to whom an underpayment may be distributed under § 404.503 or § 416.542 of this chapter has not pursued your case.

27. Revise the second sentence of § 404.958 to read as follows:

§ 404.958 Notice of dismissal of a request for hearing before an administrative law judge.

* * * The notice will state that you have the right to appeal the dismissal to the Review Board.

§ 404.959 [Amended]

28. Amend § 404.959 by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

§ 404.960 [Amended]

29. Amend § 404.960 by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

30. Revise § 404.961 to read as follows:

§ 404.961 Prehearing and posthearing proceedings.

(a) *Prehearing conferences.* (1) The administrative law judge, on his or her own initiative or at your request, may decide to conduct a prehearing conference if he or she finds that such a conference would facilitate the hearing or the decision in your case. A prehearing conference normally will be held by telephone, unless the administrative law judge decides that conducting it in another manner would be more efficient and effective in addressing the issues raised at the conference. We will give you reasonable notice of the time, place, and manner of the conference.

(2) At the conference, the administrative law judge may consider matters such as simplifying or amending the issues, obtaining and submitting evidence, and any other matters that may expedite the hearing.

(3) The administrative law judge will summarize in writing, or on the record at the hearing, the actions taken or to be taken as a result of the conference.

(4) Subject to § 404.957(b)(4), if neither you nor the person you designate to act as your representative appears at the prehearing conference, and under § 404.957(b) you do not have a good reason for failing to appear, we may dismiss the hearing request.

(b) *Prehearing statements.* (1) At any time before the hearing begins, you may submit, or the administrative law judge may request that you submit, a prehearing statement describing why you disagree with the reconsidered determination.

(2) Unless otherwise requested by the administrative law judge, a prehearing statement should discuss briefly the following matters:

(i) Issues involved in the proceeding,

(ii) Facts,

(iii) Witnesses,

(iv) The evidentiary and legal basis upon which you believe the administrative law judge should decide the case in your favor, and

(v) Any other comments, suggestions, or information that might assist the administrative law judge in preparing for the hearing.

(c) *Posthearing conferences.* (1) The administrative law judge may decide, on his or her own initiative or at your request, to hold a posthearing conference to facilitate the hearing decision. A posthearing conference normally will be held by telephone unless the administrative law judge decides that conducting it in another manner would be more efficient and effective in addressing the issues raised. We will give you reasonable notice of the time, place, and manner of the conference. The administrative law judge will place in the record a written summary describing the actions taken or to be taken as a result of the conference.

(2) If neither you nor the person you designate to act as your representative appears at the posthearing conference, and under § 404.957(b) you do not have a good reason for failing to appear, we will issue a decision based on the information available in your case.

31. Remove the undesignated center heading ''APPEALS COUNCIL REVIEW'' preceding § 404.966.

§§ 404.966 through 404.984 [Removed]

32. Remove existing §§ 404.966 through 404.984 and the undesignated center heading preceding § 404.983.

33. Add a new undesignated center heading and §§ 404.967 through 404.977 and §§ 404.982 and 404.983 to read as follows:

Appeals to the Review Board

§ 404.967 The Review Board.

(a) The Review Board is composed of administrative appeals judges whom we appoint. It is responsible for reviewing decisions made by administrative law judges in cases where you or another party to the proceedings has filed a notice of appeal of the administrative law judge's decision. A party also may appeal an administrative law judge's dismissal of a request for hearing to the Review Board.

(b) The Review Board may choose to review a decision by an administrative law judge even if no party has filed an appeal of that decision. The circumstances in which the Review Board may initiate such a review, and the procedures it will follow, are described in § 404.970.

(c) The Review Board also may identify issues that impede consistent adjudication at any or all levels of the administrative review process and may recommend appropriate changes in policies and procedures to address those impediments. This advisory function will be performed separately from the Review Board's adjudicative function.

§ 404.968 Appeal to the Review Board—general.

(a) If you or any other party is dissatisfied with a hearing decision that is unfavorable, in whole or in part, or with the dismissal of a hearing request, you may appeal that action to the Review Board. The Review Board will consider your appeal and either:

(1) Affirm, reverse, or modify the decision of the administrative law judge;

(2) Remand the case to an administrative law judge for further proceedings; or

(3) Dismiss your appeal pursuant to § 404.976.

(b) The Review Board will notify the parties at their last known addresses of the action it has taken.

§ 404.969 How to appeal to the Review Board.

(a) *Right to appeal to the Review Board.* If you are a party to the administrative proceedings in a case and an administrative law judge has issued a hearing decision or dismissal that is unfavorable to you, in whole or in part, you have the right to appeal that action by the administrative law judge to the Review Board.

(b) *Time limit on appeals to the Review Board.* (1) To begin your appeal, you must file a notice of appeal within 60 days after the date you receive notice of the administrative law judge hearing decision or dismissal, unless we have extended the time period as provided in paragraph (b)(2) of this section.

(2) You or any party to a hearing decision may ask that the time for filing a notice of appeal to the Review Board be extended. The request for additional time must be in writing, must be filed with the Review Board, and must give the reasons why the notice of appeal was not filed, or cannot be filed, within

the 60-day period provided by paragraph (b)(1). If you show that you have good cause for missing the 60-day deadline, we will grant you additional time to file the notice of appeal. We use the standards in § 404.911 to determine whether you had good cause.

(c) *Contents of the appeal.* Your notice of appeal must be in writing and must clearly indicate that you are appealing a specific unfavorable administrative law judge hearing decision or dismissal. Any documents or other evidence you wish to have considered by the Review Board should be submitted with your notice of appeal. You also should include with your notice of appeal a written statement that identifies any errors you believe the administrative law judge made, explains why those alleged errors require reversal or modification of the administrative law judge's hearing decision or dismissal under the standards of review described in § 404.971, and cites applicable law and specific facts in the administrative record to support your contentions.

(d) *Where to file your notice of appeal.* You may file your notice of appeal at one of our offices. If you have a disability claim, you may also file your notice of appeal at the Veterans Affairs regional office in the Philippines or, if you have 10 or more years of service, or at least 5 years of service accruing after December 31, 1995, in the railroad industry, at an office of the Railroad Retirement Board.

§ 404.970 Review Board initiates review.

(a) *General.* Anytime within 60 days after the date of a decision or dismissal that is subject to review under this section, the Review Board may decide on its own motion to review the action that was taken in your case. We may refer your case to the Review Board and ask that it review your case under this authority.

(b) *Identification of cases.* We will identify a case for referral to the Review Board for possible review under this section before we effectuate the decision in the case. We will identify cases for referral to the Review Board through random and selective sampling techniques, which we may use in association with examination of the cases identified by sampling. We also will identify cases for referral to the Review Board through the evaluation of cases we conduct in order to effectuate decisions.

(1) *Random and selective sampling and case examinations.* We may use random and selective sampling to identify cases involving any type of action (e.g., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (e.g., benefits based on disability, retirement, etc.). We will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Neither our random sampling procedures nor our selective sampling procedures will identify cases based on the identity of the decisionmaker. We may examine cases that have been identified through random or selective sampling to refine the identification of cases that may meet the criteria for review by the Review Board.

(2) *Identification as a result of the effectuation process.* We may refer a case requiring effectuation to the Review Board if, in the view of the effectuating component, the decision should not be effectuated because it contains an error that affects the outcome of the case, because the decision is clearly inconsistent with the Social Security Act, the regulations, a published Social Security Ruling, or other statement of policy, or because the decision is unclear regarding a matter that affects the outcome of the case.

(c) *Referral of cases.* Any referral we make as a result of a case examination or the effectuation process will be in writing. This written referral will state the referring component's reasons for believing that the Review Board should review the case on its own motion. Referrals that result from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Review Board's action.* If the Review Board decides to review a decision or dismissal on its own motion, it will mail a notice to all parties at their last known addresses stating that it has decided to review the case and stating the reasons for the review and the issues to be considered. The Review Board will include with that notice a copy of any written referral it received under paragraph (c) of this section. If the 60-day period within which the Review Board may initiate review on its own motion (see paragraph (a) of this section) ends before the Review Board is able to decide whether to review the decision or dismissal, the Review Board still may consider whether the decision or dismissal should be reopened pursuant to §§ 404.987 and 404.988.

(e) *Interim benefits.* If the Review Board decides to review a decision on its own motion, or to reopen a decision as provided in §§ 404.987 and 404.988, the notice of review or the notice of reopening issued by the Review Board will advise, where appropriate, that interim benefits will be payable if a final decision has not been issued within 110 days after the date of the decision that is reviewed or reopened, and that any interim benefits paid will not be considered overpayments unless the benefits are fraudulently obtained.

§ 404.971 Standard of review.

(a) *Review of hearing decisions.* If you appeal a decision of an administrative law judge to the Review Board, or if the Review Board initiates a review under § 404.970, the Review Board will review the factual findings of the administrative law judge using the substantial evidence test. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The Review Board will consider any questions of law on their merits, without deference to the legal conclusions reached by the administrative law judge.

(b) *Review of dismissals.* If you appeal an administrative law judge's dismissal of your request for a hearing, the Review Board will review the action of the administrative law judge for any abuse of discretion.

(c) *Harmless error.* No error in either the admission or exclusion of evidence, and no error, defect, or omission in any ruling or decision of the administrative law judge, shall require the Review Board to vacate, modify, or reverse an otherwise appropriate ruling or decision of the administrative law judge unless, in the opinion of the Review Board, there is a reasonable probability that the error, alone or when considered with other aspects of the case, changed the outcome of the decision.

§ 404.972 Scope of review—period of time adjudicated.

The administrative law judge's hearing decision in your case adjudicated the issues relevant to your case for the period of time up to and including the date the hearing decision was issued. If you or another party files an appeal of that hearing decision, or if the Review Board decides to review the decision on its own motion, the appeal and any subsequent proceedings will consider only that period of time ending with the date of the first hearing decision in your case. If the original hearing decision in your case is set aside, in whole or in part, by the Review Board or a Federal court and remanded to an administrative law judge for a new hearing or decision, the proceedings on

remand will consider your case only with regard to the period ending on the date of the original administrative law judge decision in your case.

§ 404.973 Scope of review—evidentiary record before the Review Board.

(a) Subject to paragraphs (b) and (d) of this section, the evidentiary record for your case is closed as of the date of the first administrative law judge's decision in your case. The Review Board will base its action on the same evidence that was before the administrative law judge and will consider only that evidence that was in the record before the administrative law judge.

(b) If you have submitted additional evidence with your appeal, and that additional evidence relates to the period on or before the date of the first administrative law judge hearing decision in your case, the Review Board will accept that evidence if you show that there is a reasonable probability that the evidence, alone or when considered with the other evidence of record, would change the outcome of the decision and:

(1) Our action misled you;

(2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or

(3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(4) You must submit with your additional evidence a written statement that explains why you believe you meet one or more of the criteria in paragraphs (b)(1), (2), and (3) of this section.

(c) If you have submitted additional evidence with your appeal and the Review Board determines that the evidence does not relate to the period on or before the date of the administrative law judge's hearing decision, or otherwise does not satisfy the criteria in paragraph (b) of this section, the Review Board will return the additional evidence to you with an explanation as to why it did not accept the additional evidence. The notice returning the evidence to you will advise you that you have a right to file a new application and that, if you file a new application within 6 months after the date of the notice, we will consider your appeal as a written statement indicating an intent to claim benefits in accordance with § 404.630 and use the date of your appeal as the filing date for your new application.

(d) If the Review Board obtains additional evidence pursuant to § 404.974(d) of this part, or remands your case to an administrative law judge with instructions to obtain additional evidence on one or more issues, any evidence so obtained will become part of the evidentiary record in your case.

§ 404.974 Procedures before Review Board.

(a) *Obtaining copies of evidence.* You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and, if a hearing was held before an administrative law judge, a copy of the recording of that hearing. However, you will be asked to pay the costs of providing these copies unless there is a good reason why you should not pay.

(b) *Filing briefs or written statements with the Review Board.* You may file a brief or other written statement about the facts and law relevant to the case. Any such brief or written statement should be filed with your notice of appeal, as provided in § 404.969(c), or within 10 days thereafter. If there are other parties in your case and you choose to file a brief or written statement, you should send a copy to each party.

(c) *Limitation of issues.* The Review Board may limit the issues it considers in your appeal. If the Review Board chooses to limit the issues it will consider, it will notify you and any other party of the specific issues it will consider.

(d) *Additional evidence.* If the Review Board believes additional evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Review Board decides it can obtain the evidence itself more quickly, it may do so, unless to do so would adversely affect your rights.

(e) *Oral argument.* You may ask to appear before the Review Board to present oral argument. The Review Board may grant your request if it decides that your case raises an important question of law or policy or that oral argument would help the Review Board reach a proper decision. If your request for oral argument is granted, the Review Board will notify you of the time and place for the oral argument at least 10 days before the scheduled date.

§ 404.975 Actions that the Review Board may take.

(a) If you appeal your case to the Review Board, or if the Review Board has decided to review your case on its own motion pursuant to § 404.970, the Review Board may take one of the following actions:

(1) The Review Board may dismiss the appeal pursuant to § 404.976;

(2) If the Review Board decides that the administrative law judge's decision is supported by substantial evidence and contains no significant error of law, it may summarily affirm the decision of the administrative law judge;

(3) If the Review Board determines that there were significant errors of law or fact in the decision of the administrative law judge, or if the Review Board believes there are aspects of the case that warrant further clarification, it may issue its own decision which affirms, reverses, or modifies the decision of the administrative law judge;

(4) If the Review Board determines that there were significant errors of law or fact in the decision of the administrative law judge, or if the Review Board believes there are aspects of the case that warrant further clarification, it may remand the case to an administrative law judge for further proceedings and a new decision, or recommended decision, that is consistent with the instructions and limitations set forth by the Review Board in its order of remand; or

(5) If the Review Board concludes that further development of the evidence is necessary before a decision can be reached, it may issue an order remanding your case to an administrative law judge for further proceedings consistent with the Review Board's order.

(b) We will send notice of the Review Board's action to you at your last known address. The notice will explain in clear and simple language what action the Review Board has taken and the reasons for that action. If the Review Board issues a new decision pursuant to paragraph (a)(3) of this section, that decision will accompany the notice and will contain in understandable language a statement of the case setting forth the evidence on which the decision was based, the Review Board's analysis of the evidence and the issues, and the reasons for the Review Board's conclusions. If the Review Board summarily affirms the decision of the administrative law judge, or issues a new decision that decides your case, the notice also will advise you that the Review Board's action is our final decision and will explain how to seek judicial review of our decision. If the Review Board dismisses your appeal, the notice will advise you that the dismissal is our final decision and is not subject to further review. If the Review Board issues an order remanding your case for further proceedings, the notice

will explain that the remand order is not our final decision.

§ 404.976 Dismissal by Review Board.

(a) The Review Board may dismiss any proceedings pending before it if—

(1) You did not file your appeal within the prescribed period of time and the time for filing has not been extended;

(2) The party who filed the appeal had no right to do so under § 404.968;

(3) The record shows that the administrative law judge who issued the hearing decision should have dismissed your request for hearing under § 404.957;

(4) You and all other parties to the proceedings file a written request for dismissal; or

(5) You die, your estate or any other person to whom an underpayment may be distributed under § 404.503 of this part has not pursued your appeal, and the record clearly shows that dismissal will not adversely affect any other person who wishes to continue the action. However, dismissal of the appeal for this reason will be vacated if, within 60 days after the date of the dismissal, another person submits a written appeal and shows that he or she may be adversely affected by the determination that was under appeal.

(b) Except as provided in paragraph (a)(5) of this section, the Review Board's dismissal of an appeal pursuant to this section is binding and is not subject to further review.

§ 404.977 Case remanded by the Review Board.

(a) *When the Review Board may remand a case.* The Review Board may remand a case to an administrative law judge to issue a new decision or recommended decision, and may instruct the administrative law judge to hold another hearing. The Review Board may also remand a case to have the administrative law judge obtain additional evidence or for other action.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Review Board and may take any additional action that is not inconsistent with the Review Board's order of remand. However, the administrative law judge may consider your case only with regard to the period of time on or before the date of the first administrative law judge decision in your case.

(c) *Notice when case is returned with a recommended decision.* When the administrative law judge sends a case to the Review Board with a recommended decision, as ordered by the Review Board, a notice is mailed to the parties at their last known addresses. The notice tells them that the case has been sent to the Review Board with a recommended decision, includes a copy of the recommended decision, and explains the rules for filing briefs or other written statements with the Review Board.

(d) *Filing briefs or written statements with the Review Board.* When the administrative law judge sends a case to the Review Board with a recommended decision, as ordered by the Review Board, you will be given 20 days from the date that the recommended decision is mailed to you in which to file with the Review Board any briefs or other written statements about the facts and law relevant to your case. Any party may ask the Review Board for additional time to file briefs or other written statements. The Review Board will extend this period, as appropriate, if you show you had good cause for missing the deadline.

(e) *Action by Review Board on recommended decision.* After receiving a recommended decision from the administrative law judge, as ordered by the Review Board, the Review Board will conduct its proceedings and take action according to the procedures explained in this subpart.

§ 404.982 Review of final decisions in Federal district court.

(a) If the Review Board issues a final decision in your case pursuant to § 404.975(a)(2) or § 404.975(a)(3) of this part, that decision will be binding unless you or another party files a civil action in Federal district court seeking a review of that final decision. You have until 60 days after the date you receive the notice of the Review Board's decision to file your civil action with the court. We will presume you received the notice within 5 days of the date shown on the notice, unless you show us that you did not receive it within that 5-day period.

(b) Any party to the Review Board's final decision, or to an expedited appeals process agreement, may request that the time for filing an action in a Federal district court be extended. The request must be in writing and must include the reasons why the action was not filed, or cannot be filed, within the stated time period. The request must be filed with the Review Board, or if it concerns an expedited appeals process agreement, with one of our offices. If you show that you had good cause for missing the deadline, the time period will be extended. We use the standards in § 404.911 to determine whether good cause exists.

§ 404.983 Case remanded by a Federal court.

When a Federal court remands a case to us for further consideration, the Review Board may make a decision, or it may remand the case to an administrative law judge with instructions to take action and issue a decision or return the case to the Review Board with a recommended decision. If the case is remanded by the Review Board, the procedures explained in § 404.977 will be followed.

34. Amend § 404.989 by revising paragraph (a)(1) to read as follows:

§ 404.989 Good cause for reopening.

(a) * * *

(1) New and material evidence is furnished, except that, if the decision was made by an administrative law judge or the Review Board and involved a claim that you were disabled, we will not consider any new evidence;

* * * * *

35. Amend § 404.992 by revising paragraphs (c) and (d) to read as follows:

§ 404.992 Notice of revised determination or decision.

* * * * *

(c) If an administrative law judge or the Review Board proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified, in writing, of the proposed action and of your right to request that a hearing be held before any further action is taken. If a revised decision is issued by an administrative law judge, you and any other party may appeal the revised decision to the Review Board or the Review Board may review the decision on its own initiative.

(d) If an administrative law judge or the Review Board proposes to revise a decision, and the revision would be based only on evidence included in the record on which the prior decision was based, you and any other parties to the decision will be notified, in writing, of the proposed action. If a revised decision is issued by an administrative law judge, you and any other party may appeal the revised decision to the Review Board or the Review Board may review the decision on its own initiative.

36. Revise § 404.993 to read as follows:

§ 404.993 Effect of revised determination or decision.

A revised determination or decision is binding unless—

(a) You or another party to the revised determination files a written request for

reconsideration or a hearing before an administrative law judge, as appropriate;

(b) You or another party to the revised decision files, as appropriate, a request for a hearing before an administrative law judge or a notice of appeal to the Review Board;

(c) The Review Board reviews the revised decision on its own motion; or

(d) The revised determination or decision is further revised.

§ 404.999c [Amended]

37. Amend § 404.999c(d)(3)(i)(C) by removing the words ''Office of Hearings and Appeals'' and adding, in their place, the words ''Office of Disability Adjudication and Review''.

PART 405—ADMINISTRATIVE REVIEW PROCESS FOR ADJUDICATING INITIAL DISABILITY CLAIMS

38. The authority citation for part 405 continues to read as follows:

Authority: Secs. 201(j), 205(a)–(b), (d)–(h), and (s), 221, 223(a)–(b), 702(a)(5), 1601, 1602, 1631, and 1633 of the Social Security Act (42 U.S.C. 401(j), 405(a)–(b), (d)–(h), and (s), 421, 423(a)–(b), 902(a)(5), 1381, 1381a, 1383, and 1383b).

Subpart A—[Removed and Reserved]

Subparts D through H—[Removed and Reserved]

39. Amend part 405 by removing and reserving subparts A, D, E, F, G, and H.

39a. Section 405.230 is revised to read as follows:

§ 405.230 Effect of the Federal reviewing official's decision.

The Federal reviewing official's decision is binding unless—

(a) You request a hearing before an administrative law judge under § 404.933 or § 416.1433 of this chapter within 60 days of the date you receive notice of the Federal reviewing official's decision and a decision is made by the administrative law judge,

(b) The expedited appeals process is used, or

(c) We revise the Federal reviewing official's decision under §§ 404.987 through 404.996 or §§ 416.1487 through 416.1494 of this chapter.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—[Amended]

40. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

41. Amend § 416.1400 by revising paragraphs (a)(4) and (b) to read as follows:

§ 416.1400 Introduction.

(a) * * *

(4) *Appeal to the Review Board.* If you are dissatisfied with the decision of the administrative law judge, you may appeal that decision to the Review Board.

* * * * *

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversarial manner. Subject to the limitations in §§ 416.1435 and 416.1473 on submitting evidence at the administrative law judge and Review Board levels, you may present any information you feel may be helpful to your case. You may present the information yourself or have someone represent you, including an attorney. At each step of the review process, we will consider all relevant evidence that has been made part of the record. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review unless you can show us that there was good cause for your failure to pursue the next step of our review process in a timely manner.

§ 416.1401 [Amended]

42. Amend § 416.1401 by removing the words ''Appeals Council'' and adding, in their place, the words ''Review Board''.

43. Amend § 416.1411 by revising paragraph (b)(5) to read as follows:

§ 416.1411 Good cause for missing the deadline to request review.

* * * * *

(b) * * *

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you filed a notice of appeal to the Review Board or filed a civil suit.

* * * * *

44. Amend § 416.1424 by revising paragraph (a) to read as follows:

§ 416.1424 When the expedited appeals process may be used.

* * * * *

(a) We have made an initial and a reconsidered determination; an administrative law judge has made a hearing decision; or a decision has been appealed to the Review Board, but a final decision has not been issued.

* * * * *

45. Amend § 416.1425 by revising paragraph (a)(4) to read as follows:

§ 416.1425 How to request expedited appeals process.

(a) * * *

(4) At any time after you have filed a timely notice of appeal to the Review Board, but before the Review Board has issued a decision.

* * * * *

§ 416.1428 [Amended]

46. Amend § 416.1428 by removing the words ''Appeals Council review'' and adding, in their place, the words ''a notice of appeal to the Review Board''.

47. Revise § 416.1429 to read as follows:

§ 416.1429 Hearing before an administrative law judge—general.

(a) If you are dissatisfied with one of the determinations or decisions listed in § 416.1430 you may request a hearing. We will appoint an administrative law judge to conduct the hearing proceedings. If circumstances warrant after making the appointment (for example, if the administrative law judge becomes unavailable), we may assign your case to another administrative law judge.

(b) You may examine the evidence used in making the reconsidered determination, submit evidence, appear at the hearing, and present and question witnesses. The administrative law judge may ask you questions and will issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file, on any new evidence that is timely submitted, and on any evidence that the administrative law judge obtains.

48. Revise § 416.1433 to read as follows:

§ 416.1433 How to request a hearing before an administrative law judge.

(a) *Written request.* You must request a hearing by filing a written request. You should include in your request—

(1) Your name and social security number,

(2) The specific reasons you disagree with the reconsidered determination,

(3) If disability is an issue in your case, a statement of the medically determinable impairment(s) that you believe prevents you from working,

(4) Additional evidence that you have available to you, and

(5) The name and address of your representative, if any.

(b) *Time limit for filing request.* An administrative law judge will hear your case if you request a hearing in writing no later than 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (d) of this section). The administrative law judge may decide your case without an oral hearing under the circumstances described in § 416.1448.

(c) *Place for filing request.* You should submit a written request for a hearing at one of our offices.

(d) *Extension of time to request a hearing.* You may ask us for more time to request a hearing. Your request for an extension of time must be in writing and must give the reasons the hearing request was not filed, or cannot be filed, in time. If you show us that you have good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 416.1411 of this part.

(e) *Waiver of the right to appear.* After you submit your request for a hearing, you may ask the administrative law judge to decide your case without a hearing, as described in § 416.1448(b). The administrative law judge may grant the request unless he or she believes that a hearing is necessary. You may withdraw this waiver of your right to appear at a hearing any time before notice of the hearing decision is mailed to you, and we will schedule a hearing as soon as practicable.

49. Revise § 416.1435 to read as follows:

§ 416.1435 Submitting evidence to an administrative law judge.

(a) *General.* You should submit with your request for hearing any evidence that you have available to you. All documents prepared and submitted by you (i.e., not including medical or other evidence that is prepared by someone other than you or your representative) should clearly designate your name and the last four digits of your social security number. All such documents must be clear and legible to the fullest extent practicable and delivered or mailed to the administrative law judge within the time frames in paragraph (b) of this section, unless the administrative law judge allows additional time for submitting evidence.

(b) *Time for submitting evidence.* Any documents that you wish to have considered at the hearing must be submitted no later than 5 business days before the date of the scheduled hearing. If you do not comply with this requirement, the administrative law judge may decline to consider the evidence unless the circumstances described in paragraph (c) of this section apply.

(c) *Late submission of evidence.* (1) If you miss the deadline described in paragraph (b) of this section and you wish to submit evidence during the 5 business days before the hearing or at the hearing, the administrative law judge will accept the evidence if you show that:

(i) Our action misled you;

(ii) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or

(iii) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(2) If you miss the deadline described in paragraph (b) of this section and you wish to submit evidence after the hearing and before the hearing decision is issued, the administrative law judge will accept the evidence if you show that there is a reasonable possibility that the evidence, alone or when considered with the other evidence of record, would affect the outcome of your case, and:

(i) Our action misled you;

(ii) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or

(iii) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge may, on his or her own initiative or at your request, issue subpoenas for the appearance and testimony of witnesses and for the production of any documents that are relevant to an issue at the hearing.

(2) To have documents or witnesses subpoenaed, you must file a written request for a subpoena with the administrative law judge at least 20 days before the hearing date. The written request must:

(i) Give the names of the witnesses or describe the documents to be produced;

(ii) Describe the address or location of the witnesses or documents with sufficient detail to find them;

(iii) State the important facts that the witness or document is expected to show; and

(iv) Indicate why these facts could not be shown without that witness or document.

(3) We will pay the cost of issuing the subpoena and pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(4) Within 5 days of receipt of a subpoena, but no later than the date of the hearing, the person against whom the subpoena is directed may ask the administrative law judge to withdraw or limit the scope of the subpoena and must set forth the reasons why the subpoena should be withdrawn or why it should be limited in scope.

(5) Upon failure of any person to comply with a subpoena, the Office of the General Counsel may seek enforcement of the subpoena under section 205(e) of the Act.

50. Revise § 416.1436 to read as follows:

§ 416.1436 Time and place for a hearing before an administrative law judge.

(a) *General.* The administrative law judge sets the time and place for the hearing. The administrative law judge will notify you of the time and place of the hearing at least 75 days before the date of the hearing, unless you agree to a shorter notice period. If it is necessary, the administrative law judge may change the time and place of the hearing. If the administrative law judge changes the time and place of the hearing, he or she will send you reasonable notice of the change.

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, and the Northern Mariana Islands.

(c) *Determination regarding in-person, telephonic, or video teleconference appearance of witnesses at the hearing.* (1) In setting the time and place of the hearing, the administrative law judge will determine whether you will appear at the hearing in person or by video teleconference or, under certain extraordinary circumstances, by telephone. If you object to appearing personally by video teleconference, we will re-schedule the hearing to a time and place at which you may appear in person before the administrative law judge. The administrative law judge may direct you to appear by telephone when:

(i) Your appearance in person is not possible, such as if you are incarcerated and the facility will not allow a hearing to be held at the facility, and

(ii) Video teleconference is not available.

(2) In setting the time and place of the hearing, the administrative law judge

will determine whether any other person will appear at the hearing in person, by telephone, or by video teleconference. If you object to any other person appearing by telephone or video teleconference, the administrative law judge will decide whether to have that person appear in person, by telephone, or by video teleconference. The administrative law judge will direct a person, other than you if you object to your appearing by video teleconference, to appear by video teleconference when:

(i) Video teleconference technology is available,

(ii) Use of video teleconference technology would be more efficient than conducting an examination of a witness in person, and

(iii) The administrative law judge determines that there is no other reason why video teleconference should not be used.

51. Revise § 416.1438 to read as follows:

§ 416.1438 Notice of a hearing before an administrative law judge.

(a) *Issuing the notice.* After the administrative law judge sets the time and place of the hearing, we will mail notice of the hearing to you at your last known address or give the notice to you by personal service. We will mail or serve the notice at least 75 days before the date of the hearing, unless you agree to a shorter notice period.

(b) *Notice information.* The notice of hearing will tell you:

(1) The specific issues to be decided,

(2) That you may designate a person to represent you during the proceedings,

(3) How to request that we change the time or place of your hearing,

(4) That your hearing request may be dismissed if you fail to appear at your scheduled hearing without good reason under § 416.1411,

(5) Whether your appearance will be in person or by video teleconference (or, in exceptional circumstances, by telephone) and whether any witness's appearance will be in person, by telephone, or by video teleconference, and

(6) That you must submit all evidence that you wish to have considered at the hearing no later than 5 business days before the date of the scheduled hearing, unless you show that your circumstances meet the conditions described in § 416.1435(c) for missing the deadline.

(c) *Acknowledging the notice of hearing.* In the notice of hearing, we will ask you to return a form, within 5 days of the date you receive the notice, to let us know that you received the notice. If you or your representative does not acknowledge receipt of the notice of hearing, we will attempt to contact you to see if you received it. If you let us know that you did not receive the notice of hearing, we will send you an amended notice by certified mail.

52. Revise § 416.1439 to read as follows:

§ 416.1439 Objections.

(a) *Time and Place.* (1) If you object to the time or place of your hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the date set for the hearing, but no later than 30 days after receiving notice of the hearing. You must state the reason(s) for your objection and propose a time and place you want the hearing to be held.

(2) The administrative law judge will consider your reason(s) for requesting the change and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether we previously granted to you any changes in the time or place of your hearing.

(b) *Issues.* If you believe that the issues contained in the hearing notice are incorrect, you should notify the administrative law judge in writing at the earliest possible opportunity, but must notify him or her no later than 5 business days before the date set for the hearing. You must state the reason(s) for your objection. The administrative law judge will make a decision on your objection either at the hearing or in writing before the hearing.

§ 416.1440 [Amended]

53. Amend § 416.1440 by removing the words ''Associate Commissioner for Hearings and Appeals'' and adding, in their place, the word ''we'', and by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

§ 416.1443 [Removed and Reserved]

54. Remove and reserve § 416.1443.

55. Revise § 416.1444 to read as follows:

§ 416.1444 Administrative law judge hearing procedures—general.

(a) *General.* A hearing is open only to you and to other persons the administrative law judge considers necessary and proper. The administrative law judge will conduct the proceedings in an orderly and efficient manner. At the hearing, the administrative law judge will look fully into all of the issues raised in your case, will question you and the other witnesses, and will accept any evidence relating to your case that you submit in accordance with § 416.1435.

(b) *Conducting the hearing.* The administrative law judge will decide the order in which the evidence will be presented. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she decides that there is evidence missing from the record that must be obtained before the hearing may continue. At any time before the notice of the decision is sent to you, the administrative law judge may hold a supplemental hearing in order to receive additional evidence, consistent with the procedures described in §§ 416.1446 through 416.1461.

56. Revise § 416.1446 to read as follows:

§ 416.1446 Issues before an administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues raised in your case, regardless of whether or not the issues may have already been decided in your favor.

(b) *New issues.* Any time after receiving the hearing request and before mailing notice of the hearing decision, the administrative law judge may consider a new issue if he or she, before deciding the issue, provides you an opportunity to address it. The administrative law judge or any party may raise a new issue. An issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination.

(c) *Collateral estoppel—issues previously decided.* We already may have decided a fact that is an issue before the administrative law judge in one of our previous and final determinations or decisions involving you, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision, unless he or she has reason to believe that it was wrong, or reopens the previous determination or decision under § 416.1487.

57. Revise § 416.1448 to read as follows:

§ 416.1448 Deciding a case without a hearing before an administrative law judge.

(a) *Decision wholly favorable.* If the evidence in the record supports a decision wholly in your favor, the

administrative law judge may issue a decision without holding a hearing. However, the notice of the decision will inform you that you have the right to a hearing and that you have a right to examine the evidence on which the decision is based.

(b) *You do not wish to appear.* The administrative law judge may decide a case on the record and not conduct a hearing if—

(1) You state in writing that you do not wish to appear at a hearing, or

(2) You live outside the United States and you do not inform us that you want to appear.

(c) When a hearing is not held, the administrative law judge will make a record of the evidence, which, except for the transcript of the hearing, will contain the material described in § 416.1451. The decision of the administrative law judge must be based on this record.

§ 416.1449 [Removed and Reserved]

58. Remove and reserve § 416.1449.

59. Revise § 416.1450 to read as follows:

§ 416.1450 Presenting evidence at a hearing before an administrative law judge.

(a) *The right to appear and present evidence.* You have a right to appear before the administrative law judge, either in person or, when the administrative law judge determines that the conditions in § 416.1436(c) exist, by telephone or video teleconference, to present evidence and to state your position. You also may appear by means of a designated representative.

(b) *Admissible evidence.* Subject to § 416.1435, the administrative law judge may receive any evidence at the hearing that he or she believes relates to your case.

(c) *Witnesses at a hearing.* Witnesses may appear at a hearing in person, by telephone, or by video teleconference. Witnesses who appear at a hearing shall testify under oath or by affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or making an affirmation. The administrative law judge, you, or your representative may ask the witnesses any questions relating to your case.

(d) *Closing statements.* You or your representative may present a closing statement to the administrative law judge—

(1) Orally at the end of the hearing,

(2) In writing after the hearing and within a reasonable time period set by the administrative law judge, or

(3) By using both methods under paragraphs (d)(1) and (2).

60. Revise § 416.1451 to read as follows:

§ 416.1451 Official record.

(a) All hearings will be recorded. All evidence upon which the administrative law judge relies for the decision must be contained in the record, either directly or through administrative notice, if appropriate. The official record will include the applications, written statements, certificates, reports, affidavits, medical records, and other documents that were used in making the determination under review and any additional evidence or written statements that the administrative law judge admits into the record under §§ 416.1435 and 416.1444. All admitted evidence must be incorporated into the record. The official record of your case will contain all of the admitted evidence and a verbatim recording of all testimony offered at the hearing. It also will include any prior initial determinations or decisions relevant to your case. Subject to § 416.1473, the official record closes once the administrative law judge issues his or her decision, regardless of whether it becomes our final decision.

(b) The recording of the hearing will be prepared as a typed copy of the proceedings if—

(1) The case is sent to the Review Board without a decision, or with a recommended decision as ordered by the Review Board, by the administrative law judge;

(2) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(3) An administrative law judge or the Review Board asks for a written record of the proceedings in cases remanded by a Federal district court.

61. Revise § 416.1452 to read as follows:

§ 416.1452 Consolidated hearing before an administrative law judge.

(a) *General.* (1) We may hold a consolidated hearing if—

(i) You have requested a hearing to decide your case, and

(ii) One or more of the issues to be considered at your hearing is the same as an issue involved in another case you have pending before us.

(2) If the administrative law judge consolidates the cases, he or she will decide both cases, even if we have not yet made an initial determination or a reconsidered determination in the other case.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced at the hearing becomes the evidence of record in each case adjudicated. The administrative law judge may issue either a consolidated decision or separate decisions for each case.

62. Revise § 416.1453 to read as follows:

§ 416.1453 Decision by the administrative law judge.

(a) The administrative law judge will make a decision based on all of the evidence, including the testimony at the hearing. The administrative law judge will prepare a written decision that explains in clear and understandable language the reasons for the decision.

(b) During the hearing, in certain categories of cases that we identify in advance, the administrative law judge may orally explain in clear and understandable language the reasons for, and enter into the record, a wholly favorable decision. The administrative law judge will include in the record a document that sets forth the key data, findings of fact, and narrative rationale for the decision. Within 5 days after the hearing, if there are no subsequent changes to the analysis in the oral decision, we will send you a written decision that incorporates such oral decision by reference and that explains why the administrative law judge agrees or disagrees with the substantive findings and overall rationale of the reconsidered determination. If there is a change in the administrative law judge's analysis or decision, we will send you a written decision that is consistent with paragraph (a) of this section. Upon written request, we will provide you a record of the oral decision.

63. Revise § 416.1455 to read as follows:

§ 416.1455 The effect of the administrative law judge's decision.

The decision of the administrative law judge is binding on all parties to the hearing unless—

(a) You or another party to the hearing appeals the decision to the Review Board;

(b) The Review Board decides to review the decision on its own motion, as provided in § 416.1470; or

(c) The decision is a recommended decision to the Review Board as ordered by the Review Board; or

(d) The decision is revised by an administrative law judge or the Review Board under the procedures explained in § 416.1487.

§ 416.1456 [Amended]

64. Amend § 416.1456 by removing the words ''Appeals Council'' and, in

their place, adding the words ''Review Board''.

65. Revise § 416.1457 to read as follows:

§ 416.1457 Dismissal of a request for a hearing before an administrative law judge.

An administrative law judge may dismiss a request for a hearing:

(a) At any time before notice of the hearing decision is mailed, when you withdraw the request orally on the record at the hearing or in writing;

(b)(1) If neither you nor the person you designate to act as your representative appears at the hearing or at the prehearing conference, we notified you previously that your request for hearing may be dismissed if you did not appear, and you do not give a good reason for failing to appear; or

(2) If neither you nor the person you designate to act as your representative appears at the hearing or at the prehearing conference, we had not notified you previously that your request for hearing may be dismissed if you did not appear, and within 10 days after we send you a notice asking why you did not appear, you do not give a good reason for failing to appear.

(3) In determining whether you had a good reason under this paragraph, we will consider the factors described in § 416.1411 of this part.

(4) If neither you nor the person you designate to act as your representative appears at the prehearing conference but the provisions of § 416.1448(b) apply, the administrative law judge will issue a decision without holding a hearing.

(c) If the doctrine of res judicata applies because we have made a previous determination or decision in your case on the same facts and on the same issue or issues, and this previous determination or decision has become final;

(d) If you have no right to a hearing under § 416.1430;

(e) If you did not request a hearing in time and we have not extended the time for requesting a hearing; or

(f) If you die, there are no other parties, and we have no information to show that you may have a survivor who may be paid benefits due to you under § 416.542(b) and who wishes to pursue the request for hearing, or that you authorized interim assistance reimbursement to a State pursuant to section 1631(g) of the Act. The administrative law judge, however, will vacate a dismissal of the hearing request if, within 60 days after the date of the dismissal:

(1) A person claiming to be your survivor, who may be paid benefits due to you under § 416.542(b), submits a written request for a hearing, and shows that a decision on the issues that were to be considered at the hearing may adversely affect him or her; or

(2) We receive information showing that you authorized interim assistance reimbursement to a State pursuant to section 1631(g) of the Act.

66. Revise the second sentence of § 416.1458 to read as follows:

§ 416.1458 Notice of dismissal of a request for hearing before an administrative law judge.

* * * The notice will state that you have the right to appeal the dismissal to the Review Board.

§ 416.1459 [Amended]

67. Amend § 416.1459 by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

§ 416.1460 [Amended]

68. Amend § 416.1460 by removing the words ''Appeals Council'' and, in their place, adding the words ''Review Board''.

69. Revise § 416.1461 to read as follows:

§ 416.1461 Prehearing and posthearing proceedings.

(a) *Prehearing conferences.* (1) The administrative law judge, on his or her own initiative or at your request, may decide to conduct a prehearing conference if he or she finds that such a conference would facilitate the hearing or the decision in your case. A prehearing conference normally will be held by telephone, unless the administrative law judge decides that conducting it in another manner would be more efficient and effective in addressing the issues raised at the conference. We will give you reasonable notice of the time, place, and manner of the conference.

(2) At the conference, the administrative law judge may consider matters such as simplifying or amending the issues, obtaining and submitting evidence, and any other matters that may expedite the hearing.

(3) The administrative law judge will summarize in writing, or on the record at the hearing, the actions taken or to be taken as a result of the conference.

(4) Subject to § 416.1457(b)(4), if neither you nor the person you designate to act as your representative appears at the prehearing conference, and under § 416.1457(b) you do not have a good reason for failing to appear, we may dismiss the hearing request.

(b) *Prehearing statements.* (1) At any time before the hearing begins, you may submit, or the administrative law judge may request that you submit, a prehearing statement describing why you disagree with the reconsidered determination.

(2) Unless otherwise requested by the administrative law judge, a prehearing statement should discuss briefly the following matters:

(i) Issues involved in the proceeding,

(ii) Facts,

(iii) Witnesses,

(iv) The evidentiary and legal basis upon which you believe the administrative law judge should decide the case in your favor, and

(v) Any other comments, suggestions, or information that might assist the administrative law judge in preparing for the hearing.

(c) *Posthearing conferences.* (1) The administrative law judge may decide, on his or her own initiative or at your request, to hold a posthearing conference to facilitate the hearing decision. A posthearing conference normally will be held by telephone unless the administrative law judge decides that conducting it in another manner would be more efficient and effective in addressing the issues raised. We will give you reasonable notice of the time, place, and manner of the conference. The administrative law judge will place in the record a written summary describing the actions taken or to be taken as a result of the conference.

(2) If neither you nor the person you designate to act as your representative appears at the posthearing conference, and under § 416.1457(b) you do not have a good reason for failing to appear, we will issue a decision based on the information available in your case.

70. Remove the undesignated center heading ''APPEALS COUNCIL REVIEW'' preceding § 416.1466.

§§ 416.1466 through 416.1484 [Removed]

71. Remove existing §§ 416.1466 through 416.1484 and the undesignated center heading preceding § 416.1483.

72. Add a new undesignated center heading and §§ 416.1467 through 416.1477 and §§ 416.1482 through 416.1483 to read as follows:

Appeals to the Review Board

§ 416.1467 The Review Board.

(a) The Review Board is composed of administrative appeals judges whom we appoint. It is responsible for reviewing decisions made by administrative law judges in cases where you or another party to the proceedings has filed a notice of appeal of the administrative law judge's decision. A party also may appeal an administrative law judge's dismissal of a request for hearing to the Review Board.

(b) The Review Board may choose to review a decision by an administrative law judge even if no party has filed an appeal of that decision. The circumstances in which the Review Board may initiate such a review, and the procedures it will follow, are described in § 416.1470.

(c) The Review Board also may identify issues that impede consistent adjudication at any or all levels of the administrative review process and may recommend appropriate changes in policies and procedures to address those impediments. This advisory function will be performed separately from the Review Board's adjudicative function.

§ 416.1468 Appeal to the Review Board—general.

(a) If you or any other party is dissatisfied with a hearing decision that is unfavorable, in whole or in part, or with the dismissal of a hearing request, you may appeal that action to the Review Board. The Review Board will consider your appeal and either:

(1) Affirm, reverse, or modify the decision of the administrative law judge;

(2) Remand the case to an administrative law judge for further proceedings; or

(3) Dismiss your appeal pursuant to § 416.1476.

(b) The Review Board will notify the parties at their last known addresses of the action it has taken.

§ 416.1469 How to appeal to the Review Board.

(a) *Right to appeal to the Review Board.* If you are a party to the administrative proceedings in a case and an administrative law judge has issued a hearing decision or dismissal that is unfavorable to you, in whole or in part, you have the right to appeal that action by the administrative law judge to the Review Board.

(b) *Time limit on appeals to the Review Board.* (1) To begin your appeal, you must file a notice of appeal within 60 days after the date you receive notice of the administrative law judge hearing decision or dismissal, unless we have extended the time period as provided in paragraph (b)(2) of this section.

(2) You or any party to a hearing decision may ask that the time for filing a notice of appeal to the Review Board be extended. The request for additional time must be in writing, must be filed with the Review Board, and must give the reasons why the notice of appeal was not filed, or cannot be filed, within the 60-day period provided by paragraph (b)(1). If you show that you have good cause for missing the 60-day deadline, we will grant you additional time to file the notice of appeal. We use the standards in § 416.1411 to determine whether you had good cause.

(c) *Contents of the appeal.* Your notice of appeal must be in writing and must clearly indicate that you are appealing a specific unfavorable administrative law judge hearing decision or dismissal. Any documents or other evidence you wish to have considered by the Review Board should be submitted with your notice of appeal. You also should include with your notice of appeal a written statement that identifies any errors you believe the administrative law judge made, explains why those alleged errors require reversal or modification of the administrative law judge's hearing decision or dismissal under the standards of review described in § 416.1471, and cites applicable law and specific facts in the administrative record to support your contentions.

(d) *Where to file your notice of appeal.* You may file your notice of appeal at one of our offices.

§ 416.1470 Review Board initiates review.

(a) *General.* Anytime within 60 days after the date of a decision or dismissal that is subject to review under this section, the Review Board may decide on its own motion to review the action that was taken in your case. We may refer your case to the Review Board and ask that it review your case under this authority.

(b) *Identification of cases.* We will identify a case for referral to the Review Board for possible review under this section before we effectuate the decision in the case. We will identify cases for referral to the Review Board through random and selective sampling techniques, which we may use in association with examination of the cases identified by sampling. We also will identify cases for referral to the Review Board through the evaluation of cases we conduct in order to effectuate decisions.

(1) *Random and selective sampling and case examinations.* We may use random and selective sampling to identify cases involving any type of action (e.g., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (e.g., benefits based on disability, retirement, etc.). We will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Neither our random sampling procedures nor our selective sampling procedures will identify cases based on the identity of the decisionmaker. We may examine cases that have been identified through random or selective sampling to refine the identification of cases that may meet the criteria for review by the Review Board.

(2) *Identification as a result of the effectuation process.* We may refer a case requiring effectuation to the Review Board if, in the view of the effectuating component, the decision should not be effectuated because it contains an error that affects the outcome of the case, because the decision is clearly inconsistent with the Social Security Act, the regulations, a published Social Security Ruling, or other statement of policy, or because the decision is unclear regarding a matter that affects the outcome of the case.

(c) *Referral of cases.* Any referral we make as a result of a case examination or the effectuation process will be in writing. This written referral will state the referring component's reasons for believing that the Review Board should review the case on its own motion. Referrals that result from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Review Board's action.* If the Review Board decides to review a decision or dismissal on its own motion, it will mail a notice to all parties at their last known addresses stating that it has decided to review the case and stating the reasons for the review and the issues to be considered. The Review Board will include with that notice a copy of any written referral it received under paragraph (c) of this section. If the 60-day period within which the Review Board may initiate review on its own motion (see paragraph (a) of this section) ends before the Review Board is able to decide whether to review the decision or dismissal, the Review Board still may consider whether the decision or dismissal should be reopened pursuant to §§ 416.1487 and 416.1488.

(e) *Interim benefits.* If the Review Board decides to review a decision on its own motion, or to reopen a decision as provided in §§ 416.1487 and 416.1488, the notice of review or the notice of reopening issued by the Review Board will advise, where appropriate, that interim benefits will be payable if a final decision has not been issued within 110 days after the date of the decision that is reviewed or reopened, and that any interim benefits paid will not be considered

overpayments unless the benefits are fraudulently obtained.

§ 416.1471 Standard of review.

(a) *Review of hearing decisions.* If you appeal a decision of an administrative law judge to the Review Board, or if the Review Board initiates a review under § 416.1470, the Review Board will review the factual findings of the administrative law judge using the substantial evidence test. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The Review Board will consider any questions of law on their merits, without deference to the legal conclusions reached by the administrative law judge.

(b) *Review of dismissals.* If you appeal an administrative law judge's dismissal of your request for a hearing, the Review Board will review the action of the administrative law judge for any abuse of discretion.

(c) *Harmless error.* No error in either the admission or exclusion of evidence, and no error, defect, or omission in any ruling or decision of the administrative law judge, shall require the Review Board to vacate, modify, or reverse an otherwise appropriate ruling or decision of the administrative law judge unless, in the opinion of the Review Board, there is a reasonable probability that the error, alone or when considered with other aspects of the case, changed the outcome of the decision.

§ 416.1472 Scope of review—period of time adjudicated.

The administrative law judge's hearing decision in your case adjudicated the issues relevant to your case for the period of time up to and including the date the hearing decision was issued. If you or another party files an appeal of that hearing decision, or if the Review Board decides to review the decision on its own motion, the appeal and any subsequent proceedings will consider only that period of time ending with the date of the first hearing decision in your case. If the original hearing decision in your case is set aside, in whole or in part, by the Review Board or a Federal court and remanded to an administrative law judge for a new hearing or decision, the proceedings on remand will consider your case only with regard to the period ending on the date of the original administrative law judge decision in your case.

§ 416.1473 Scope of review—evidentiary record before the Review Board.

(a) Subject to paragraphs (b) and (d) of this section, the evidentiary record for your case is closed as of the date of the first administrative law judge's decision in your case. The Review Board will base its action on the same evidence that was before the administrative law judge and will consider only that evidence that was in the record before the administrative law judge.

(b) If you have submitted additional evidence with your appeal, and that additional evidence relates to the period on or before the date of the first administrative law judge hearing decision in your case, the Review Board will accept that evidence if you show that there is a reasonable probability that the evidence, alone or when considered with the other evidence of record, would change the outcome of the decision and:

(1) Our action misled you;

(2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or

(3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(4) You must submit with your additional evidence a written statement that explains why you believe you meet one or more of the criteria in paragraphs (b)(1), (2), and (3) of this section.

(c) If you have submitted additional evidence with your appeal and the Review Board determines that the evidence does not relate to the period on or before the date of the administrative law judge's hearing decision, or otherwise does not satisfy the criteria in paragraph (b) of this section, the Review Board will return the additional evidence to you with an explanation as to why it did not accept the additional evidence. The notice returning the evidence to you will advise you that you have a right to file a new application and that, if you file a new application within 60 days after the date of the notice, we will consider your appeal as a written statement indicating an intent to claim benefits in accordance with § 416.340 and use the date of your appeal as the filing date for your new application.

(d) If the Review Board obtains additional evidence pursuant to § 416.1474(d) of this part, or remands your case to an administrative law judge with instructions to obtain additional evidence on one or more issues, any evidence so obtained will become part of the evidentiary record in your case.

§ 416.1474 Procedures before Review Board.

(a) *Obtaining copies of evidence.* You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and, if a hearing was held before an administrative law judge, a copy of the recording of that hearing. However, you will be asked to pay the costs of providing these copies unless there is a good reason why you should not pay.

(b) *Filing briefs or written statements with the Review Board.* You may file a brief or other written statement about the facts and law relevant to the case. Any such brief or written statement should be filed with your notice of appeal, as provided in § 404.969(c), or within 10 days thereafter. If there are other parties in your case and you choose to file a brief or written statement, you should send a copy to each party.

(c) *Limitation of issues.* The Review Board may limit the issues it considers in your appeal. If the Review Board chooses to limit the issues it will consider, it will notify you and any other party of the specific issues it will consider.

(d) *Additional evidence.* If the Review Board believes additional evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Review Board decides it can obtain the evidence itself more quickly, it may do so, unless to do so would adversely affect your rights.

(e) *Oral argument.* You may ask to appear before the Review Board to present oral argument. The Review Board may grant your request if it decides that your case raises an important question of law or policy or that oral argument would help the Review Board reach a proper decision. If your request for oral argument is granted, the Review Board will notify you of the time and place for the oral argument at least 10 days before the scheduled date.

§ 416.1475 Actions that the Review Board may take.

(a) If you appeal your case to the Review Board, or if the Review Board has decided to review your case on its own motion pursuant to § 416.1470, the Review Board may take one of the following actions:

(1) The Review Board may dismiss the appeal pursuant to § 416.1476;

(2) If the Review Board decides that the administrative law judge's decision is supported by substantial evidence and contains no significant error of law,

it may summarily affirm the decision of the administrative law judge;

(3) If the Review Board determines that there were significant errors of law or fact in the decision of the administrative law judge, or if the Review Board believes there are aspects of the case that warrant further clarification, it may issue its own decision which affirms, reverses, or modifies the decision of the administrative law judge;

(4) If the Review Board determines that there were significant errors of law or fact in the decision of the administrative law judge, or if the Review Board believes there are aspects of the case that warrant further clarification, it may remand the case to an administrative law judge for further proceedings and a new decision, or recommended decision, that is consistent with the instructions and limitations set forth by the Review Board in its order of remand; or

(5) If the Review Board concludes that further development of the evidence is necessary before a decision can be reached, it may issue an order remanding your case to an administrative law judge for further proceedings consistent with the Review Board's order.

(b) We will send notice of the Review Board's action to you at your last known address. The notice will explain in clear and simple language what action the Review Board has taken and the reasons for that action. If the Review Board issues a new decision pursuant to paragraph (a)(3) of this section, that decision will accompany the notice and will contain in understandable language a statement of the case setting forth the evidence on which the decision was based, the Review Board's analysis of the evidence and the issues, and the reasons for the Review Board's conclusions. If the Review Board summarily affirms the decision of the administrative law judge, or issues a new decision that decides your case, the notice also will advise you that the Review Board's action is our final decision and will explain how to seek judicial review of our decision. If the Review Board dismisses your appeal, the notice will advise you that the dismissal is our final decision and is not subject to further review. If the Review Board issues an order remanding your case for further proceedings, the notice will explain that the remand order is not our final decision.

§ 416.1476 Dismissal by Review Board.

(a) The Review Board may dismiss any proceedings pending before it if—

(1) You did not file your appeal within the prescribed period of time and the time for filing has not been extended;

(2) The party who filed the appeal had no right to do so under § 416.1468;

(3) The record shows that the administrative law judge who issued the hearing decision should have dismissed your request for hearing under § 416.1457;

(4) You and all other parties to the proceedings file a written request for dismissal; or

(5) You die, there are no other parties who would be adversely affected by the dismissal, and we have no information to show that you may have a survivor who may be paid benefits due you under § 416.542(b) of this part and who wishes to pursue the appeal, or that you authorized interim assistance to a State pursuant to section 1631(g) of the Act. However, dismissal of the appeal for this reason will be vacated if, within 60 days after the date of the dismissal, a person claiming to be your survivor who may be paid benefits under § 416.542(b) submits a written appeal and shows that he or she may be adversely affected by the determination that was under appeal. We will also vacate the dismissal if, within 60 days after the date of the dismissal, we receive information that shows you had authorized interim assistance reimbursement to a State.

(b) Except as provided in paragraph (a)(5) of this section, the Review Board's dismissal of an appeal pursuant to this section is binding and is not subject to further review.

§ 416.1477 Case remanded by the Review Board.

(a) *When the Review Board may remand a case.* The Review Board may remand a case to an administrative law judge to issue a new decision or recommended decision, and may instruct the administrative law judge to hold another hearing. The Review Board may also remand a case to have the administrative law judge obtain additional evidence or for other action.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Review Board and may take any additional action that is not inconsistent with the Review Board's order of remand. However, the administrative law judge may consider your case only with regard to the period of time on or before the date of the first administrative law judge decision in your case.

(c) *Notice when case is returned with a recommended decision.* When the administrative law judge sends a case to the Review Board with a recommended decision, as ordered by the Review Board, a notice is mailed to the parties at their last known addresses. The notice tells them that the case has been sent to the Review Board with a recommended decision, includes a copy of the recommended decision, and explains the rules for filing briefs or other written statements with the Review Board.

(d) *Filing briefs or written statements with the Review Board.* When the administrative law judge sends a case to the Review Board with a recommended decision, as ordered by the Review Board, you will be given 20 days from the date that the recommended decision is mailed to you in which to file with the Review Board any briefs or other written statements about the facts and law relevant to your case. Any party may ask the Review Board for additional time to file briefs or other written statements. The Review Board will extend this period, as appropriate, if you show you had good cause for missing the deadline.

(e) *Action by Review Board on recommended decision.* After receiving a recommended decision from the administrative law judge, as ordered by the Review Board, the Review Board will conduct its proceedings and take action according to the procedures explained in this subpart.

§ 416.1482 Review of final decisions in Federal district court.

(a) If the Review Board issues a final decision in your case pursuant to § 416.1475(a)(2) or § 416.1475(a)(3) of this part, that decision will be binding unless you or another party files a civil action in Federal district court seeking a review of that final decision. You have until 60 days after the date you receive the notice of the Review Board's decision to file your civil action with the court. We will presume you received the notice within 5 days of the date shown on the notice, unless you show us that you did not receive it within that 5-day period.

(b) Any party to the Review Board's final decision, or to an expedited appeals process agreement, may request that the time for filing an action in a Federal district court be extended. The request must be in writing and must include the reasons why the action was not filed, or cannot be filed, within the stated time period. The request must be filed with the Review Board, or if it concerns an expedited appeals process agreement, with one of our offices. If you show that you had good cause for missing the deadline, the time period

will be extended. We use the standards in § 416.1411 to determine whether good cause exists.

§ 416.1483 Case remanded by a Federal court.

When a Federal court remands a case to us for further consideration, the Review Board may make a decision, or it may remand the case to an administrative law judge with instructions to take action and issue a decision or return the case to the Review Board with a recommended decision. If the case is remanded by the Review Board, the procedures explained in § 416.1477 will be followed.

73. Amend § 416.1489 by revising paragraph (a)(1) to read as follows:

§ 416.1489 Good cause for reopening.

(a) * * *

(1) New and material evidence is furnished, except that, if the decision was made by an administrative law judge or the Review Board and involved a claim that you were disabled, we will not consider any new evidence;

* * * * *

74. Amend § 416.1492 by revising paragraphs (e) and (f) to read as follows:

§ 416.1492 Notice of revised determination or decision.

* * * * *

(e) If an administrative law judge or the Review Board proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified, in writing, of the proposed action and of your right to request that a hearing be held before any further action is taken. If a revised decision is issued by an administrative law judge, you and any other party may appeal the revised decision to the Review Board or the Review Board may review the decision on its own initiative.

(f) If an administrative law judge or the Review Board proposes to revise a decision, and the revision would be based only on evidence included in the record on which the prior decision was based, you and any other parties to the decision will be notified, in writing, of the proposed action. If a revised decision is issued by an administrative law judge, you and any other party may appeal the revised decision to the Review Board or the Review Board may review the decision on its own initiative.

* * * * *

75. Revise § 416.1493 to read as follows:

§ 416.1493 Effect of revised determination or decision.

A revised determination or decision is binding unless—

(a) You or another party to the revised determination files a written request for reconsideration or a hearing before an administrative law judge, as appropriate;

(b) You or another party to the revised decision files, as appropriate, a request for a hearing before an administrative law judge or a notice of appeal to the Review Board;

(c) The Review Board reviews the revised decision on its own motion; or

(d) The revised determination or decision is further revised.

§ 416.1498 [Amended]

76. Amend § 416.1498(d)(3)(i)(C) by removing the words ''Office of Hearings and Appeals'' and adding, in their place, the words ''Office of Disability Adjudication and Review''.

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Part III

Department of Education

34 CFR Part 691

Academic Competitiveness Grant Program and National Science and Mathematics Access To Retain Talent Grant Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 691

RIN 1840–AC92

[Docket ID ED–2007–OPE–0135]

Academic Competitiveness Grant Program and National Science and Mathematics Access To Retain Talent Grant Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Academic Competitiveness Grant (ACG) and National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) programs. The Secretary is amending these regulations to reduce administrative burden for program participants and to clarify program requirements.

DATES: *Effective Date:* These regulations are effective July 1, 2008.

Implementation Date: The Secretary has determined, in accordance with section 482(c)(2)(A) of the Higher Education Act, of 1965, as amended (HEA) (20 U.S.C. 1089(c)(2)(A)), that institutions that administer the ACG and National SMART Grant Programs may, at their discretion, choose to implement these final regulations in their entirety, or by section, on or after November 1, 2007. For further information, see the section entitled ''IMPLEMENTATION DATE OF THESE REGULATIONS'' in the **SUPPLEMENTARY INFORMATION** section of this preamble.

FOR FURTHER INFORMATION CONTACT:

Topic	Contact person and information
General information and information related to *recognition of rigorous secondary school programs* and *eligible majors*.	Sophia McArdle. Telephone: (202) 219–7078 or via the Internet: *sophia.mcardle@ed.gov.*
Information related to *successful completion of a rigorous secondary school program*.	Jacquelyn Butler. Telephone: (202) 502–7890 or via the Internet: *jacquelyn.butler@ed.gov.*
Information related to *grade point average*	Carney McCullough. Telephone: (202) 502–7639 or via the Internet: *carney.mccullough@ed.gov* or Anthony Jones. Telephone: (202) 502–7652 or via the Internet: *anthony.jones@ed.gov.*
Information related to *academic year progression* and *prior enrollment*	Fred Sellers. Telephone: (202) 502–7502 or via the Internet: *fred.sellers@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the first contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: On August 7, 2007, the Secretary published a notice of proposed rulemaking (NPRM) for the ACG and National SMART Grant Programs in the **Federal Register** (72 FR 44050).

In the preamble to the NPRM, the Secretary discussed on pages 44052 through 44058 the major changes proposed in that document to strengthen and improve the administration of the ACG and National SMART Grant Programs authorized under the HEA (as amended by the Higher Education Reconciliation Act of 2005 (Pub. L. 109–171), enacted on February 8, 2006, 20 U.S.C. 1070a–1 (HERA)). These include the following:

- Amending § 691.2 to add a definition for the term *Classification of Instructional Programs (CIP),* as that term is used in connection with the National SMART Grant Program.
- Amending § 691.6(a), (b), and (c) to require an institution in which a student is currently enrolled to determine the student's academic year progression based on the student's attendance in all ACG and National SMART Grant eligible programs only at that institution.
- Amending § 691.6 by adding a new paragraph (d)(3) to provide that when determining the appropriate academic year for a transfer student, the institution to which the student transferred must count both (a) the number of credit or clock hours earned by the student at prior institutions that are accepted for the student, and (b) an estimated number of weeks of instructional time completed by the student.
- Amending § 691.6 by adding paragraphs (e), (f), (g), and (h) to provide for three alternative methods to determine the weeks of instructional time for a student's academic year progression, and to provide that an institution choosing to use one of these alternative methods must do so for all students enrolled in the eligible program.
- Amending § 691.6 by adding a new paragraph (d)(2) to clarify that when determining academic year progression for a student (a) an institution may not assign any weeks of instructional time to certain credit or clock hours accepted toward a student's eligible program if those credit or clock hours were earned from Advanced Placement (AP) programs, International Baccalaureate (IB) programs, testing out, life experience, other similarly earned credits or credits earned while not enrolled as a regular student in an ACG or National SMART Grant eligible program, or coursework that is not at the postsecondary level, such as remedial coursework; and (b) an institution must assign weeks of instructional time to determine National SMART Grant eligibility for periods in which a student was enrolled in an ACG-eligible program before declaring, or certifying his or her intent to declare, an eligible major.
- Amending § 691.6 by adding paragraph (e) to provide that a student can request and receive an exact determination of his or her academic year standing and to provide that, if the institution performs an exact accounting, it may not employ any of the alternative methods for determining that student's academic year standing reflected in § 691.6(f), (g), or (h).
- Amending § 691.15 by adding paragraph (g) to clarify that, for purposes of eligibility for ACG and National SMART Grants, an institution that assesses grade point average (GPA) on a numeric scale other than a 4.0 scale must ensure that its minimum GPA requirement meets the same numeric standard as a cumulative GPA of 3.0 or higher on a 4.0 scale.
- Amending § 691.15 by adding paragraph (f)(1) to clarify that institutions are required to calculate a student's GPA for determining second-year ACG eligibility as follows:
  - For a student who transfers to an institution that accepts into the student's ACG eligible program at least the credit or clock hours for one academic year, but for less than two academic years, the institution must calculate the student's GPA using the

grades from all coursework accepted into the student's ACG eligible program.

○ For a student who transfers to an institution that accepts less than the credit or clock hours for an academic year into the student's ACG eligible program, the institution must calculate the student's GPA by combining the grades from all coursework accepted into the student's ACG eligible program with the grades for coursework earned at the current institution through the payment period in which the student completes the credit or clock hours for his or her first academic year.

• Amending § 691.15 by adding paragraph (f)(2) to require that, for a transfer student who transfers from one institution to another institution at which the student is eligible for a National SMART Grant, the subsequent institution determines that student's eligibility for the first payment period using one of two methods, depending on whether it incorporates the grades from the student's previous coursework that it accepts on transfer into the student's GPA at the subsequent institution.

• Amending § 691.15(b) to extend eligibility for a first-academic-year ACG to any student who enrolls as a regular student in an ACG eligible program while in high school provided that the student is beyond the age of compulsory school attendance.

• Amending § 691.15 by adding paragraphs (d) and (e) to require an institution to document a student's eligible major and progress in the eligible program and major by maintaining documentation, such as the following: (a) Documentation of the declared major, including written declaration of intent to declare an eligible major provided by the student; and (b) written documentation showing that the student is progressing in coursework leading to a degree in the student's intended or declared eligible major; and (c) written documentation that the student is enrolling in the courses necessary to complete a degree in the intended or declared eligible major.

• Amending § 691.17 to provide a process for institutions of higher education to request additional majors to be added to the list of eligible majors for National SMART Grants.

• Amending § 691.15(b) to require that, in order to successfully complete a rigorous secondary school program of study, a student must obtain a high school diploma or, for a home-schooled student, receive a high school diploma or parental certification of completion of a secondary school education.

• Amending § 691.16(b) to allow State educational agencies (SEAs) and local educational agencies (LEAs) to request recognition of rigorous secondary school programs of study for school years beyond the immediate next school year.

• Amending § 691.16(d)(1) so that advanced or honors secondary school programs of study continue to be recognized as rigorous secondary school programs of study by the Secretary for school years subsequent to the 2005–2006 school year.

There are no significant differences between the NPRM and these final regulations resulting from public comment or legislative action.

Implementation Date of These Regulations

Section 482(c) of the HEA requires that regulations affecting programs under Title IV of the HEA be published in final form by November 1 prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulation may choose to implement earlier and the conditions under which the entity may implement the provisions early.

Consistent with the intent of this regulatory effort to reduce administrative burden for program participants and to clarify program requirements for the ACG and National SMART Grant Programs, the Secretary is using the authority granted her under section 482(c) to designate all regulations subject to that section included in this document for early implementation at the discretion of each institution. Therefore, the regulations in this document may be implemented early in their entirety, or by section (e.g., all of § 691.6 or all of § 691.15), but not by paragraph, because related provisions (provisions within a section, at the very least) should be implemented contemporaneously. Moreover, because these final regulations replace transitional guidance that had been provided to institutions, institutions must make sure that any early implementation of the final regulations is consistent with the discussion in this document, notwithstanding the information provided in the transitional guidance the Department issued regarding the implementation of academic year progression for the 2006–2007 and 2007–2008 award years. Institutions must maintain documentation of the early implementation and must continue with the early implementation once it has been initiated.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM published on August 7, 2007 (72 FR 44050), 52 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize the Secretary to make. We also do not address comments pertaining to issues that were not within the scope of the NPRM.

General Comments

Several commenters stated that the ACG and National SMART Grant Programs are overly burdensome to implement. As noted in the *Paperwork Reduction Act of 1995* section of this preamble, those comments relate to the basic structure of the program, as established in the HEA. While we cannot modify statutory program requirements through regulations, to the extent possible, we have tried to reduce the administrative burden associated with carrying out the statutory requirements governing the ACG and National SMART Grant Programs. We believe the final regulations are necessary to implement the statute.

Two commenters expressed concern that the current definition of ''eligible program'' in § 691.2(d) excludes certificate programs as eligible programs under the ACG and National SMART Grant Programs. We believe this definition is necessary to implement the programs in accordance with the plain language of the statute. Moreover, we believe that this definition encourages students to pursue associate or bachelor degrees. Regardless of whether an institution offers both degree and certificate programs, a student is only eligible for an ACG or National SMART Grant if the student is confirmed as enrolled full-time in the coursework of an ACG-eligible or National SMART Grant-eligible program, respectively.

We encourage institutions to counsel each student about the eligibility requirements for the ACG and National SMART Grant Programs, including the need to enroll in an ''eligible program,'' as defined in § 691.2(d), early on. This counseling may include explaining that if the student transfers from an ineligible program to an eligible

program, the student may receive an ACG or National SMART Grant as long as he or she meets all other eligibility requirements.

Academic Year Progression (§ 691.6)

General

Comments: Several commenters objected to using the Title IV, HEA definition of academic year, as measured in a minimum number of weeks of instructional time and, for undergraduate programs, credit or clock hours, for determining a student's academic year progression. The commenters supported determining academic year progression based solely on a student's grade level or credits earned. These commenters believed that using the Title IV, HEA definition of academic year for the ACG and National SMART Grant Programs was confusing, cumbersome, and administratively burdensome, and could lead to unintended errors.

Discussion: While we appreciate the commenters' concerns, under section 401A(c)(3) of the HEA, a student is eligible for an ACG in the student's ''first academic year of a program of undergraduate education'' and ''second academic year of a program of undergraduate education,'' and for a National SMART Grant, in the ''third or fourth academic year of a program of undergraduate education.'' The term academic year is defined in section 481(a)(2) of the HEA, which applies to all Title IV, HEA programs, including the ACG and National SMART Grant Programs. We cannot interpret the term ''academic year'' in any way that would be contrary to the statutory requirements in section 481(a)(2) of the HEA.

Changes: None.

Comments: Some commenters questioned the relationship between an exact accounting of weeks of instructional time for a student's academic year progression under the proposed regulations and the alternatives for determining the weeks of instructional time provided in proposed § 691.6(e), (f), (g), and (h) for programs that calculate payments under § 691.63(b) and (c) (e.g., nonterm programs). Another commenter supported the flexibility offered by proposed § 691.6(e), (f), (g), and (h), but indicated that the commenter's institution expected to retain its current policy of using the exact accounting method because it agrees that an exact accounting is most beneficial for students. One commenter believed that programs that do not calculate payments under § 691.63(b) and (c) also could use the grade-level alternative under proposed § 691.6(h) for determining students' weeks of instructional time. One commenter questioned whether transfer credits were subject to an exact accounting.

Discussion: We consider an exact accounting of the credit or clock hours and weeks of instructional time to be the best method to determine any student's academic year progression because it is the most accurate. We further agree with the commenter who believed an exact accounting is more beneficial to students than estimating their academic year progression because it is the most accurate determination. We understand, however, that this better information places more administrative burden on an institution having to conduct an exact accounting for its students. The regulations, therefore, allow some flexibility for certain programs to use alternative methods to estimate a student's academic year progression. The alternative methods in § 691.6(f), (g), and (h), which allow institutions to estimate the number of weeks of instructional time when determining academic year progression, may be used for certain eligible programs and must be used for transfer students.

We are providing in § 691.6(f), (g), and (h) alternative methods for determining weeks of instructional time for institutions calculating payments for programs under § 691.63(b) and (c) because these institutions generally have not had to account precisely for the weeks of instructional time completed by individual students in order to be compliant with the Title IV, HEA academic year for Title IV purposes. The alternatives are based on specified criteria that will provide consistent measures for students enrolled in those programs while providing a less burdensome way for institutions to estimate academic year progression.

In contrast, institutions that calculate payments for eligible programs under § 691.63(d) and (e) must account for the actual number of weeks a student attends classes in their academic year progression calculations under Title IV, HEA. Using an exact accounting of credit or clock hours and weeks of instructional time to determine academic year progression (apart from determining weeks of instructional time for transfer credits) is, therefore, the only appropriate option for these institutions under the HEA. For this reason, we do not provide the alternatives under proposed § 691.6(e), (f), (g), and (h) for determining weeks of instructional time for these eligible programs.

For transfer students, because the proposed changes to § 691.6(a), (b), and (c) require an institution to determine a student's academic year progression based on the student's attendance in all ACG and National SMART Grant eligible programs *only* at the institution in which the student is currently enrolled, an institution is no longer required to do an exact accounting of a student's academic year progression at all institutions. Therefore, when determining the appropriate academic year for a transfer student under § 691.6(d)(3), the institution to which the student transferred must count the number of credit or clock hours earned by the student at prior institutions that are accepted toward the student's ACG- or National SMART Grant-eligible program, and estimate the number of weeks of instructional time completed by the student.

Changes: None.

Comments: Many commenters believed that the proposed regulations should be revised to incorporate, for the 2008–2009 and subsequent award years, the transitional guidance the Department issued regarding the implementation of academic year progression for the 2006–2007 and 2007–2008 award years, including the guidance we provided in Dear Colleague letter GEN–06–18. This transitional guidance permitted programs eligible to calculate payments under § 691.63(b) and (c) to make certain assumptions when determining a student's academic year progression for ACG and National SMART Grant eligibility. The guidance also covered the treatment of transfer students, the extension of the fourth academic year for National SMART Grant eligibility, and the second academic year of associate degree programs for ACG eligibility. The common theme in the comments that mentioned the Department's transitional guidance was that the guidance provided institutions with more flexibilities in administering the ACG and National SMART Grant Programs than is available under the proposed regulations, and that these flexibilities provided significant burden relief and assisted them in addressing particular students' circumstances.

Discussion: Following the creation of the ACG and National SMART Grant Programs and based on the need to implement the programs quickly, the Department determined that it was appropriate to provide transitional guidance to relieve administrative burden on institutions during the two initial award years of implementation of

the ACG and National SMART Grant Programs. The relief provided in the transitional guidance mostly related to the treatment of transfer students for these programs and to determining weeks of instructional time completed at traditional academic calendar institutions. The flexibilities provided in the transitional guidance were intended to ease the transition for institutions as they established procedures for these new programs. The negotiated rulemaking proceeding for these regulations gave the participants time to address these issues in more detail, and these regulations put in place modified requirements for institutions to use to administer the ACG and National SMART Grant programs on an ongoing basis.

In addition, the extensions of fourth-academic-year National SMART Grant eligibility and second-academic-year of associate degree programs for ACG eligibility are no longer needed because all students now have an opportunity to qualify for awards during the appropriate academic year. Starting with the 2008–2009 award year, institutions will be required to comply fully with the HEA provisions for the ACG and National SMART Grant Program and these final regulations.

Changes: None.

Comments: Some commenters requested guidance on how to determine an individual student's academic year progression when the student's progression has been based on the Department's transitional guidance for the 2006–2007 and 2007–2008 award years and the student's academic year level is changed by the implementation of these final regulations in 2008–2009. One commenter suggested that, if we are unable to incorporate the transitional guidance into the final regulations, we should at least ''grandfather'' the transitional guidance for continuing students who may otherwise regress in applicable academic years.

Discussion: For 2008–2009 and subsequent award years, an institution must determine a student's academic year progression in accordance with the HEA provisions for the ACG and National SMART Grant Programs and these final regulations. We believe that this new framework may delay awards for some students until they progress to the point they were previously deemed to have reached, but most of these students will still be eligible to receive the same amount of grant funds from that point forward. A student who received a third-academic-year National SMART Grant Scheduled Award in the 2007–2008 award year under the transitional guidance may, for example, now be considered to be in the second academic year in his or her National SMART Grant-eligible program in the 2008–2009 award year. That student would no longer be eligible for a National SMART Grant until the student enrolls in the fourth academic year of his or her National SMART Grant eligible program. In this example, the student has already received a third-year National SMART Grant award; thus the student may not be paid for any remaining eligibility for a second-year ACG award, even if otherwise eligible, because the student is presumed to have completed an ACG-eligible program through the second academic year at that same institution in order to qualify for the third-year award the student previously received. Because a student who has completed an ACG-eligible program through the second academic year is not eligible for a second-year ACG award, the student in the example is not eligible for a second-year ACG award.

Note, however, that the outcome of this example would be different if the student received the third-academic-year National SMART Grant award at another institution and then, upon transfer, was classified as being in his or her second academic year. If this transfer student were otherwise eligible, the student may receive any second-academic-year ACG Scheduled Award not already received at the prior institution because, under § 691.6(a), (b), and (c), academic year progression only takes into account attendance at the transfer student's current institution.

We do not believe it is necessary to ''grandfather'' the transitional guidance for continuing students because they generally will have the opportunity to progress to the academic year level they would otherwise be at under the transitional guidance.

Changes: None.

Comment: One commenter requested clarification of the relationship of academic year progression to the Scheduled Award. The commenter questioned whether an otherwise eligible student who receives a Scheduled Award within an award year and progresses to the next academic year within the same award year would be eligible to receive another ACG or National SMART Grant for the next academic year in that award year.

Discussion: An ACG or National SMART Grant Scheduled Award is the amount a full-time student would be paid for a full academic year without respect to any award year. Unlike the Federal Pell Grant Program in which a student starts a new Scheduled Award with each new award year, a student receiving an ACG or National SMART Grant Scheduled Award starts a new Scheduled Award when the student starts a new academic year without reference to whether a new award year has commenced. For example, a program is offered in quarters with 10 weeks of instructional time and the academic year is defined as 36 credit hours and 30 weeks of instructional time. An eligible student in this program attends the quarters beginning in July, October, and January in the 2007–2008 award year and receives a first-academic-year ACG Scheduled Award over those three quarters. The student then continues into the quarter that begins in April and ends in June, which is prior to the next award year, and at the start of that quarter the student meets the eligibility requirements to receive a second-academic-year ACG Scheduled Award. In this example, the student would receive a payment from the second-year Scheduled Award for the quarter beginning in April. If the student continues to be eligible for a second-academic-year Scheduled Award in the quarters beginning in July and October of the 2008–2009 award year, the student would receive the second and third disbursements of the second-academic-year Scheduled Award during those quarters.

Changes: None.

Academic Year Progression (§ 691.6(a), (b), and (c))

Comments: Several commenters supported the changes reflected in proposed § 691.6(a), (b), and (c), which require an institution to determine a student's academic year progression based on the student's attendance in all ACG and National SMART Grant eligible programs *only* at the institution in which the student is currently enrolled. The commenters believed that the proposed changes would reduce burden and provide some needed flexibilities.

Discussion: We appreciate the commenters' support.

Changes: None.

Comment: Some commenters questioned the effect changing eligible programs would have on a student's academic year progression under the proposed regulations. One commenter believed that the proposed regulations would prohibit a student from being eligible for an award at an academic year level below the academic year level of any award the student had received at a prior institution. Another commenter believed that the regulations should provide that only credits that apply directly to a student's eligible

program should be considered in determining a student's academic year progression, without taking into account an institution's general academic policies regarding degree audits.

Discussion: In general, under these regulations, an institution must follow a student's academic year progression in all ACG- and National SMART Grant-eligible programs attended by the student at that institution. The receipt of ACGs or National SMART Grants at other institutions would not affect the student's academic year progression at the current institution, as is discussed further in the next section, *Transfer Students (§ 691.6(d)(3))*.

Under these regulations, a student's academic year progression must take into account (a) the credit or clock hours, including transferred hours, credited toward, for ACGs, ACG-eligible programs, and, for National SMART Grants, National SMART Grant-eligible programs at the student's current institution; and (b) the weeks of instructional time earned while enrolled in, for ACGs, ACG-eligible programs, and, for National SMART Grants, ACG- and National SMART Grant-eligible programs at the student's current institution, including any estimated weeks based on transferred hours. For example, a student completes his or her first academic year in weeks of instructional time and credit hours as a part-time student while enrolled in a Bachelor of Fine Arts degree program at an institution. At the end of the first academic year, the student transfers to the same institution's school of architecture to enroll full-time in the Bachelor of Architecture degree program. The student is still considered to have completed a first academic year at the institution for purposes of receiving an ACG. The student would be considered to be entering his or her second academic year in an ACG-eligible program at the institution by continuing in the Bachelor of Architecture without reference to the number of credits applicable to that degree from the Bachelor of Fine Arts degree program. A student moving between National SMART Grant-eligible programs would be treated similarly.

The ACG and National SMART Grant Programs have different eligibility requirements because National SMART Grants are only available for qualified students who are progressing in a designated major in a National SMART Grant-eligible program. A student's attendance in ACG-eligible programs will only count for the credit-or clock-hour component of academic year progression for National SMART Grants if the credit or clock hours earned while in an ACG-eligible program are applicable to the National SMART Grant eligible program. For the weeks-of-instructional-time component, under § 691.6(d)(2)(ii), a student is considered to have accrued weeks of instructional time in a National SMART Grant-eligible program while the student was enrolled in ACG-eligible programs.

In determining a student's academic year progression, an institution must always take into consideration only those credit or clock hours applicable to the student's attendance in, for ACGs, ACG-eligible programs, and for National SMART Grants, National SMART Grant-eligible programs. In making these determinations, an institution may follow its general academic policies regarding degree audits. For example, an institution may consider all credits to be generally applicable to a student's bachelor's degree program under its academic policies until such time as it performs a degree audit or otherwise performs an exact accounting of a student's academic year progression.

Changes: None.

Comment: One commenter asked at what point in time would an institution determine whether a student is enrolled in a National SMART Grant-eligible program for the purpose of determining that student's academic year progression for a National SMART Grant. The commenter noted that, for National SMART Grant purposes, an eligible program is defined as one that leads to a bachelor's degree in a National SMART Grant-eligible major. The commenter questioned whether a student is considered to be enrolled in a National SMART Grant-eligible program (1) only if he or she has declared or intends to declare a National SMART Grant eligible major, or (2) as long as an eligible major is offered within that program.

Discussion: A student's eligibility for a National SMART Grant is based upon his or her pursuit of an eligible major. A student demonstrates this pursuit by declaring an eligible major or demonstrating his or her intent to declare an eligible major. Accordingly, under § 691.6(d)(2)(ii), a student may be considered to be enrolled in a National SMART Grant-eligible program only if the student has declared a National SMART Grant-eligible major, or demonstrated his or her intent to declare an eligible major, in accordance with § 691.15(c)(2).

Changes: None.

Transfer Student (§ 691.6(d)(3))

Comments: Several commenters supported the requirement in proposed § 691.6(d)(3) that, when determining the appropriate academic year for a transfer student, the institution to which the student transferred must count the number of credit or clock hours earned by the student at prior institutions that are accepted into the student's ACG-or National SMART Grant-eligible program, and estimate the number of weeks of instructional time completed by the student as determined by a formula provided in the proposed regulations.

Discussion: We appreciate the commenters' support.

Changes: None.

Comments: Some commenters objected to excluding the types of credit or clock hours described in proposed § 691.6(d)(2) when assigning weeks of instructional time for the purpose of calculating academic year progression. In particular, commenters believed it would be difficult for institutions to know whether the transferred credit or clock hours were earned in an ACG- or National SMART Grant-eligible program. One commenter was concerned that, in order to comply with the proposed regulations, an institution would need to collect documentation and perform evaluations beyond those normally required for transfer of credit or clock hours to determine whether the credit or clock hours would have associated estimated weeks of instructional time. Two commenters believed that, under the proposed regulations, an institution would be required to perform an exact accounting of weeks of instructional time for transfer credits and believed this requirement would be difficult to implement if the institution were using one of the alternative methods of determining weeks of instructional time under proposed § 691.6(e), (f), (g), and (h). These commenters also questioned whether a student could request an exact accounting of weeks of instructional time for the transferred credit or clock hours, what the appropriate treatment would be for credit or clock hours earned in summer courses at other institutions without a written agreement between institutions, and what the appropriate treatment would be for the late receipt of credit or clock hours on transfer by an institution at a time subsequent to a student's initial enrollment at that institution. One commenter questioned whether the prior receipt of ACGs or National SMART Grants affected a student's academic year progression at a student's current institution.

Discussion: We recognize the difficulty of determining whether credit or clock hours accepted on transfer should be excluded from an institution's

calculation of weeks of instructional time under § 691.6(d)(2). Nonetheless, institutions must determine a student's eligibility for the ACG and National SMART Grant Programs and, for transfer students, an institution is responsible for determining the credit or clock hours accepted on transfer that apply to a student's ACG- or National SMART Grant-eligible program and estimating the number of weeks of instructional time associated with those hours. With respect to the exclusions identified in § 691.6(d)(2) and the treatment of transfer students, an institution may rely on the documentation it normally collects from incoming transfer students to evaluate transfer credits. An institution is not required to collect additional documentation, and, unless the institution has information to the contrary, may consider all credit or clock hours accepted on transfer as having been earned while enrolled in an ACG- and National SMART Grant-eligible program. Correspondingly, if an institution has information indicating that the transferred credit or clock hours fall into one of the exclusions in § 691.6(d)(2), it must exclude those from its calculation of weeks of instructional time for the transferred student.

Under § 691.6(d)(3), an institution would never perform an exact accounting of weeks of instructional time for transfer credits but would estimate the number of weeks of instructional time completed by a transfer student. Under the regulations, for transfer students, the estimated number of weeks of instructional time must correspond to the credit or clock hours accepted in the same ratio as the weeks of instructional time in the eligible program's academic year is to the credit or clock hours in the academic year of the student's ACG- or National SMART Grant-eligible program.

For a student who transfers credit or clock hours into an ACG- or National SMART Grant-eligible program from attending a summer term at another institution or for whom the current institution receives credit or clock hours subsequent to the student's initial enrollment, the institution would estimate the number of weeks of instructional time completed by the student in the same manner as for all other transferred credit or clock hours.

As previously addressed under *Academic Year Progression (§ 691.6(a), (b), and (c))*, a student's prior receipt of ACG or National SMART Grant awards at other institutions does not affect a student's academic year progression at his or her current institution, but the student cannot receive a duplicate award for the same academic year at the second institution. The current institution may only evaluate the credits accepted on transfer into the student's ACG- or National SMART Grant-eligible program in determining the student's academic year progression. While the receipt of ACGs and National SMART Grants at other institutions does not affect a student's academic year progression at his or her current institution, the current institution must always ensure that, in accordance with section 401A(d)(2)(B) of the HEA, an eligible student only receives one ACG for each of the first two academic years of an undergraduate program and one National SMART Grant for each of the third and fourth academic years of a bachelor's degree program.

Changes: None.

Comment: One commenter asked whether an institution that uses the grade-level alternative under § 691.6(h) would be required to determine the academic years completed by a transfer student in accordance with proposed § 691.6(d)(3) or whether the institution would do so by applying the credit hours the institution accepts on transfer toward the student's grade level in accordance with proposed § 691.6(h).

Discussion: We believe the commenter has identified a situation where it would be inappropriate to calculate a student's weeks of instructional time in accordance with proposed § 691.6(d)(3). Because the grade-level alternative method to determining weeks of instructional time under proposed § 691.6(h) is driven by the credit hours accrued by the student, including transfer credits, the requirements for determining academic year progression for transfer students in proposed § 691.6(d)(3) would not apply when an institution uses the alternative method in proposed § 691.6(h).

Changes: We have revised proposed § 691.6(d)(3) to provide that, for an eligible program for which an institution determines estimated weeks of instructional time based on grade level under § 691.6(h), the institution must include the credit hours accepted on transfer into a student's eligible program when determining the student's grade level in accordance with § 691.6(d)(2) and (h).

Comment: One commenter asked whether proposed § 691.6(d)(3) would apply only to eligible programs subject to a particular payment formula under § 691.63 or to all eligible programs.

Discussion: Proposed § 691.6(d)(3) applies to all eligible programs.

Changes: None.

Comments: One commenter questioned whether the determination of the estimated weeks of instructional time for transferred credit or clock hours for a transfer student would apply only upon enrollment at the current institution and not for subsequent evaluations of a student's academic year progression. For example, the commenter questioned whether the transferred hours would be incorporated in determining the weeks of instructional time under the alternative methods provided in § 691.6(g) and (h), based on credits and grade level, respectively.

Discussion: The alternative methods of estimating weeks of instructional time provided in § 691.6(f), (g), and (h), along with an exact accounting of weeks of instructional time, apply only to attendance at the current institution. A transfer student's estimated weeks of instructional time, as calculated in accordance with § 691.6(d)(3), would be added to the weeks of instructional time the student accrues at the current institution, as determined based on an exact accounting or in accordance with § 691.6(f) or (g). It is unnecessary to estimate the weeks of instructional time under § 691.6(d)(3) when using the alternative method described in § 691.6(h). The methodology for estimating weeks of instructional time under § 691.6(g) is the same as that in § 691.6(d)(3), so it may appear that proposed § 691.6(g) applies to transfer credits.

If the estimated weeks of instructional time for credit or clock hours accepted on transfer are applicable to a first or second academic year in an ACG-eligible program, institutions are reminded that, under § 691.6(d)(2)(ii), those estimated weeks of instructional time would apply toward National SMART Grant academic year progression regardless of whether the credit or clock hours were earned while the student was enrolled in a National SMART Grant-eligible program.

Changes: None.

Comment: One commenter questioned whether the provisions of proposed § 691.6(d)(3) would apply to a student attending more than one eligible institution under a written agreement, both during the period covered by the agreement and upon returning to the home institution.

Discussion: To the extent the home institution is calculating the student's payments for payment periods under its academic calendar, including the credit or clock hours being earned at another eligible institution, the provisions of § 691.6(d)(3) would not apply because the student would not be transferring these credits or clock hours. However, if the home institution does not calculate

the student's payment for a payment period, the credit or clock hours would be treated as transfer credit or clock hours and would be subject to the provisions of § 691.6(d)(3).

Changes: None.

Alternative Methods for Determining Weeks of Instructional Time (§ 691.6(e), (f), (g), and (h))

Comments: Several commenters supported proposed § 691.6(e), (f), (g), and (h), which would provide three alternative methods for determining the weeks of instructional time for a student's academic year progression in eligible programs for which payments are determined under § 691.63(b) and (c). The alternative method in § 691.6(f) counts weeks of instructional time based on the number of terms the student has attended (terms-attended alternative). The alternative method in § 691.6(g) attributes weeks of instructional time to the credit hours earned by the student (credits-earned alternative). The alternative method in § 691.6(g) uses student's grade level as a basis for determining weeks of instructional time completed (grade-level alternative). An extensive discussion of these alternatives is found in the preamble of the NPRM (see 72 FR 44053–44054).

Several commenters objected to the applicability of proposed § 691.6(d)(2), under the credits-earned and grade-level alternative methods reflected in proposed § 691.6(g) and (h), respectively, because of the types of credits that are not counted under those methods. Proposed § 691.6(d)(2) would not permit an institution to allocate weeks of instructional time to certain credits that were not earned at postsecondary institutions or as part of an ACG- or National SMART Grant-eligible program.

Discussion: We appreciate the commenters' support and concerns. However, proposed § 691.6(d)(2) is designed to work with the alternative methods in § 691.6(f), (g), and (h), so that a student's academic year progression consistently excludes credits that do not have weeks of instructional time in an ACG- or National SMART Grant-eligible program associated with them.

Changes: None.

Comment: One commenter was concerned that proposed § 691.6(e)(2)(i) allows only institutions that determine payments for the student's eligible program under § 691.63(b) or (c) to use any of the three alternatives under proposed § 691.6(f), (g), and (h). The commenter noted that a similar restriction is stated in proposed § 691.6(f)(1) and (g)(1), but that these paragraphs use the language ''may determine payments'' under § 691.63(b) or (c) rather than ''uses'' those payment formulas. In addition, the commenter notes that the restriction is not repeated in any form in proposed § 691.6(h).

Discussion: These alternative methods of estimating weeks of instructional time only apply to programs for which payments are calculated under § 691.63(b) or (c) because institutions using these payment methods are not required to account directly for the weeks of instructional time when calculating payments for their programs. If a program were eligible for payment calculations under § 691.63(b) or (c) but, in fact, calculated payments under § 691.63(d), the institution would be required to accurately determine the weeks of instructional time attended by the student when making payment calculations, and it would be inappropriate to provide these three alternatives.

Changes: We have revised proposed § 691.6(f)(1) and (g)(1) by replacing the words ''may determine'' with the word ''determines'' in order to make these provisions consistent with proposed § 691.6(e)(2)(i). We have also revised § 691.6(h) to make it consistent with these other provisions.

Comments: One commenter requested clarification on whether an institution must use only one alternative for all students in a program unless an exception is made to use an exact accounting for a given student. The commenter also questioned whether an institution is required to document the basis for its determination to use an alternative method or an exact accounting.

Discussion: As provided under proposed § 691.6(e)(2)(ii), an institution must use the same alternative method for all students in an eligible program unless the institution performs an exact accounting, either on its own initiative or upon a student's request. While an institution must document whether it has used an alternative method or exact accounting to determine a student's weeks of instructional time, it is not required to document the basis for its decision.

Changes: None.

Comment: One commenter questioned whether, in using an alternative method of determining weeks of instructional time, an institution might identify specific groups of students in the eligible program for whom it would always perform an exact accounting. For example, an institution might use the grade-level alternative but perform an exact accounting for all students with AP or IB credits.

Discussion: We believe that an institution should use the same alternative for determining weeks of instructional time for students in a program except when the institution initiates or performs, pursuant to a student's request, an exact accounting of weeks of instructional time. Accordingly, we believe it would be appropriate for an institution to identify a group or groups of students in the eligible program for whom it would always perform an exact accounting and then to use the same alternative method for determining the weeks of instructional time for all other students in the eligible program.

Changes: We have clarified in § 691.6(e)(2)(ii) that institutions must use the same alternative method for determining weeks of instructional time for all students enrolled in the eligible program for whom an exact accounting is not performed.

Comments: One commenter questioned how the application of the alternative methods described in § 691.6(f), (g), and (h) would be affected by a student attending some classes offered in an academic calendar outside the one offered by the student's eligible program or classes offered as part of intersessions between semesters that may be treated as part of a semester to qualify for payment calculations under § 691.63(b) or (c).

Discussion: We believe these situations would have little impact on how an institution would apply the alternative methods described in § 691.6(f), (g), and (h). A student taking some courses outside the academic calendar of his or her eligible program would still have payments calculated based on the eligible program's calendar and the courses would be considered to fall within the eligible program's calendar. Intersessions treated as part of a semester would be similarly considered to fall within a semester in the eligible program's calendar for purposes of these alternative methods.

Changes: None.

Comments: One commenter asked for clarification regarding the impact of using the grade-level alternative under proposed § 691.6(h) when an institution is required to remove from consideration credits that are not associated with weeks of instructional time under proposed § 691.6(d)(2). The commenter questioned the relationship of credits with which no weeks of instructional time are associated (*e.g.*, AP credits) to the formula in proposed § 691.6(h)(3) for determining whether an institution may use the grade-level

alternative. The commenter further questioned whether an institution that qualifies to use the grade-level alternative based on an institution-wide analysis, rather than a program-level analysis under § 691.6(h)(3), must use the grade-level alternative for all of its eligible programs.

Discussion: Under proposed § 691.6(d)(2), an institution must exclude credits without weeks of instructional time in determining a student's grade level for purposes of proposed § 691.6(h)(2) when it determines the student's academic year progression. The formula in § 691.6(h)(3) applies only to full-time, full-year students during periods of enrollment in ACG- and National SMART Grant-eligible programs at the institution. To take into consideration credits without weeks in applying the formula in § 691.6(h)(3) would distort the academic year progression for those students.

If an institution uses an institution-wide analysis under the grade-level alternative, it must use the grade-level alternative for all of its ACG- and National SMART Grant-eligible programs. We believe that § 691.6(h)(3) should be changed to clarify this requirement.

Changes: We have added paragraph (h)(2)(iii) to § 691.6 to clarify that an institution that makes a determination under paragraph (h)(2)(i) of that section on an institutional basis must use the grade-level alternative method for all students at the institution for whom it does not perform an exact accounting of weeks of instructional time completed. We also have amended § 691.6(e)(2) to reference this requirement.

Comments: Several commenters supported continuing guidance similar to the transitional guidance for 2006–2007 and 2007–2008 that an institution may use one of the alternative methods or do an exact accounting to determine weeks of instructional time on a case-by-case basis without any restriction. Commenters also believed that the case-by-case determinations should include going from exact accounting back to using one of the alternative methods. The commenters believed that this type of flexibility would assist them in ensuring that students would more fully benefit under the ACG and National SMART Grant Programs.

Discussion: The alternative methods of determining academic year progression are provided for programs for which institutions do not generally track the exact number of weeks of instructional time attended by students. We believe that the alternative methods would not ensure the accurate determination of a student's academic year progression if institutions were permitted to use the alternatives on a case-by-case basis as suggested by the commenters.

We do not believe it is appropriate for a student's academic year progression to be determined under one of the alternative methods once an institution implements an exact accounting for that student. We consider an exact accounting of the weeks of instructional time completed by a student to always be the best evaluation of that student's academic year standing when determining the student's eligibility for an ACG or National SMART Grant.

Changes: None.

Limitations on Determining Weeks of Instructional Time (§ 691.6(d)(2))

Comments: Many commenters objected to the restrictions in proposed § 691.6(d)(2) that an institution may not assign any weeks of instructional time to credit or clock hours accepted toward meeting a student's eligible program if the student earned (a) the credit or clock hours from Advanced Placement (AP) programs, International Baccalaureate (IB) programs, testing out, life experience, or other similar competency measures, (b) the credit or clock hours while not enrolled as a regular student in an ACG or National SMART Grant eligible program, or (c) the credit or clock hours for coursework that is not at the postsecondary level, such as remedial coursework. The commenters believed that these restrictions should be eliminated because they result in significant burden on institutions implementing these programs, require manual reviews of student records, reduce institutional flexibility, penalize students, and are inconsistent with the requirements of the other Title IV, HEA programs. The commenters generally believed that no credit or clock hours credited toward a student's eligible program should be excluded from estimating a student's academic progression in weeks of instructional time.

Discussion: We appreciate the commenters' concerns and acknowledge the burden associated with calculating a student's weeks of instructional time under this framework. However, we believe it is important not to allocate weeks of instructional time to credits not earned at the postsecondary level in order to be consistent with the statute and to preserve maximum grant eligibility for these students. Students earn the credits described in § 691.6(d)(2)(i)(A) through (C) while not enrolled in an ACG- or National SMART Grant-eligible program, and, therefore, we believe that it would not be appropriate for these credits to have weeks of instructional time in an ACG- or National SMART Grant-eligible program associated with them. Moreover, we believe that § 691.6(d)(2)(i) is necessary to ensure that an institution accurately determines a student's academic year progression in his or her ACG or National SMART Grant eligible program.

Changes: None.

Exact Accounting; Student Request To Determine Academic Year Level (§ 691.6(e))

Comments: Several commenters believed that only an institution should initiate an exact accounting of a student's academic year progression. One commenter indicated that requiring institutions to perform an exact accounting upon a student request would be burdensome. Another did not believe students appreciated the distinctions in aid eligibility that may result from an exact accounting.

Discussion: We continue to consider an exact calculation of the weeks of instructional time completed by a student to always be the best evaluation of that student's academic year standing when determining the student's eligibility for an ACG or National SMART Grant, and we believe a student should always have this option available. However, we believe that institutions may counsel a student on the implications of initiating an exact accounting so that the student will understand all available options and that, in some circumstances, an exact calculation could reduce or delay the aid a student might receive under the estimate otherwise used by the institution.

Changes: None.

Comment: One commenter questioned the meaning of the phrase ''including an accounting pursuant to paragraph (e)(2)(ii) of this section'' in proposed § 691.6(e)(3).

Discussion: The reference to paragraph (e)(2)(ii) was an error; the proper reference is to paragraph (e)(2)(iii).

Changes: We have revised § 691.6(e)(3) to reference paragraph (e)(2)(iii).

Comments: Several commenters believed that proposed § 691.6(e)(2)(iii) provided that only a student could initiate an exact accounting of academic year progression and questioned whether an institution may initiate an exact accounting. One commenter asked what we meant, in proposed § 691.6(e)(3), when we used the word ''initiates.''

Discussion: While a student has a right to request that an institution perform an exact accounting of his or her weeks of instructional time, an institution can always choose to perform an exact accounting of a student's weeks of instructional time pursuant to § 691.6(e)(3). An institution is considered to have ''initiated'' an exact accounting under proposed § 691.6(e)(3) when the institution performs an exact accounting.

Changes: None.

Comment: One commenter questioned whether using an exact accounting for a student would apply to the student even after transfer to another institution.

Discussion: The requirement that a student is always subject to an exact accounting once one has been performed applies only to the student's current institution. If the student transfers to another institution, the new institution could, after accepting the prior courses under the transfer procedures, determine the student's academic year progression for courses taken at the new institution based on an exact accounting or any of the alternative methods for determining weeks of instructional time for the student in § 691.6, provided that the institution otherwise meets the requirements to use the alternative method selected.

Changes: None.

Comment: One commenter was concerned that neither an institution nor a student would have the benefit of understanding the implications of choosing an exact accounting over an alternative method (or vice versa) before committing to an exact accounting.

Discussion: The institution may counsel the student on whether to ask for the exact accounting, but must use that information if the calculation is made. An exact accounting provides the most accurate determination of a student's eligibility. The alternative methods have been adopted to ease the administrative burdens on institutions, rather than to provide students with the opportunity to receive grants they would not be entitled to under an exact accounting.

Changes: None.

Comments: One commenter had several questions relating to whether an exact accounting of a student's academic year progression would always preempt the use of the alternative methods for calculating weeks of instructional time under proposed § 691.6(f), (g), and (h). First, the commenter questioned whether the decision to conduct an exact accounting would apply only to the payment period in which the exact accounting was conducted or to all subsequent payment periods, as well. The commenter also questioned whether it mattered for future determinations that an exact accounting was initiated by the institution or at the request of the student. Finally, the commenter questioned whether a student would be able to rescind his or her request.

Discussion: An exact accounting is the best measure of a student's academic year progression, and an institution must continue to use that information in all subsequent payment periods during the student's enrollment at that institution. No distinction exists for calculations requested by a student or initiated by the institution, and a student may not rescind his or her request for an exact accounting once it is made.

Changes: None.

Comment: One commenter indicated that, because the commenter's institution was unable to automate an exact accounting of a student's academic year progression, the institution would be unable to perform an exact accounting.

Discussion: When requested by a student, an institution is responsible for performing exact accountings of academic year progression regardless of whether its information systems would allow the process to be automated. Institutions are expected to perform these calculations manually in these circumstances.

Changes: None.

Academic Year Progression and Grade Point Average (GPA)

Comments: Several commenters questioned the effect changes in determinations of student's academic year progression would have on the student's relevant GPA. Two commenters noted that, with the termination of the transitional guidance for the 2006–2007 and 2008–2009 award years, institutions would no longer count weeks of instructional time for some students and this would result in continuing students regressing in academic year progression and would affect the students' relevant GPA. One of the commenters suggested ''grandfathering'' the GPA for these continuing students.

Discussion: The transitional guidance on academic year progression for the 2006–2007 and 2007–2008 award years generally dealt with estimating the weeks of instructional time in a student's academic year progression. It did not affect the number of credit or clock hours credited towards a student's ACG–or National SMART Grant-eligible program. As previously noted, the end of the transitional guidance may result in a student regressing in academic year progression due to a reduced estimated number of weeks of instructional time calculated for that student going forward. The GPA would be calculated appropriate to a student's revised academic year standing. If a student were now considered a first-year student, there would be no GPA requirement for determining eligibility for a first-year ACG. If a student were now considered a second-year student, the GPA for the first academic year would be used to determine the student's eligibility for a second-year ACG. For a National SMART Grant, the cumulative GPA would be unchanged because there would be no change in the credit or clock hours credited toward a student's eligible program. We do not believe there is any need to ''grandfather'' the GPAs of continuing students.

Changes: None.

Grade Point Average (GPA) (§ 691.15)

General

Comment: One commenter expressed disappointment with our failure to change the frequency with which institutions must calculate a National SMART Grant student's GPA. The commenter would prefer that the GPA be calculated annually rather than for each payment period. Another commenter believed that an annual calculation would significantly ease the institution's administrative burden without a loss of integrity to the program.

Discussion: Section 401A(c)(3)(B)(ii) of the HEA provides that, in order to receive a second-year ACG, a student must have obtained a cumulative GPA of at least 3.0 at the end of the student's first academic year of study. In contrast, for eligibility for a National SMART Grant, section 401A(c)(3)(C)(ii) requires a student to obtain a cumulative GPA of at least 3.0, but does not limit that measurement to a specific time. Because eligibility for a National SMART Grant must be determined each payment period and payments for the National SMART Grant Program are calculated for a payment period, we believe that it is most appropriate to review the student's GPA for the National SMART Grant Program each payment period.

Changes: None.

Numeric Equivalent (§ 691.15(b)(1)(iii)(D), 691.15(c)(3), and 691.15(g))

Comment: One commenter sought clarification on whether an institution must calculate a numeric equivalent

GPA when a student completes certain courses that are not measured by a standard numeric grading procedure in a program that otherwise assesses grades on a standard 4.0 numeric scale. Specifically, the commenter requested guidance on situations in which a student in such a program completes some or all courses within a single term and those courses are assessed using an alternative to the standard 4.0 numeric scale.

Discussion: Sections 691.15(b)(1)(iii)(D), (c)(3), and (g) focus on entire programs, rather than individual courses, in assessing academic performance using an alternative to a standard 4.0 numeric scale or a numeric equivalent to a 4.0 scale. We believe that it would be impractical to require institutions to convert every course that is assessed using an alternative measurement to a numeric equivalent when the preponderance of the program is assessed on a standard 4.0 numeric scale, or a scale that can be converted to the numeric equivalent of a 4.0 scale. In general, if the program uses a 4.0 scale to assess a student's GPA, or a numeric equivalent, it is not practical to require a few courses within that program that are assessed on an alternative scale to be converted to a numeric equivalent. However, an institution would not be prohibited from conducting a conversion on a course-by-course basis.

Changes: None.

Transfer GPA—ACG (§ 691.15(f)(1))

Comment: Although several commenters wrote in support of proposed § 691.15(f)(1) regarding GPA calculation for transfer students, most of the commenters expressed concern that the proposed regulations would increase administrative burden by adding another GPA calculation. Some commenters believed that the requirements for determining GPA for these students would result in institutions having to add a manual process, while other commenters expressed concern that proposed § 691.15(f)(1) would infringe on an institution's academic policies and create more than one method for an institution to assess a GPA. One commenter requested that institutions only be required to follow their own policies for determining a student's GPA.

Two commenters requested clarification on whether an institution must incorporate into a student's GPA the grades from the previous institution's coursework that was accepted by the subsequent institution upon transfer. They further requested clarification regarding the following statement from the preamble that the commenters believed conflicted with other preamble statements and could possibly affect the interpretation of the regulatory language in § 691.15(f)(1)(i): ''In conjunction with the proposed changes in § 691.6(a), (b), and (c), an institution would no longer consider a student's GPA from the student's first academic year in an eligible program at another institution.'' (72 FR 44055)

Discussion: We proposed the changes in § 691.15(f)(1) at the request of the community and because we recognize the need for consistent treatment of all ACG–eligible transfer students. Without the proposed regulations, a student who has not yet completed a full academic year could have been treated inconsistently by different institutions. This inconsistency was because, in instances when a student completes his or her first academic year after transferring, institutions have been able to use their own policy on whether the grades for the transfer credits are included in the GPA calculated to determine the student's eligibility for the second-year ACG award. Thus, depending on the current institution's policy, the grades from the prior institution might or might not have been counted to determine the student's eligibility for a second-year ACG award. In order to prevent this from happening, § 691.15(f)(1) has clarified that a one-time calculation must be used to determine eligibility for second-year ACG funds. Further, § 691.15(f)(1) has clarified that an institution must use the grades from the coursework earned at the prior institution that it accepted into the student's eligible program to determine the student's applicable GPA for these purposes. We acknowledge that these extra steps in the GPA calculation for transfer students may result in some additional burden. However, we believe that any added burden associated with this one-time calculation is outweighed by the need for equitable treatment of students. By establishing a uniform procedure that either fits with the institution's policy for incorporating accepted transfer courses or provides for a one-time calculation, we believe more students are ensured greater consistency in obtaining these funds.

Regarding the preamble language that the commenter perceived to be inconsistent, we do not believe that, and did not intend for, the sentence referenced by the commenter to conflict with other statements in the preamble or the proposed regulatory language. The statement emphasizes that under these regulations, including the requirements regarding determination of academic year progression, institutions are no longer required to use the GPA for all courses a transfer student completed at another institution if the subsequent institution does not accept those courses on transfer. Under these regulations, an institution is only required to use the GPA associated with the courses it accepts upon transfer into the student's eligible program, rather than the GPA for all courses including those courses taken at the prior institution that did not transfer.

Changes: None.

Transfer GPA—National SMART Grant (§ 691.15(f)(2))

Comment: One commenter questioned the practical application of proposed § 691.15(f)(2)(ii), which directs an institution that accepts no credit or clock hours toward a student's eligible program to consider the student ineligible for a National SMART Grant until the student completes at least one payment period in an eligible program with a qualifying GPA. The commenter asked how a student could be considered in the third academic year or beyond if the institution did not accept any credit or clock hours for that student.

Discussion: We agree with the commenter that the language in proposed § 691.15(f)(2)(ii) does not appear to have any practical application.

Changes: We have deleted § 691.15(f)(2)(ii).

Comment: Similar to the comments received on the proposed changes to GPA calculations for an ACG-eligible transfer student, several commenters wrote in support of the proposed changes reflected in § 691.15(f)(2) regarding the GPA calculation for a transfer student eligible for a National SMART Grant. Many of these commenters also expressed concern that these proposed regulations would increase administrative burden by adding another GPA calculation. Again, similar to the proposed regulations for transfer students under the ACG Program, some commenters believed these proposed regulations for calculating the GPA under the National SMART Grant Program would require a new manual process to be performed by an institution, while other commenters were concerned the requirement would infringe upon an institution's academic policies and create more than one required method for calculating a GPA. Two commenters requested that the two different methods for calculating GPAs for transfer students under each

program be combined into one policy to cover students transferring into either program. One of the commenters specifically requested that the proposed method set forth under the ACG Program be eliminated and replaced with the proposed method under the National SMART Grant Program.

Discussion: As with the ACG Program, we proposed these regulatory changes at the request of the community and based on the need for consistent treatment of students who transfer. The community requested that the regulations describe the process for calculating a GPA for transfer students for both institutions that incorporate grades from transferred coursework and those that do not. The method of calculating a GPA under § 691.15(f)(2)(i) is a one-time calculation used only to determine a transfer student's eligibility for the first payment period of enrollment in a National SMART Grant-eligible program at the new institution. An institution must use the grades from the coursework earned at the prior institution that it accepted into the student's eligible program to determine the student's applicable GPA for determination of National SMART Grant eligibility. Further, with differing policies among institutions, students would be treated inequitably based on the institution to which they transfer if institutions were not required to calculate the GPA under the prescribed method. By establishing a uniform procedure that either fits with the institution's policy for incorporating accepted transfer courses or provides for a one-time calculation, we believe students are ensured greater consistency in obtaining these funds.

Regarding the request to use only one GPA calculation method for transfer students eligible for either the ACG or National SMART Grant Program, we believe the specific differences in GPA requirements for the two programs under section 401A(c)(3)(B) and (C) of the HEA warrant different treatment. In addition, the community requested equitable methods based on the frequency of the GPA calculations. We believe the regulations fulfill these requirements and requests.

Changes: None.

Prior Enrollment in a Postsecondary Educational Program and Student Eligibility (§ 691.15)

Comment: Several commenters supported proposed § 691.15(b)(1)(ii)(C), which extends ACG eligibility to a student who previously enrolled as a regular student in an ACG-eligible program while in high school provided that the student was beyond the age of compulsory school attendance during that prior enrollment.

Discussion: We appreciate the commenters' support.

Changes: None.

Eligible Majors (§§ 691.15 and 691.17)

Documenting Major (§ 691.15)

Comments: Several commenters stated that because institutions already monitor academic progress under satisfactory academic progress (SAP) policies and existing academic advising, requiring written documentation to verify a student's progress in an eligible major would be duplicative and would place an unreasonable burden on institutions. The commenters suggested that the regulatory language be revised to require only verification of SAP, as defined by the institution. In a similar vein, two commenters stated that requiring written documentation to verify that a student is progressing in an eligible major at an appropriate pace creates significant administrative burden on student financial aid administrators, forcing them to act as academic advisors and academic program experts, and that a student's academic major, academic level progression, and GPA are sufficient to demonstrate the student's progress.

A few commenters requested clarification about the definition of the term ''appropriate pace'' as used in the preamble to the NPRM and an explanation of what documentation can be used to demonstrate that a student is completing coursework at an appropriate pace in his or her declared major. Commenters generally felt that what constitutes an appropriate pace should be determined by individual institutions. One commenter stated that, because each academic department at the commenter's institution currently uses its own method to monitor progress for all students within each major in its department, requiring written documentation of a student's progress in the intended or declared major would require a significant change in the institution's policies for monitoring progress. The commenter explained that all students, regardless of whether they are National SMART Grant recipients, are monitored in the same way, and that requiring specific documentation for National SMART Grant recipients represents an intrusion by the Federal Government into an institution's academic policies. The commenter further asserted that changing the institution's process so that it only monitors progress of National SMART Grant recipients could potentially result in violations of student privacy because information about the financial status of individual students (e.g., that they are Pell Grant recipients) would be revealed to academic department personnel. One commenter thought that, when reviewing program compliance, auditors and program reviewers should take into account the complexities of dual majors and related studies so that a student in these circumstances, whom the institution believes to be making overall progress in his or her eligible major, is not penalized. Another commenter asked for clarification on whether documentation of progress in an eligible major must be maintained at the financial aid office or elsewhere on campus. Finally, one commenter proposed that student financial aid office policies should include instructions on how to monitor a student's progress in an eligible major.

Two commenters requested clarification on whether institutions can use existing academic advising mechanisms (processes, degree audits, databases, etc.) to meet the requirement that a student's progress in an eligible major be documented. A few commenters asked whether the term ''written,'' as used in § 691.15(e), applies to automated systems and encompasses electronic business practices such that electronic documentation would constitute written documentation. For example, they questioned whether an electronic record retained by an institution that shows that a student has declared a major through an electronic means via the institution's Web site meets the ''written'' requirement under this section.

A couple of commenters stated that the term ''annually'' in § 691.15(e)(1) through (e)(3) is ambiguous. One of these commenters suggested that monitoring should be limited to any student who received at least one disbursement of a National SMART Grant during that student's third academic year and that the review should occur after the final third-year disbursement of a National SMART Grant, but prior to the first disbursement of a fourth academic year National SMART Grant. Yet another commenter suggested that progress in the major should be determined prior to the first disbursement, rather than at the time of award in early spring when an institution would have to assume that the eligible major requirement would be met.

Discussion: We do not agree with the commenters that requiring written documentation to verify progress in the major is duplicative of SAP policies and existing academic advising. Institutions

must comply with section 401A(c)(3)(C)(i) of the HEA, which requires that, to be eligible to receive a National SMART Grant, a student must pursue a National SMART Grant-eligible major. SAP policies alone are not sufficient to ensure compliance with these requirements. Further, we do not agree that requiring written documentation of progress in an eligible major places an unreasonable burden on institutions. The documentation required is minimal. As long as the institution can document that the student is full-time, has declared an eligible major or demonstrated an intent to do so, and is taking at least one course in the eligible major during the payment period, we will consider the student to meet the minimum requirements needed to demonstrate he or she is progressing in the eligible major at an appropriate pace for that payment period, even if the student has a double major.

As we clarified in Dear Colleague Letter (DCL) GEN–07–07, published on October 9, 2007, under § 691.15(c)(2)(ii), a student is eligible to receive a National SMART Grant if the student enrolls in the courses necessary both to complete the degree program and to fulfill the requirements of the eligible major. To meet this enrollment requirement, a student must enroll in at least one course that meets the specific requirements of the student's eligible major. We explained in the preamble to the July 3, 2006 Interim Final Regulations that, ''[t]he Secretary believes this additional requirement fulfills the statutory requirement because it further documents the student's pursuit of an eligible major.'' (71 FR 37994) DCL GEN–07–07 can be accessed from: *http://www.ifap.ed.gov/dpcletters/GEN0707.html*.

The Department does not regulate a postsecondary educational institution's policies regarding administrative practices. Thus, we disagree with the comment that requiring specific documentation of progress in the eligible major for National SMART Grant recipients represents an intrusion by the Federal government into institutional processes because we do not specifically mandate the process by which an institution would document progress in the eligible major. We also note that we do not require student financial aid administrators to act as academic advisors and program experts by directly performing these functions. Institutions must coordinate these functions to ensure that the student financial aid administrators have access to the information needed to determine student eligibility for these grants, and they are expected to follow their own policies and procedures regarding where and how they perform the functions necessary to ensure compliance with this requirement, as well as other requirements, including protecting private student information.

We have previously indicated that the term ''written'' encompasses electronic documentation. Thus, electronic documentation would fulfill the requirement that an eligible major be documented.

Finally, we agree with the commenters that the use of the phrase ''at least annually'' in the context of documenting progress in an eligible major under § 691.15(e)(1), (2), and (3), is ambiguous. Because the course enrollment requirements for the National SMART Grant Program are implemented by payment period, and an institution is required to determine a student's eligibility for a disbursement for each payment period under § 691.75, the phrase ''at least annually'' is inconsistent with the requirement to use payment periods.

Changes: We have revised the proposed regulations by removing the phrase ''at least annually'' from § 691.15(e)(1), (2), and (3).

Determination of Eligible Majors (§§ 691.2(d) and 691.17)

Comments: Commenters generally supported the proposed changes reflected in §§ 691.2(d) and 691.17 that provide a process by which institutions of higher education can request that additional majors be included on the Department's list of eligible majors for National SMART Grants. One commenter suggested that requests for designation of an additional eligible major should be made by the institution's designated academic official to ensure that additional eligible major requests do not come from a non-academic office. Several commenters urged the Department to add Food Science, (CIP 01.1001), Food Science and Technology, (CIP 01.1099), or both, as additional eligible majors for the National SMART Grant Program. One commenter asked that Nursing (CIP 51.1601) be added to list of eligible majors. Finally, a commenter suggested that the list of languages critical to the national security of the United States be revised to include Spanish.

Discussion: We appreciate the comments supporting the process to add majors to the Department's list of majors eligible for a National SMART Grant. However, we do not agree that the Department should designate which office at an institution should submit the request to add a major to the list of eligible majors because the Department does not regulate the policies of a postsecondary educational institution regarding administrative practices.

The designated eligible major CIP codes for this program are not addressed in the Department's regulations. A revised list of eligible majors was published on September 24, 2007 in Dear Colleague Letter GEN–07–06 for academic year 2007–2008; this list includes Food Science as an eligible major. Nursing and Spanish were not included in the revised list because they are not considered eligible majors under section 401A(c)(3)(C)(i) of the HEA.

Changes: None.

Rigorous Secondary School Program of Study (§§ 691.15 and 691.16)

Successful Completion of a Rigorous Secondary School Program of Study (§ 691.15)

Comments: One commenter supported the change in proposed § 691.15 clarifying that successful completion of a rigorous secondary school program of study means that, in addition to completing the specific requirements of a rigorous secondary school program of study, a student must receive a high school diploma or, for home-schooled students, receive a high school diploma or certification of completion of a secondary school education provided by the student's parent or guardian.

Several commenters expressed concern that the requirements for determining and documenting a student's successful completion of a rigorous secondary school program of study were unnecessary. One commenter noted that if a high school transcript contained all of the information necessary to determine completion of a rigorous secondary school program of study, there is no need to collect further documentation. Several commenters believed it was sufficient to rely on the FAFSA, which allows students to indicate that they have completed a rigorous secondary school program and received a high school diploma or certification of completion of a secondary school education. Another commenter believed that unless there is conflicting information to resolve, the transcript and the FAFSA self-certification should be sufficient to establish a student's eligibility.

Another commenter requested clarification on whether a General Educational Development (GED) certificate was the equivalent of a certification of completion of a secondary school education. The

commenter requested guidance on whether a student who completed seven semesters of high school, including the requirements for completing a rigorous secondary school program of study, then dropped out of high school, but later completed a GED, is eligible for an ACG.

Finally, two commenters supported the overall changes to the eligibility requirements affecting home-schooled students. One commenter in particular believed the changes in the regulations on how institutions must document successful completion of a rigorous secondary school program of study for home-schooled students provided reasonable guidance.

Discussion: Section 401A(c)(3)(A)(i) and (c)(3)(B)(i) of the HEA requires a student to successfully complete a rigorous secondary school program of study in order to be eligible for an ACG. We believe that the regulations provide a necessary clarification of the meaning of successful completion of a rigorous secondary school program of study.

We disagree with the commenters who stated that they could rely on the student's indication on the FAFSA to document that a student successfully completed a rigorous secondary school program. The student's indication on the FAFSA is used to identify students who may be eligible for an ACG; it does not document that the student actually completed a rigorous secondary school program of study and received a high school diploma or, for home-schooled students, received a high school diploma or certification of completion of a secondary school education provided by the student's parent or guardian. In addition, some data suggest that a significant number of students are incorrectly indicating that they have completed a rigorous secondary school program of study.

We agree with the commenters that a student's transcript may serve as the only documentation necessary to determine whether a student successfully completed a rigorous secondary school program of study if that transcript shows that the student completed one of the rigorous programs identified under § 691.16 and that the student obtained a high school diploma or the certification of completion of a secondary school education. In this case no further documentation, *i.e.*, a high school diploma, would be required. If the student's transcript does not provide all of the necessary information to document that a student both completed a rigorous secondary school program of study and obtained a high school diploma or the certification of completion of a secondary school education, however, we believe additional documentation, such as a high school diploma, is necessary to ensure that a student has met the eligibility requirements.

We believe it is appropriate to require that an institution look only at those students who self-certify their ACG eligibility through a FAFSA in determining which students at the institution are eligible for an ACG. However, if an institution is aware, based on information in its files, such as a high school transcript, that a student who did not self-certify on a FAFSA may be eligible for an ACG, the institution is encouraged, but not required, to determine if that student is eligible to receive an ACG.

In accordance with § 691.16(c)(3), GED programs do not fulfill the requirements for completion of a rigorous secondary school program of study. A student who completed seven semesters of high school, including all of the academic requirements for a rigorous secondary school program of study, then dropped out of high school but later completed a GED, would be ineligible for an ACG because the student did not successfully complete that rigorous secondary school program of study.

Changes: We have revised § 691.15 by adding a new paragraph (b)(5) to provide that an institution must attempt to document the successful completion of a rigorous secondary school program of study in the case of any student who self-certifies on the FAFSA that the student completed a rigorous secondary school program of study. Section 691.15(b)(5) further provides that if a student does not self-certify the completion of a rigorous secondary school program of study, notwithstanding 34 CFR 668.16(f), an institution is not required to determine the student's eligibility for an ACG.

Recognition of a Rigorous Secondary School Program of Study (§ 691.16)

Comments: Commenters generally supported the proposal to allow SEAs and LEAs to request recognition of rigorous secondary school programs of study for school years beyond the immediate school year. A couple of commenters expressed concern that no changes were proposed to increase the rigor of the existing rigorous secondary school programs of study options. Three commenters proposed changes or additions to the secondary school programs of study already recognized as rigorous. To strengthen program rigor, one commenter suggested increasing the mathematics requirement in § 691.16(d)(2) to include three years of mathematics, including geometry and algebra II, and an additional math course at the level of algebra II or above for students who completed algebra I in middle or junior high school. In addition, this commenter believed that simply taking either two International Baccalaureate (IB) Diploma Program courses or two Advanced Placement (AP) courses does not constitute a rigorous curriculum. The commenter recommended that we eliminate § 691.16(d)(4) and (5) that include these two options as recognized rigorous secondary school programs of study. Alternatively, the commenter recommended that, although it would increase institutional burden, we should deem the options in § 691.16(d)(4) and (5) as rigorous only for students from secondary schools that can demonstrate that at least 75 percent of their students do not need remedial coursework in college. Finally, this commenter was concerned about the possibility that LEAs may establish rigorous programs that are of a lower academic standard than the SEA has set for ACG eligibility and suggested revising § 691.16 to reflect that, while an LEA can request recognition of a rigorous secondary school program of study, the program of study must be comparable to or exceed the rigor of a curriculum approved by the State and recognized by the Chief State School Officer and the U.S. Secretary of Education.

Another commenter expressed concern that the preapproved rigorous secondary school program of study options do not take into account the qualitative rigor of courses or the alignment of secondary school programs with college readiness and do not include dual enrollment or early college programs in the list of preapproved rigorous secondary school programs of study. The commenter recommended that to be recognized as rigorous, secondary school programs should be required to show both the alignment of the proposed rigorous secondary school programs with college-readiness as well as a plan to further strengthen that alignment over time. The commenter also recommended inclusion of dual-enrollment and early college programs in the list of preapproved rigorous secondary school programs of study. Finally, one commenter suggested that any secondary school program for a student who completes at least two higher-level QualityCore courses and receives a college readiness score for at least two of those courses be included in the list of preapproved rigorous secondary programs of study. This commenter suggested that, alternatively, any secondary school program of study

for a student who completes and passes at least two higher-level core college preparatory courses with outcomes directly tied to college readiness validated by a national examination program be included in the list of preapproved rigorous secondary school programs of study.

Discussion: We appreciate the commenters' support regarding the proposal to allow SEAs and LEAs to request recognition of rigorous secondary school programs of study for school years beyond the immediate school year.

With respect to comments suggesting changes or additions to the recognized secondary school programs of study, the issue was discussed during the negotiated rulemaking process in connection with strengthening the Secretary's coursework option in § 691.16(d)(2). Some non-Federal negotiators raised concerns about the uncertainty of student access to classes if coursework requirements in mathematics, science, social studies, and foreign language were increased. Because the Secretary's coursework option is intended to be available to all students, we have concluded that changes should not be made to the Secretary's coursework option in § 691.16(d)(2) at this time.

In relation to the IB and AP program options reflected in § 691.16(d)(4) and (d)(5), the regulations accept as rigorous any secondary school program of study for a student who completes at least two IB courses and receives a score of ''4'' or higher on the examinations for at least two of those courses. The Secretary also recognizes as rigorous any secondary school program of study for a student who completes at least two AP courses and receives a score of ''3'' or higher on the College Board's AP Program Exams for at least two of those courses. Thus, it is not enough to merely take the IB or AP coursework to constitute a rigorous secondary school program of study. Nor is it sufficient to simply complete the IB or AP coursework and exams without completing a secondary school program of study. A student is required to complete a secondary school program of study, which includes, as part of the program, the IB or AP coursework and exam scores. We believe completion of a secondary school program that includes IB or AP coursework and exam scores is a sufficient indicator that the student has completed a rigorous secondary school program. Thus, we do not agree with the commenter that we should eliminate the option to complete a secondary school program that includes IB or AP coursework and exam scores from the recognized list of rigorous secondary school programs of study.

We also do not agree that the commenter's alternative option of treating IB and AP coursework as rigorous only if the secondary school can demonstrate that at least 75 percent of their students do not need remedial work in college should be implemented. Tracking the remedial coursework taken by graduates from each high school at different postsecondary schools would be very difficult to do. We believe the benefits from such a process are significantly outweighed by the burden that would be imposed upon these entities, and thus, we do not support this alternative option.

The HEA does not restrict the ability of an LEA to establish a rigorous secondary school program of study, and we see no benefit to adopting the suggestion to regulate the ability of LEAs to establish rigorous secondary school programs of study.

We also do not agree with the suggestion that dual-enrollment and early college programs should be included in the list of preapproved rigorous secondary school programs of study. Both the HEA and these regulations enable States to propose dual-enrollment and early college programs for recognition as rigorous secondary school programs of study. States are also able to propose program options that take into account the qualitative rigor of courses or the alignment of secondary school programs with college readiness. Further, States are able to propose program options that include QualityCore coursework or programs involving college preparatory coursework with outcomes tied to college readiness validated by a national examination program. We believe that States should retain the responsibility for proposing these types of programs for recognition as rigorous secondary school programs of study.

Changes: None.

Executive Order 12866

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether the regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Pursuant to the terms of the Executive order, it has been determined that this regulatory action will not have an annual effect on the economy of more than $100 million. Therefore, this action is not ''economically significant'' and subject to OMB review under section 3(f)(1) of Executive Order 12866. In accordance with the Executive order, the Secretary has assessed the potential costs and benefits of this regulatory action and has determined the benefits justify the costs.

Need for Federal Regulatory Action

These final regulations address a range of issues affecting students and schools participating in the ACG and National SMART Grant Programs. Prior to the start of negotiated rulemaking, a list of proposed regulatory changes was developed from advice and recommendations by interested parties and organizations that were submitted through testimony at public hearings and written comments that were provided directly to the U.S. Department of Education in Washington, DC. Staff within the Office of Postsecondary Education also identified issues for discussion and negotiation.

Regulatory Alternatives Considered

As part of the negotiated rulemaking process, the Department considered a broad range of alternatives to the proposed regulations. We discussed these alternatives in detail in the NPRM under the *Reasons* sections that accompany the discussion of each proposed regulatory provision. In assessing the budgetary impact of these alternatives, the Department considered the effect of possible changes on student eligibility for ACG and National SMART grant awards and on the size or timing of student awards. In all cases, the alternatives considered, which generally dealt with the clarification of existing definitions, procedures, or processes to simplify program administration, did not have a measurable effect on Federal costs. No comments or additional

information have been received since the publication of the NPRM to cause the Department to reconsider this determination.

As noted above, while the Department cannot modify statutory program requirements through regulations, in considering alternatives we have tried, to the extent possible, to adopt those alternatives that reduce administrative burden whenever possible within the limitations imposed by statutory requirements. For example, in recognition of the impact of administering the academic year progression requirements for the ACG and National SMART Grant programs on institutions, the final regulations require an institution to determine a student's academic year progression during the student's attendance in all ACG and National SMART Grant eligible programs only at the institution in which the student is currently enrolled. We believe this approach will simplify the academic year progression analysis for the institution, especially when administering aid for transfer students.

Similarly, the final regulations include alternative methods for determining weeks of instructional time. The provision of these three alternative approaches will add flexibility and help alleviate administrative burden on institutions, especially those with traditional academic calendars, in calculating the weeks of instructional time component of a student's academic year progression.

During negotiated rulemaking, non-Federal negotiators indicated that additional clarity for requirements to determine transfer student GPA for an ACG would reduce administrative burden on institutions. Accordingly, the final regulations clarify that, for a second-year ACG, GPA must be calculated at the end of the student's first academic year (in contrast to the requirement under the National SMART Grant Program that a 3.0 cumulative GPA be maintained for every payment period) and that an institution only needs to track coursework it accepts into the student's ACG-eligible program.

Benefits

Many of the final regulations reflected in this notice merely clarify the current regulations, codify subregulatory guidance, or make relatively minor changes intended to streamline program operations. The Department believes the additional clarity and enhanced efficiency resulting from these changes create benefits with little or no countervailing costs. While many commenters raised concerns about administrative burden related to the proposed regulations, the Department believes that these concerns are generally a reflection of the structure of the program as determined by statute rather than of discretionary requirements included in the regulatory provisions. Specific burden concerns are discussed in more detail elsewhere in this preamble, primarily in the *Analysis of Comments and Changes* and *Paperwork Reduction Act of 1995* sections.

Benefits provided in these final regulations include the elimination of the requirement that schools determine a student's academic year progression based on the student's attendance in ACG or National SMART Grant eligible programs at all institutions. Now the student's academic year progression may be based solely on the ACG or National SMART Grant eligible programs attended by the student at the student's current institution. A second benefit of these final regulations is that institutions of higher education have the ability to choose from three alternative approaches for determining weeks of instructional time in a student's academic year progression. A third benefit of these regulations is that they clarify how institutions (a) calculate a student's GPA for the purpose of determining eligibility for an ACG or National SMART Grant, (b) document a student's intent to major in an eligible subject, and (c) define successful completion of a rigorous program of study. In addition, the final regulations allow States to designate a rigorous program of study for more than one year, and create a process for schools to suggest additions to the list of majors in which students are eligible to receive a National SMART Grant. Lastly, the final regulations allow a student who is beyond the age of compulsory attendance and who enrolls as a regular student in an ACG-eligible program while in high school to be eligible for an ACG if the student meets the other eligibility requirements after graduating from high school. None of these provisions were determined to have a substantial economic impact; no information or comments have been received since the publication of the NPRM that would cause the Department to reconsider this determination.

Costs

The only provision included in the regulations that directly affects student eligibility, and potentially could result in increased Federal costs, involves the treatment of some students enrolled in dual-credit or early college programs during high school. These students, ineligible to receive an ACG under current regulations, will be eligible under the final regulations provided that they had not been admitted to an eligible program while in secondary school. There is no data available on participation in these dual-credit programs, but anecdotal evidence indicates they do not involve a large number of students. While the expanded eligibility afforded by this provision will provide a significant benefit to a small number of students, for cost estimation purposes, the Department projects that other ACG eligibility requirements related to academic rigor, full-time attendance, and Pell Grant eligibility will reduce the already small pool of potentially affected students such that no measurable costs will be incurred.

Because institutions of higher education affected by these regulations already participate in the ACG and National SMART Grant Programs, these schools must have already established systems and procedures to meet program eligibility requirements. The final regulations reflect discrete changes in specific parameters associated with the Department's existing guidance on these programs, rather than entirely new requirements. Accordingly, entities wishing to continue to participate in the programs have already absorbed most of the administrative costs related to implementing these regulations. Marginal costs over this baseline are primarily related to one-time changes that, while possibly significant in some cases, are an unavoidable cost of continued program participation.

Elsewhere in this **SUPPLEMENTARY INFORMATION** section, we identify and explain burdens specifically associated with information collection requirements. See the heading *Paperwork Reduction Act of 1995*.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf)*, in Table 1 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these final regulations. As shown in the table, the Department estimates that these regulations will have no impact on Federal student aid payments.

TABLE 1.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED SAVINGS

[In millions]

Category	Transfers
Annualized Monetized Transfers	$0

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations affect institutions of higher education, States, State agencies, and individual students. The U.S. Small Business Administration (SBA) Size Standards define these institutions as ''small entities'' if they are for-profit or nonprofit institutions with total annual revenue below $5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. Individuals are also not defined as ''small entities'' under the Regulatory Flexibility Act.

A significant percentage of the schools participating in the ACG and National SMART Grant programs meet the definition of ''small entities.'' While these schools fall within the SBA size guidelines, these final regulations do not impose significant new costs on these entities.

In the NPRM the Secretary invited comments from small institutions as to whether they believe the proposed changes would have a significant economic impact on them and, if so, requested evidence to support that belief. Many commenters raised concerns about administrative burden, particularly for small institutions, related to the proposed regulations. As noted elsewhere in this notice, the Department believes that these concerns reflect concerns with the structure of the program, as determined by statute, rather than of discretionary requirements included in the regulatory provisions. Specific burden concerns are discussed in more detail elsewhere in this preamble, primarily in the *Analysis of Comments and Changes and Paperwork Reduction Act of 1995* sections.

Paperwork Reduction Act of 1995

These regulations contain information collection requirements that were reviewed in connection with the NPRM. The Department received numerous comments on the burden associated with implementing the ACG and National SMART Grant Programs. Several financial aid office professionals submitted comments expressing the view that these programs are the most challenging and burdensome aid programs to deliver. The burden of these programs was associated with making a determination that the student had completed a rigorous secondary school program of study; academic year progression; and calculation of grade point averages. Commenters also indicated that the administrative software available to institutions of higher education does not support the implementation of these programs. Another commenter indicated that the program should be a campus-based program with institutions given flexibility in making awards.

These comments relate to the basic structure of the ACG and National SMART Grant Programs, as established in HEA, and cannot be modified through regulatory action. To the extent possible, we have tried to minimize the burden associated with these statutory requirements. None of the comments received indicated that the estimates of burden associated with implementing these programs under the proposed regulations were incorrect.

In regard to other information collection requirements described in the NPRM, the Paperwork Reduction Act of 1995 does not require a response to a collection of information unless it displays a valid OMB control number. We display the valid OMB control numbers assigned to the collections of information in these final regulations at the end of the affected sections of the regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.375 Academic Competitiveness Grants; 84.376 National SMART Grants)

List of Subjects in 34 CFR Part 691

Colleges and universities, Elementary and secondary education, Grant programs—education, Student aid.

Dated: October 22, 2007.

Margaret Spellings,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends part 691 of title 34 of the Code of Federal Regulations as follows:

PART 691—ACADEMIC COMPETITIVENESS GRANT (ACG) AND NATIONAL SCIENCE AND MATHEMATICS ACCESS TO RETAIN TALENT GRANT (NATIONAL SMART GRANT) PROGRAMS

■ 1. The authority citation for part 691 continues to read as follows:

Authority: 20 U.S.C. 1070a–1, unless otherwise noted.

■ 2. Section 691.2(d) is amended by adding, in alphabetical order, the definition of ''Classification of Instructional Programs (CIP)'' to read as follows:

§ 691.2 Definitions.

* * * * *

(d) * * *

Classification of Instructional Programs (CIP): A taxonomy of

instructional program classifications and descriptions developed by the U.S. Department of Education's National Center for Education Statistics used to identify eligible majors for the National SMART Grant Program. Further information on CIP can be found at *http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2002165*.

* * * * *

■ 3. Section 691.6 is amended by:

■ A. In paragraphs (a) and (b), removing the words ''undergraduate education'' and adding, in their place, the words ''enrollment at an institution''.

■ B. In paragraph (c), adding the words ''during the student's undergraduate education in all eligible programs'' before the punctuation ''.''.

■ C. Revising paragraph (d).

■ D. Adding new paragraphs (e), (f), (g), and (h).

The revision and additions read as follows:

§ 691.6 Duration of student eligibility—undergraduate course of study.

* * * * *

(d)(1)(i) Institutions must count credit or clock hours earned by a student toward a student's completion of the credit or clock hours of an academic year if the institution accepts those hours toward the student's eligible program, including credit or clock hours that are earned—

(A) From Advanced Placement (AP) programs, International Baccalaureate (IB) programs, testing out, life experience, or similar competency measures; or

(B) At an institution while not enrolled as a regular student in an eligible program.

(ii) Institutions may not count credit or clock hours awarded for coursework that is at less than the postsecondary level, such as remedial coursework. These credit or clock hours may not be considered in determining the credit or clock hours that a student has completed in an academic year.

(2)(i) An institution may not assign any weeks of instructional time to credit or clock hours accepted toward meeting the student's eligible program if the student earned the credit or clock hours—

(A) From Advanced Placement (AP) programs, International Baccalaureate (IB) programs, testing out, life experience, or similar competency measures;

(B) At a postsecondary institution while not enrolled as a regular student in an eligible program except as provided in paragraph (d)(2)(ii) of this section; or

(C) For coursework that is not at the postsecondary level, such as remedial coursework.

(ii) An institution must assign weeks of instructional time to determining National SMART Grant eligibility for periods in which a student was enrolled in an ACG eligible program prior to declaring, or certifying his or her intent to declare, an eligible major.

(3)(i) Except as provided in paragraph (d)(2)(ii) of this section, for a transfer student, an institution determining the academic years completed by the student must count—

(A) The number of credit or clock hours earned by the student at prior institutions that comply with paragraph (d)(1) of this section, and that the institution accepts on transfer into the student's eligible program; and

(B) The weeks of instructional time, except as prohibited in paragraph (d)(2) of this section, determined by multiplying the number of credit or clock hours that the institution accepts on transfer by the number of weeks of instructional time in the academic year and dividing the product of the multiplication by the credit or clock hours in the academic year.

(ii) For a student who transfers into an eligible program for which an institution determines estimated weeks of instructional time under paragraph (h) of this section, the institution must apply the credits accepted on transfer into the student's eligible program when determining the student's grade level in accordance with paragraphs (d)(2) and (h) of this section.

(e)(1) Except as provided in paragraph (e)(2) of this section, an institution must determine a student's progression in the weeks of instructional time of an academic year through an exact accounting of those weeks of instructional time.

(2) Except as provided in paragraph (h)(2)(iii) of this section, an institution may use, on an eligible program-by-program basis, an alternative method to determine the weeks of instructional time taken by its students during an academic year under paragraphs (f), (g), and (h) of this section if the institution—

(i) Determines payments for the student's eligible program under § 691.63(b) or (c);

(ii) Uses, for all students enrolled in the eligible program for whom an exact accounting is not performed, the same alternative method described in paragraph (f), (g), or (h) of this section to determine the students' progression in the weeks of instructional time of an academic year; and

(iii) Upon request from a student, performs an exact accounting of the student's academic year progression for that student based on the actual weeks of instructional time the student attended in all eligible programs at the institution and on any qualifying credit or clock hours accepted on transfer into the student's eligible program.

(3) An institution may not use an alternative method under paragraphs (f), (g), or (h) of this section if it performs an exact accounting for a student, including an accounting pursuant to paragraph (e)(2)(iii) of this section. Once an institution initiates an exact accounting for a student under this section, the institution must use the determination for that student based on the exact accounting and not the determination based on an alternative method.

(f)(1) For an eligible program for which the institution determines payments under § 691.63(b) or (c), an institution may determine a student's completion of the weeks of instructional time in an academic year under the procedures set forth in paragraphs (f)(2) and (f)(3) of this section.

(2) For an eligible student enrolled in an eligible program that has a single summer term that provides at least 12 semester, trimester, or quarter hours of coursework and for which payments are calculated under § 691.63(b), the student's term is considered to be—

(i) For an eligible program offered in semesters or trimesters, one-half of an academic year in weeks of instructional time if payments may be determined under § 691.63(b)(3)(i), or one-third of an academic year in weeks of instructional time if payments may be determined under § 691.63(b)(3)(ii); or

(ii) For an eligible program offered in quarters that has a single summer term, one-third of an academic year in weeks of instructional time if payments may be determined under § 691.63(b)(3)(i), or one-fourth of an academic year in weeks of instructional time if payments may be determined under § 691.63(b)(3)(ii).

(3) For an eligible student enrolled in an eligible program with a single summer term that provides at least 12 semester, trimester, or quarter hours of coursework for which the institution may determine payments under § 691.63(c), the student's term is considered to be—

(i) For an eligible program offered in semesters or trimesters, one-half of the weeks of instructional time in the fall through spring terms if payments may be determined under § 691.63(c)(4)(i), or one-third of an academic year in weeks of instructional time if payments may be determined under § 691.63(c)(4)(ii); or

(ii) For an eligible program offered in quarters, one-third of the weeks of instructional time in the fall through spring terms if payments may be determined under § 691.63(c)(4)(i), or one-fourth of an academic year in weeks of instructional time if payments may be determined under § 691.63(c)(4)(ii).

(g)(1) Except as provided in paragraph (d)(2) of this section, an institution with an eligible program for which the institution determines payments under § 691.63(b) or (c) may determine a student's completion of the weeks of instructional time in an academic year under the procedures set forth in paragraph (g)(2) or (g)(3) of this section.

(2) For an eligible student enrolled in an eligible program for which payments may be determined under § 691.63(b), an institution must determine the number of weeks a student is considered to have completed in an academic year by multiplying the number of credit hours a student has earned in an eligible program by the number of weeks of instructional time in the academic year and dividing the product of the multiplication by the credit or clock hours in the academic year.

(3) For an eligible student enrolled in an eligible program for which payments may be determined under § 691.63(c), an institution must determine the number of weeks a student is considered to have completed in an academic year by multiplying the number of credit hours a student has earned in an eligible program by the number of weeks of instructional time in the fall through spring terms and dividing the product of the multiplication by the credit or clock hours in the academic year.

(h)(1) Except as provided in paragraph (d)(2) of this section, an institution with an eligible program for which the institution determines payments under § 691.63(b) or (c) may determine a student's completion of the weeks of instructional time in an academic year under the procedures set forth in paragraph (h)(2) and (h)(3) of this section.

(2) A student at a grade level can be assumed to have completed an academic year for each of the prior grade levels if for each grade level of a student's eligible program—

(i) A student has completed at least the minimum credit hours for the prior academic years for that program in accordance with this section; and

(ii) Most full-time students in the student's eligible program complete the weeks of instructional time of an academic year during the period of completing each grade level as determined in accordance with paragraph (h)(3) of this section.

(3)(i) For purposes of an award year, in making a determination under paragraph (h)(2)(ii) of this section, an institution must first determine that at least two-thirds of the full-time, full-year students complete at least the weeks of instructional time of an academic year while completing each grade level during the three most recently completed award years prior to the award year immediately preceding the award year for which the determination is made.

(ii) For each of the ACG or National SMART Grant Programs, an institution may make a determination under paragraph (h)(3)(i) of this section on an eligible program basis or an institutional basis.

(iii) An institution that makes a determination under paragraph (h)(3)(i) of this section on an institutional basis must use the alternative method in paragraph (h) of this section for all students at the institution for whom it does not perform an exact accounting of the weeks of instructional time completed.

* * * * *

■ 4. Section 691.15 is amended by:

■ A. Revising paragraphs (b), (c), and (d).

■ B. Adding new paragraphs (e), (f), and (g).

■ C. Adding a parenthetical phrase at the end of the section.

The revisions and additions read as follows:

§ 691.15 Eligibility to receive a grant.

* * * * *

(b) *ACG Program.* (1) A student is eligible to receive an ACG if the student—

(i) Meets the eligibility requirements in paragraph (a) of this section;

(ii) For the first academic year of his or her eligible program—

(A) Has received a high school diploma or, for a home-schooled student, a high school diploma or the certification of completion of a secondary school education by the cognizant authority;

(B) Has successfully completed after January 1, 2006, as determined by the institution, a rigorous secondary school program of study recognized by the Secretary under § 691.16; and

(C) Has not previously been enrolled as a regular student in an eligible program while—

(*1*) Enrolled in high school; and

(*2*) Being at or below the age of compulsory school attendance; and

(iii) For the second academic year of his or her eligible program—

(A) Has received a high school diploma or, for a home-schooled student, a high school diploma or the certification of completion of a secondary school education by the cognizant authority;

(B) Has successfully completed, after January 1, 2005, as determined by the institution, a rigorous secondary school program of study recognized by the Secretary under § 691.16;

(C) Has successfully completed the first academic year of his or her eligible program; and

(D) For the first academic year of his or her eligible program, obtained a grade point average (GPA) of 3.0 or higher on a 4.0 scale, or the numeric equivalent, consistent with other institutional measures for academic and title IV, HEA program purposes.

(2)(i) An institution must document a student's successful completion of a rigorous secondary school program of study under paragraphs (b)(1)(ii)(A), (b)(1)(ii)(B), (b)(1)(iii)(A) and (b)(1)(iii)(B) of this section using—

(A) Documentation provided directly to the institution by the cognizant authority; or

(B) Documentation from the cognizant authority provided by the student.

(ii) If an institution has reason to believe that the documentation provided by the student under paragraph (b)(2)(i)(B) of this section is inaccurate or incomplete, the institution must confirm the student's successful completion of a rigorous secondary school program of study by using documentation provided directly to the institution by the cognizant authority.

(3) For purposes of paragraph (b) of this section—

(i) A cognizant authority includes, but is not limited to—

(A) An LEA;

(B) An SEA or other State agency;

(C) A public or private high school; or

(D) A testing organization such as the College Board or State agency; or

(ii) A home-schooled student's parent or guardian is the cognizant authority for purposes of providing the documentation required under paragraph (b) of this section. This documentation must show that the home-schooled student successfully completed a rigorous secondary school program under § 691.16(d)(2). This documentation may include a transcript or the equivalent or a detailed course description listing the secondary school courses completed by the student.

(4) For a student who transfers from an eligible program at one institution to an eligible program at another institution, the institution to which the student transfers may rely upon the

prior institution's determination that the student successfully completed a rigorous secondary school program of study in accordance with paragraphs (b)(1)(ii)(A), (b)(1)(ii)(B), (b)(1)(iii)(A), and (b)(1)(iii)(B) of this section based on documentation that the prior institution may provide, or based on documentation of the receipt of an ACG disbursement at the prior institution.

(5)(i) If a student self-certifies on an application under § 691.12, or otherwise self-identifies to the institution, that he or she completed a rigorous secondary school program of study recognized by the Secretary under § 691.16, an institution must attempt to collect the documentation described under paragraph (b)(2) of this section.

(ii) Notwithstanding 34 CFR 668.16(f), an institution is not required to determine the ACG eligibility of a student if the student does not self-certify on his or her application, or otherwise self-identify to the institution, the completion of a rigorous secondary school program of study.

(c) *National SMART Grant Program.* A student is eligible to receive a National SMART Grant for the third or fourth academic year of his or her eligible program if the student—

(1) Meets the eligibility requirements in paragraph (a) of this section;

(2)(i)(A) In accordance with the institution's academic requirements, formally declares an eligible major; or

(B) Is at an institution where the academic requirements do not allow a student to declare an eligible major in time to qualify for a National SMART Grant on that basis and the student demonstrates his or her intent to declare an eligible major in accordance with paragraph (d) of this section; and

(ii) Enrolls in the courses necessary both to complete the degree program and to fulfill the requirements of the eligible major as determined and documented by the institution in accordance with paragraph (e) of this section;

(3) Has a cumulative GPA through the most recently completed payment period of 3.0 or higher on a 4.0 scale, or the numeric equivalent measure, consistent with other institutional measures for academic and title IV, HEA program purposes, in the student's eligible program;

(4) For the third academic year, has successfully completed the second academic year of his or her eligible program; and

(5) For the fourth academic year, has successfully completed the third academic year of his or her eligible program.

(d) *Intent to declare a major.* (1) For a student whose institution's academic policies do not allow the student to declare an eligible major in time to qualify for a National SMART Grant disbursement, the institution must obtain and keep on file a recent self-certification of intent to declare an eligible major that is signed by the student.

(2) The student described in paragraph (d)(1) of this section must formally declare an eligible major when he or she is able to do so under the institution's academic requirements.

(e) *Documentation of progression in the major.* The institution must document a student's progress in taking the courses necessary to complete the intended or declared major that establishes eligibility for a National SMART Grant. Documentation of coursework progression in the eligible program and major under paragraph (c)(2)(ii) of this section may include, but is not limited to:

(1) Written counselor or advisor tracking of coursework progress toward a degree in the intended or declared eligible major.

(2) Written confirmation from an academic department within the institution that the student is progressing in coursework leading to a degree in the intended or declared eligible major. This confirmation must be signed by a departmental representative for the intended eligible major.

(3) Other written documentation of coursework that satisfies the ongoing nature of monitoring student coursework progression in the intended or declared eligible major.

(f) *Transfer students.* (1)(i) Under the ACG Program, if a student transfers to an institution that accepts for enrollment at least the credit or clock hours for one academic year but less than the credit or clock hours for two academic years from all prior postsecondary institutions attended by the student, the GPA to determine second-year eligibility for an ACG is calculated using the grades from all coursework accepted by the current institution into the student's eligible program.

(ii) Under the ACG Program, if a student transfers to an institution that accepts for enrollment less than the credit or clock hours for one academic year from all prior postsecondary institutions attended by the student, the GPA to determine second-year eligibility for an ACG is calculated using the grades from—

(A) All coursework accepted from all prior postsecondary institutions by the current institution into the student's eligible program; and

(B) The coursework earned at the current institution through the payment period in which the student completes the credit or clock hours of the student's first academic year in an eligible program based on the total of the credit or clock hours accepted on transfer and the credit or clock hours earned at the current institution.

(2) Under the National SMART Grant Program, if a student transfers from one institution to the current institution, the current institution must determine that student's eligibility for a National SMART Grant for the first payment period using either the method described in paragraph (f)(2)(i) of this section or the method described in paragraph (f)(2)(ii) of this section, whichever method coincides with the current institution's academic policy. For an eligible student who transfers to an institution that—

(i) Does not incorporate grades from coursework that it accepts on transfer into the student's GPA at the current institution, the current institution, for the courses accepted in the eligible program upon transfer—

(A) Must calculate the student's GPA for the first payment period of enrollment using the grades earned by the student in the coursework from any prior postsecondary institution that it accepts toward the student's eligible program; and

(B) Must, for all subsequent payment periods, apply its academic policy and not incorporate the grades from the coursework that it accepts on transfer into the GPA at the current institution; or

(ii) Incorporates grades from the coursework that it accepts on transfer into the student's GPA at the current institution, an institution must use the grades assigned to the coursework accepted by the current institution into the eligible program as the student's cumulative GPA to determine eligibility for the first payment period of enrollment and all subsequent payment periods in accordance with its academic policy.

(g) *Numeric equivalent.* (1) If an otherwise eligible program measures academic performance using an alternative to standard numeric grading procedures, the institution must develop and apply an equivalency policy with a numeric scale for purposes of establishing ACG or National SMART Grant eligibility. That institution's equivalency policy must be in writing and available to students upon request and must include clear differentiations of student performance

to support a determination that a student has performed at a level commensurate with at least a 3.0 GPA on a 4.0 scale in that program.

(2) A grading policy that includes only ''satisfactory/unsatisfactory'', ''pass/fail'', or other similar nonnumeric assessments qualifies as a numeric equivalent only if—

(i) The institution demonstrates that the ''pass'' or ''satisfactory'' standard has the numeric equivalent of at least a 3.0 GPA on a 4.0 scale awarded in that program, or that a student's performance for tests and assignments yielded a numeric equivalent of a 3.0 GPA on a 4.0 scale; and

(ii) The institution's equivalency policy is consistent with any other standards the institution may have developed for academic and other title IV, HEA program purposes, such as graduate school applications, scholarship eligibility, and insurance certifications, to the extent such standards distinguish among various levels of a student's academic performance.

* * * * *

(Approved by the Office of Management and Budget under control numbers 1845–0001 and 1845–0039)

■ 5. Section 691.16 is amended by:

■ A. Revising paragraph (b).

■ B. In the introductory text of paragraph (c), removing the word ''identifying'' and adding, in its place, the word ''establishing''.

■ C. In paragraph (c)(2), removing the word ''successfully'' before the punctuation ';'' and adding the word ''successfully'' immediately before the word ''pursue''.

■ D. In the introductory text of paragraph (d), removing the word ''identified'' and adding, in its place, the word ''established''.

■ E. In paragraph (d)(1), removing the words ''or 2005–2006 school year'' and adding, in their place, the words ''school year or later school years''.

■ F. In the introductory text of paragraph (d)(2) adding the word ''successfully'' immediately after the word ''student''.

■ G. Adding a parenthetical phrase at the end of the section.

The revision and addition read as follows:

§ 691.16 Recognition of a rigorous secondary school program of study.

* * * * *

(b) For each award year, the Secretary establishes a deadline for SEAs and LEAs to submit information about the secondary school program or programs that the SEA or LEA establishes as a rigorous secondary school program of study, and, in the case of an LEA, documentation that the LEA is legally authorized by the State to establish a separate secondary school program of study. An SEA and LEA, if applicable, may submit information—

(1) For students graduating during the current school year; and

(2) For students graduating during one or more specified upcoming school years.

* * * * *

(Approved by the Office of Management and Budget under control number 1845–0078)

■ 6. Section 691.17 is amended by redesignating paragraph (c) as paragraph (e), and adding new paragraphs (c) and (d) to read as follows:

§ 691.17 Determination of eligible majors.

* * * * *

(c) *Designation of eligible majors.* For each award year, the Secretary publishes a list of eligible majors identified by CIP code.

(d) *Designation of an additional eligible major.* For each award year, the Secretary establishes a deadline for an institution to request designation of an additional eligible major.

(1) Requests for designation of an additional eligible major must include—

(i) The CIP code and program title of the additional major;

(ii) The reason or reasons the institution believes the additional major should be considered an eligible program under this part; and

(iii) Documentation showing that the institution has actually awarded or plans to award a bachelor's degree in the requested major.

(2) For each award year, the Secretary will confirm the final list of eligible majors.

* * * * *

§ 691.75 [Amended]

■ 7. Section 691.75 is amended by:

■ A. In paragraph (b)(2), removing the regulatory citation ''691.15(b)(1)(iii)(C)'' and adding, in its place, the regulatory citation ''691.15(b)(1)(iii)(D)''.

■ B. In paragraph (c), removing the regulatory citation ''691.15(b)(1)(iii)(C)'' and adding, in its place, the regulatory citation ''691.15(b)(1)(iii)(D)''.

■ C. In paragraph (d)(1)(i), removing the regulatory citation ''691.15(b)(1)(iii)(C)'' and adding, in its place, the regulatory citation ''691.15(b)(1)(iii)(D)''.

[FR Doc. E7–21068 Filed 10–26–07; 8:45 am]

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Federal Register

Monday,
October 29, 2007

Part IV

Department of Housing and Urban Development

48 CFR Part 2409

HUD Acquisition Regulation (HUDAR) Debarment and Suspension Procedures; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

48 CFR Part 2409

[Docket No. FR–5098–F–02]

RIN 2535–AA28

HUD Acquisition Regulation (HUDAR) Debarment and Suspension Procedures

AGENCY: Office of the Chief Procurement Officer, HUD.

ACTION: Final rule.

SUMMARY: This rule amends HUD's Acquisition Regulation (HUDAR) to codify the suspension and debarment procedures applicable to HUD's procurement contracts. Such an amendment affirms that the suspension and debarment procedures in 24 CFR part 24 apply to both procurement and nonprocurement contracts. The contracting community is familiar with the suspension and debarment procedures in part 24, and this rule is limited to amending the HUDAR regulations to reflect the applicability of these requirements to procurement contracts. This final rule follows a July 17, 2007, proposed rule. HUD received no public comments on the proposed rule. This final rule adopts the proposed rule without change.

DATES: *Effective Date:* November 28, 2007.

FOR FURTHER INFORMATION CONTACT: Frederick Graves, Office of Policy and Systems, Office of the Chief Procurement Officer (Seattle Outstation), Department of Housing and Urban Development, Seattle Federal Office Building, 909 First Avenue, Seattle, WA 98104–1000; telephone number (206) 220–5259, FAX (206) 220–5247 (these are not toll-free numbers). Persons with hearing or speech impairments may access the telephone number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The uniform regulation for the procurement of supplies and services by federal departments and agencies, the Federal Acquisition Regulation (FAR), was promulgated on September 19, 1983 (48 FR 42102). The FAR is codified in title 48, chapter 1, of the Code of Federal Regulations (CFR). HUD promulgated its regulation to implement the FAR on March 1, 1984 (49 FR 7696). The HUDAR (title 48, chapter 24 of the CFR) is prescribed under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); and the general authorization in FAR 1.301.

On July 17, 2007, at 72 FR 39286, HUD published for public comment a rule that proposed to make one change to 48 CFR 2409.7001, to clarify that HUD's suspension and debarment procedures, found at 24 CFR part 24, apply to procurement contracts.[1] On November 26, 2003, HUD had adopted, with minor revisions, the governmentwide nonprocurement debarment and suspension common rule (68 FR 66534). The governmentwide rule sets forth the common policies and procedures that federal executive branch agencies must use in taking suspension or debarment actions. The amendments made by the November 26, 2003, rule limited covered transactions to nonprocurement contracts. For many years prior to the promulgation in 2003 of the governmentwide debarment and suspension common rule, HUD applied to procurement contracts the same suspension and debarment procedures that it uses for nonprocurement contracts. To reflect the applicability of debarment and suspension requirements to procurement contracts, HUD, through the July 17, 2007, rule, proposed to revise the HUDAR to affirm that the suspension and debarment rules in 24 CFR part 24 apply to procurement contracts. This regulatory clarification does not impose any additional requirements, because the suspension and debarment procedures in part 24 are well established and the contracting community is already familiar with the requirements.

II. This Final Rule

The public comment period for the July 17, 2007, proposed rule closed on September 17, 2007. HUD received no public comments on this rule. Through this final rule, HUD adopts the July 17, 2007, proposed rule without change.

III. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this rule are currently approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2535–0091. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This rule does not impose any federal mandate on any state, local, or tribal government, or the private sector, within the meaning of UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule makes clarifying changes to existing governmentwide suspension and debarment procedures and does not make any major changes that would significantly impact small entities. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This

[1] On March 23, 2007, HUD published a proposed rule (72 FR 14015) that would redesignate 24 CFR part 24 to 2 CFR part 2424. The July 17, 2007, proposed rule and this final rule, however, continue to use the reference of 24 CFR part 24. A conforming change will be made at the final rule stage of the March 23, 2007, rulemaking to reflect the redesignation.

rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects for 48 CFR Part 2409

Government procurement.

■ For the reasons discussed in the preamble, HUD amends 48 CFR part 2409 to read as follows:

PART 2409—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for part 2409 continues to read as follows:

Authority: 40 U.S.C. 486(c); 42 U.S.C. 3535(d).

■ 2. Revise 2409.7001 to read as follows:

2409.7001 HUD regulations on debarment, suspension, and ineligibility.

HUD's policies and procedures concerning debarment and suspension are contained in 24 CFR part 24 and, notwithstanding 24 CFR 24.220(a)(1), apply to procurement contracts.

Dated: October 19, 2007.

Joseph A. Neurauter,

Chief Procurement Officer.

[FR Doc. E7–21267 Filed 10–26–07; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 1124/P.L. 110–97

To extend the District of Columbia College Access Act of 1999. (Oct. 24, 2007; 121 Stat. 1013)

H.R. 2467/P.L. 110–98

To designate the facility of the United States Postal Service located at 69 Montgomery Street in Jersey City, New Jersey, as the "Frank J. Guarini Post Office Building". (Oct. 24, 2007; 121 Stat. 1014)

H.R. 2587/P.L. 110–99

To designate the facility of the United States Postal Service located at 555 South 3rd Street Lobby in Memphis, Tennessee, as the "Kenneth T. Whalum, Sr. Post Office Building". (Oct. 24, 2007; 121 Stat. 1015)

H.R. 2654/P.L. 110–100

To designate the facility of the United States Postal Service located at 202 South Dumont Avenue in Woonsocket, South Dakota, as the "Eleanor McGovern Post Office Building". (Oct. 24, 2007; 121 Stat. 1016)

H.R. 2765/P.L. 110–101

To designate the facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, as the "Master Sergeant Sean Michael Thomas Post Office". (Oct. 24, 2007; 121 Stat. 1017)

H.R. 2778/P.L. 110–102

To designate the facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, as the "Robert Merrill Postal Station". (Oct. 24, 2007; 121 Stat. 1018)

H.R. 2825/P.L. 110–103

To designate the facility of the United States Postal Service located at 326 South Main Street in Princeton, Illinois, as the "Owen Lovejoy Princeton Post Office Building". (Oct. 24, 2007; 121 Stat. 1019)

H.R. 3052/P.L. 110–104

To designate the facility of the United States Postal Service located at 954 Wheeling Avenue in Cambridge, Ohio, as the "John Herschel Glenn, Jr. Post Office Building". (Oct. 24, 2007; 121 Stat. 1020)

H.R. 3106/P.L. 110–105

To designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the "Staff Sergeant David L. Nord Post Office". (Oct. 24, 2007; 121 Stat. 1021)

H.R. 995/P.L. 110–106

To amend Public Law 106-348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States. (Oct. 25, 2007; 121 Stat. 1022)

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500–End	(869–062–00061–8)	63.00	Apr. 1, 2007
21 Parts:			
1–99	(869–062–00062–6)	40.00	Apr. 1, 2007
100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.