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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0389; Directorate Identifier 2007–NM–222–AD; Amendment 39–15450; AD 2008–07–09]

RIN 2120–AA64

Airworthiness Directives; Various Transport Category Airplanes Equipped With Auxiliary Fuel Tanks Installed in Accordance With Certain Supplemental Type Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for various transport category airplanes. This AD requires deactivation of Southeast Aero-Tek, Inc., auxiliary fuel tanks. This AD results from fuel system reviews conducted by the manufacturer, which identified potential unsafe conditions for which the manufacturer has not provided corrective actions. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective May 2, 2008.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Robert Bosak, Aerospace Engineer, Propulsion and Services Branch, ACE–118A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703–6094; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to various transport category airplanes equipped with auxiliary fuel tanks installed in accordance with certain supplemental type certificates (STCs). That NPRM was published in the **Federal Register** on January 2, 2008 (73 FR 84). That NPRM proposed to require deactivation of Southeast Aero-Tek, Inc., auxiliary fuel tanks.

Comments

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

Request To Clarify Proposed Applicability

FedEx Express requests that we clarify the applicability statement in the NPRM to state that the AD does not apply to airplanes where auxiliary tanks were removed by an FAA-approved method. FedEx states that the unsafe condition does not exist on these airplanes.

We agree that the unsafe condition does not exist on the airplanes FedEx describes. We have included a statement in paragraph (c) of the final rule that excludes these airplanes.

Explanation of Change to Product Identification Line

We have changed the product identification line of the AD from ''Various Transport Category Airplanes'' to ''Southeast Aero-Tek, Inc.'' In ADs written against products with an STC, that statement is intended to identify the name of the STC holder.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

The following table provides the estimated costs for the 37 U.S.-registered airplanes to comply with this AD. Based on these figures, the estimated costs for U.S. operators could be as high as $239,760 to prepare and report the deactivation procedures, and $133,200 to deactivate tanks.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Individual cost
Report	1	$80	None	$80, per STC.
Preparation of tank deactivation procedure	80	80	None	$6,400, per STC.
Physical tank deactivation	30	80	$1,200	$3,600, per airplane.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII,

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

Regulatory Findings

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

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

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

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

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

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–07–09 Southeast Aero-Tek, Inc.: Amendment 39–15450. Docket No. FAA–2007–0389; Directorate Identifier 2007–NM–222–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 2, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to airplanes, certificated in any category, equipped with auxiliary fuel tanks installed in accordance with specified supplemental type certificates (STCs), as identified in Table 1 of this AD. This AD does not apply to any airplane where an auxiliary fuel tank was installed in accordance with an STC identified in Table 1 of this AD and subsequently removed by an FAA-approved method.

TABLE 1.—AFFECTED AIRPLANES

Airplanes	Auxiliary tank STC(s)
Boeing Model 727–100 series airplanes.	ST01587AT
Boeing Model 727–200 and –200F series airplanes.	SA2033NM, SA1474SO
McDonnell Douglas Model DC–9–14 airplanes.	SA1334NM
McDonnell Douglas Model DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, and DC–9–32F (C–9A, C–9B) airplanes.	SA1710SO, SA1358NM

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer, which identified potential unsafe conditions for which the manufacturer has not provided corrective actions. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Report

(f) Within 45 days after the effective date of this AD, submit a report to the Manager, Atlanta Aircraft Certification Office (ACO), FAA. The report must include the information listed in paragraphs (f)(1) and (f)(2) of this AD. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD, and assigned OMB Control Number 2120–0056.

(1) The airplane registration and auxiliary tank STC number installed.

(2) The usage frequency in terms of total number of flights per year and total number of flights per year for which the auxiliary tank is used.

Prevent Usage of Auxiliary Fuel Tanks

(g) On or before December 16, 2008, deactivate the auxiliary fuel tanks, in accordance with a deactivation procedure approved by the Manager, Atlanta ACO. Any auxiliary tank component that remains on the airplane must be secured and must have no effect on the continued operational safety and airworthiness of the airplane. Deactivation may not result in the need for additional instructions for continued airworthiness.

Note 1: Appendix A of this AD provides criteria that should be included in the deactivation procedure. The proposed deactivation procedures should be submitted to the Manager, Atlanta ACO, as soon as possible to ensure timely review and approval.

Note 2: For technical information, contact Randy Smith, President, Southeast Aero-Tek, Inc., 675 Oleander Drive, Merritt Island, Florida 32952; telephone (321) 453–7876; fax (321) 453–7872.

Alternative Methods of Compliance (AMOCs)

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

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(i) None.

Appendix A—Deactivation Criteria

The auxiliary fuel tank deactivation procedure required by paragraph (g) of this AD should address the following actions.

(1) Permanently drain auxiliary fuel tanks, and clear them of fuel vapors to eliminate the possibility of out-gassing of fuel vapors from the emptied auxiliary tank.

(2) Disconnect all electrical connections from the fuel quantity indication system (FQIS), fuel pumps if applicable, float switches, and all other electrical connections required for auxiliary tank operation, and stow them at the auxiliary tank interface.

(3) Disconnect all pneumatic connections if applicable, cap them at the pneumatic source, and secure them.

(4) Disconnect all fuel feed and fuel vent plumbing interfaces with airplane original equipment manufacturer (OEM) tanks, cap them at the airplane tank side, and secure them in accordance with a method approved by the FAA; one approved method is specified in Advisory Circular 25–8 Fuel Tank Flammability Minimization. In order to eliminate the possibility of structural deformation during cabin decompression, leave open and secure the disconnected auxiliary fuel tank vent lines.

(5) Pull and collar all circuit breakers used to operate the auxiliary tank.

(6) Revise the weight and balance document, if required, and obtain FAA approval.

(7) Amend the applicable sections of the applicable airplane flight manual (AFM) to indicate that the auxiliary fuel tank is deactivated. Remove auxiliary fuel tank operating procedures to ensure that only the OEM fuel system operational procedures are contained in the AFM. Amend the Limitations Section of the AFM to indicate that the AFM Supplement for the STC is not in effect. Place a placard in the flight deck indicating that the auxiliary tank is deactivated. The AFM revisions specified in this paragraph may be accomplished by inserting a copy of this AD into the AFM.

(8) Amend the applicable sections of the applicable airplane maintenance manual to remove auxiliary tank maintenance procedures.

(9) After the auxiliary fuel tank is deactivated, accomplish procedures such as leak checks and pressure checks deemed necessary before returning the airplane to service. These procedures must include verification that the airplane FQIS and fuel distribution systems have not been adversely affected.

(10) Include with the operator's proposed procedures any relevant information or additional steps that are deemed necessary by the operator to comply with the deactivation and return the airplane to service.

Issued in Renton, Washington, on March 20, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–6298 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 080225304–8463–01]

RIN 0625–AA77

Import Administration, Withdrawal of Regulations Governing the Treatment of Subcontractors (''Tolling'' Operations)

ACTION: Interim final rule.

SUMMARY: Import Administration issues this interim final rule for the purpose of withdrawing its regulation governing the treatment of tollers or subcontractors for purposes of determining export price, constructed export price, fair value, and normal value in antidumping duty proceedings.

DATES: This interim final rule is effective on March 28, 2008. Although the amendment made by this Interim Final Rule is effective on March 28, 2008, Import Administration seeks public comments. To be assured of consideration, written comments must be received not later than April 28, 2008.

ADDRESSES: Comments on this Interim Final Rule must be sent to David M. Spooner, Assistant Secretary for Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, Pennsylvania Avenue.

FOR FURTHER INFORMATION CONTACT: Michael Rill, telephone 202–482–3058.

SUPPLEMENTARY INFORMATION: The Department promulgated the regulation governing the treatment of tollers or subcontractors in antidumping duty proceedings on May 19, 1997 (''Antidumping Duties; Countervailing Duties; Final Rule'') (62 FR 27296, 27411 (May 19, 1997)). The Department regulation, 19 CFR 351.401(h), was intended to ensure, in calculating a dumping margin on merchandise determined to be within the scope of an antidumping order, that the Department's analysis is focused on the party setting the price of subject merchandise when the manufacture of such merchandise is subcontracted to another company. However, the regulation has been interpreted by the Court of International Trade as having the unintended effect of bestowing the status of ''foreign manufacturer'' or ''producer'' upon parties in the United States that otherwise would have assumed the status of purchasers of subject merchandise. See *USEC Inc.* v. *United States*, 281 F. Supp. 2d 1334 (2003), *aff'd on other grounds Eurodif* v. *United States*, 411 F.3d 1355, 1364 (Fed. Cir. 2005). This interpretation could restrict the Department's exercise of its discretion and could require the Department to identify the incorrect entity as the seller of subject merchandise, which would adversely affect the Department's antidumping determinations.

If a party that customarily assumes the status of a ''purchaser'' is bestowed with the status of ''foreign manufacturer'' or ''producer'', the proper application of the law is thwarted in a variety of ways. First, in some cases, the Department may have no basis upon which to make antidumping duty determinations because the customers who obtain the status of ''foreign producer'' make no sales of subject merchandise, but instead consume the merchandise themselves. In such cases, the Department would be unable to calculate a dumping margin. In other cases, the Department's determination of the margin of dumping could be distorted or miscalculated because the incorrect U.S. sales were identified as the relevant sales under the regulation. Second, the right to appeal Department antidumping determinations is a right limited to interested parties as defined under 19 U.S.C. 1677(9). Purchasers of subject merchandise do not qualify as interested parties under the provision. Purchasers who have obtained the status of ''foreign producers'' under the regulation, however, become interested parties in error, and are afforded the right to appeal Department antidumping determinations where no such right was intended under the law.

These effects are contrary to the Department's intention in promulgating the regulation, and inconsistent with the Department's statutory mandate to provide relief to domestic industries suffering material injury from unfairly traded imports. The Department has a statutory duty under the Tariff Act of 1930, as amended, to determine instances of dumping by examining the price at which the merchandise is first sold in the United States. The regulation at issue, as recently interpreted, confounds the Department's ability to make such a determination. Because the regulation is applicable to on-going antidumping investigations and administrative reviews, and because the application of the regulation can act to deny relief to domestic industries suffering material injury from unfairly traded imports, immediate revocation is necessary to ensure the proper and efficient operation of the antidumping law and to provide the relief intended by Congress.

The Department is not replacing this regulation with a new regulation. Instead, the Department is returning to a case-by-case adjudication, until additional experience allows the Department to gain greater understanding of the problem.

Parties are invited to comment on the Department's withdrawal of the regulation governing the treatment of tollers or subcontractors in antidumping duty proceedings. Parties should submit to the address under the **ADDRESSES** heading, a signed original and two copies of each set of comments including reasons for any recommendation, along with a cover letter identifying the commenter's name and address. To be assured of consideration, written comments must be received not later than April 28, 2008.

Classification

Executive Order 12866

It has been determined that this interim final rule is not significant for purposes of Executive Order 12866 of September 30, 1993 (''Regulatory Planning and Review'') (58 FR 51735 (October 4, 1993)).

Paperwork Reduction Act

This interim final rule contains no new collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132

This rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Administrative Procedure Act

The Assistant Secretary for Import Administration finds good cause to waive the requirement to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such requirement is impracticable and contrary to the public interest.

The regulation has been interpreted to restrict the Department's exercise of its discretion and, in such cases, requires the Department to identify the incorrect entity as the seller of subject merchandise, which adversely affects the Department's antidumping determinations. The Department's antidumping regulation, 19 CFR 351.401(h), is intended to ensure that the antidumping analysis is focused on the party setting the price of subject merchandise when the manufacture of such merchandise is subcontracted to another company. The regulation has been construed to have the unintended effect of bestowing the status of ''foreign manufacturer'' or ''foreign producer'' on parties in the United States that would have otherwise assumed the status of ''purchasers''. As described in the preamble, if a party that customarily assumes the status of a ''purchaser'' is bestowed the status of ''foreign manufacturer'' or ''foreign producer'', the proper application of the law is thwarted. This effect is contrary to the Department's intention in promulgating the regulation, and inconsistent with the Department's statutory mandate to provide relief to domestic industries suffering material injury from unfairly traded imports. Courts have determined that notice and comment is impracticable when ''the agency could both follow section 553 and execute its statutory duties.'' *Lavesque* v. *Block*, 723 F.2d 175, 184 (5th Cir. 1980). It went further to clarify that the Administrative Procedure Act good cause waiver authorizes departures from the requirements ''only when compliance would interfere with the agency's ability to carry out its mission.'' *Riverbend Farms, Inc.* v. *Madigan*, 958 F.2d 1479, 1485. Here, the Department has a statutory duty under the Tariff Act of 1930, as amended, to determine instances of dumping by examining the price at which the merchandise is first sold in the United States. The regulation at issue confounds the Department's ability to make such a determination. Because the regulation is applicable to on-going antidumping investigations and administrative reviews, and because the application of the regulation can act to deny relief to domestic industries suffering material injury from unfairly traded imports, immediate revocation is necessary to ensure the proper and efficient operation of the antidumping law and to provide the relief intended by Congress.

The Assistant Secretary for Import Administration also finds good cause to waive the 30-day delay in effectiveness, pursuant to the authority set forth at 5 U.S.C. 553(e) for the reasons given above. As described in the preamble, if a party that customarily assumes the status of a ''purchaser'' is bestowed the status of ''foreign manufacturer'' or ''foreign producer'', the proper application of the law is thwarted. This effect is contrary to the Department's intention in promulgating the regulation, and inconsistent with the Department's statutory mandate to provide relief to domestic industries suffering material injury from unfairly traded imports. The regulation at issue confounds the Department's ability to make such a determination. Because the regulation is applicable to on-going antidumping investigations and administrative reviews, and because the application of the regulation can act to deny relief to domestic industries suffering material injury from unfairly traded imports, immediate revocation is necessary to ensure the proper and efficient operation of the antidumping law and to provide the relief intended by Congress.

Regulatory Flexibility Act

Because a notice and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis has not been prepared.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Business and industry, Cheese, Confidential business information, Investigations, Reporting and recordkeeping requirements.

For the reasons stated above, amend 19 CFR part 351 as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538.

§ 351.401 [Amended]

2. Amend § 351.401 by removing and reserving paragraph (h).

Dated: March 21, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–6499 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9381]

RIN 1545–BF79

TIPRA Amendments to Section 199; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 9381) that were published in the **Federal Register** on Friday, February 15, 2008 (73 FR 8798) concerning the amendments made by the Tax Increase Prevention and Reconciliation Act of 2005 to section 199 of the Internal Revenue Code. These final regulations also contain a rule concerning the use of losses incurred by members of an expanded affiliated group and affect taxpayers engaged in certain domestic production activities.

DATES: The correction is effective March 28, 2008.

FOR FURTHER INFORMATION CONTACT: Concerning §§ 1.199–2(e)(2) and 1.199–8(i)(5), Paul Handleman or David McDonnell, (202) 622–3040; concerning

§§ 1.199–3(i)(7) and (8), and 1.199–5, William Kostak, (202) 622–3060; and concerning §§ 1.199–7(b)(4) and 1.199-8(i)(6), Ken Cohen, (202) 622–7790 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9381) that are the subject of the correction are under section 199 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9381) contain an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following amendment:

PART 1—INCOME TAXES

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

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

■ **Par. 2**. Section 1.199–8 is amended by revising the last sentence of paragraph (i)(5) to read as follows:

§ 1.199–8 Other rules.

* * * * *

(i) * * *

(5) * * * A taxpayer may apply §§ 1.199–2(e)(2), 1.199–3(i)(7) and (8), and 1.199–5 to taxable years beginning after May 17, 2006, and before October 19, 2006, regardless of whether the taxpayer otherwise relied upon Notice 2005–14 (2005–1 CB 498) (see § 601.601(d)(2)(ii)(*b*) of this chapter), the provisions of REG–105847–05 (2005–2 CB 987), or §§ 1.199–1 through 1.199–8.

* * * * *

LaNita Van Dyke,

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

[FR Doc. E8–6309 Filed 3–27–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[TD 9390]

RIN 1545–BE37

Standards for Recognition of Tax-Exempt Status if Private Benefit Exists or if an Applicable Tax-Exempt Organization Has Engaged in Excess Benefit Transaction(s)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that clarify the substantive requirements for tax exemption under section 501(c)(3) of the Internal Revenue Code (Code). This document also contains provisions that clarify the relationship between the substantive requirements for tax exemption under section 501(c)(3) and the imposition of section 4958 excise taxes on excess benefit transactions. These regulations affect organizations described in section 501(c)(3) of the Code and organizations applying for exemption as organizations described in section 501(c)(3) of the Code.

DATES: *Effective Date:* These regulations are effective March 28, 2008.

FOR FURTHER INFORMATION CONTACT: Galina Kolomietz, (202) 622–7971 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2005, a notice of proposed rulemaking (REG–111257–05, 2005–42 CB 759) clarifying the substantive requirements for tax exemption under section 501(c)(3) of the Code, and the relationship between the substantive requirements for tax exemption under section 501(c)(3) and the imposition of section 4958 excise taxes was published in the **Federal Register** (70 FR 53599). The IRS received several written comments responding to this notice. After consideration of all comments received, the proposed regulations under sections 501(c)(3) and 4958 are revised and published in final form. The major areas of comments and revisions are discussed in the following preamble. (See § 601.601(d)(2)(ii)(*b*)).

Explanation and Summary of Comments

Private Benefit

The proposed regulations added several examples to illustrate the requirement in § 1.501(c)(3)–1(d)(1)(ii) that an organization serve a public rather than a private interest. The purpose of the examples is to illustrate that prohibited private benefit may involve non-economic benefits as well as economic benefits and that prohibited private benefit may arise regardless of whether payments made to private interests are reasonable or excessive.

One comment suggested that, rather than add three isolated examples on private benefit to the regulations, the IRS consider a broader revision of the regulations under section 501(c)(3) to provide a more detailed discussion of the underlying principles of the private benefit doctrine. In particular, this comment suggested that the regulations address the relative quantity of private benefit that could preclude exemption. The IRS and the Treasury Department are not revising the existing regulations under section 501(c)(3) at this time. The new examples in the proposed regulations clarify the principles of the private benefit doctrine under current law. In § 1.501(c)(3)–1(d)(1)(iii), Example 1 illustrates that private benefit may involve non-economic benefits. Example *2* illustrates that private benefit is inconsistent with tax-exempt status under section 501(c)(3) if it is substantial and not merely incidental to the accomplishment of the organization's exempt purposes. Example *3* illustrates that private benefit may exist even though the transaction is at fair market value. Moreover, these examples are intended to illustrate the principle that private benefit remains an independent basis for revocation even if it does not involve economic benefit or raise fair market value issues. Accordingly, these examples are adopted in final form without revision.

Revocation Standards

The proposed regulations provided guidance on certain factors that the IRS will consider in determining whether an applicable tax-exempt organization described in section 501(c)(3) that engages in one or more excess benefit transactions continues to be described in section 501(c)(3). The comments received in response to the proposed regulations are discussed below. Overall, the commentators reacted favorably to the factors set forth in the proposed regulations. The factors described in the proposed regulations are finalized without major revisions. The application of the factors is refined by the addition of a new example to the final regulations.

a. Interaction With Determination of Existence of Excess Benefit Transaction

Two comments suggested that the final regulations clarify the interaction between the determination of the organization's tax-exempt status and the determination of the existence of an excess benefit transaction. One of these comments specifically requested that the final regulations state that the IRS will not take any action to remove an organization's tax exemption on excess benefit transaction grounds while the IRS's determination of the existence of an excess benefit transaction is itself being contested in court. The final regulations do not adopt this comment. The determination of an organization's tax-exempt status and the determination of the existence of an excess benefit transaction are separate determinations, involving distinct parties, different legal elements, and separate processes, even though they may relate to the same facts.

b. Clarification of Terms

Two comments voiced the need to clarify the terms ''significant'' and ''de minimis'' as they are used in the proposed regulations. One of these comments suggested adding an example of a safe harbor based on specific amounts the IRS would consider clearly insignificant, perhaps as a percentage of overall expenditures. Because the determination of whether an activity or an amount is ''significant'' or ''de minimis'' depends on the facts and circumstances, the final regulations do not adopt this comment.

One comment suggested adding examples combining potential de minimis values with other abating or negative factors and/or examples containing values that are not de miminis. The final regulations contain a new example that illustrates the application of the revocation factors to an excess benefit transaction that is neither significant in comparison to the size and scope of the organization's exempt activities nor de minimis.

One comment requested clarification of the term ''repeated'' as used in Example 3 of § 1.501(c)(3)–1(g) of the proposed regulations. The term was used in that example to correspond to the third factor in the proposed regulations, which looked to ''whether the organization has been involved in repeated excess benefit transactions.'' In response to this comment, the third factor of the proposed regulations is revised to substitute the term ''multiple'' for the word ''repeated.'' The term ''multiple'' refers to both (1) repeated instances of the same (or substantially similar) excess benefit transaction, regardless of whether the transaction involves the same or different persons; and (2) the presence of more than one excess benefit transaction, regardless of whether the transactions are the same or substantially similar and regardless of whether they involve the same or different persons.

Another comment requested guidance regarding when the IRS would consider the presence of a single excess benefit transaction to jeopardize an organization's tax-exempt status. Because such a determination would depend on the facts and circumstances, the final regulations do not adopt the comment.

c. Due Diligence and Safeguards

One comment requested that evidence that an organization's board of directors conducted appropriate due diligence or followed certain safeguards in connection with the excess benefit transaction be treated as a factor weighing in favor of continuing to recognize exemption. The IRS and the Treasury Department agree that the organization's reliance on objectively reasonable internal controls and procedures, such as the procedures for establishing a rebuttable presumption of reasonableness, in approving a transaction that is later determined to be an excess benefit transaction, should be treated as a factor weighing in favor of continuing to recognize exemption. Accordingly, the fourth factor under the proposed regulations is revised to make clear that implementation by an organization of safeguards that are reasonably calculated to prevent excess benefit transactions will be treated as a factor weighing in favor of continuing to recognize exemption regardless of whether such safeguards are implemented in direct response to the excess benefit transaction(s) at issue or as a general matter of corporate governance or fiscal management. Thus, an organization may be treated as having implemented safeguards reasonably calculated to prevent excess benefit transactions even though the organization is contesting the existence of the excess benefit transaction(s) at issue. An example is added to illustrate how implementation of safeguards, including preexisting safeguards, will be taken into account in determining whether to continue to recognize an organization's tax-exempt status.

One comment suggested that an organization's good faith attempt to establish a rebuttable presumption of reasonableness within the meaning of § 53.4958–6 be treated as a factor weighing in favor of continuing to recognize exemption. Another comment suggested that a good faith attempt by an organization's board of directors to determine fair market value be treated as a factor precluding revocation even if the IRS disagrees with the board's fair market value analysis. The fourth factor, as revised in these final regulations, takes into account whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions. This factor takes safeguards into account, regardless of whether they were implemented before or after an excess benefit transaction occurred. The comments raise the question of how this factor will apply where steps have been taken to avoid an excess benefit transaction, but nonetheless have failed to prevent the excess benefit transaction. The weight afforded to this particular circumstance will depend upon the specific facts and circumstances.

d. Requests for Additional Examples

Two comments suggested adding to the proposed regulations an example specifically addressing reasonable compensation. In response to these comments, the new example added by these final regulations addresses reasonable compensation.

One comment suggested that the regulations include examples involving health care organizations. The IRS and the Treasury Department note that the application of sections 501(c)(3) and 4958 to health care organizations is not unique. The examples in these regulations, although not specifically involving health care organizations, apply to health care organizations in the same manner as they apply to other organizations described in section 501(c)(3).

One comment criticized the examples in the proposed regulations as too ''black-and-white'' and suggested that the regulations be supplemented with examples that discuss less clear facts. Specifically, this comment requested guidance on situations involving more than de minimis amounts in which an applicable tax-exempt organization does not seek correction from the disqualified person involved. The new example added by these final regulations illustrates that, in some situations, even in the absence of correction of non-de minimis excess benefit transactions, an organization may retain its tax-exempt status if the other factors, in combination, warrant continued exemption. Under the fifth factor, the IRS will take into account the organization's good faith with respect to

correction. Accordingly, the reasons behind the organization's failure to seek correction will be examined.

One comment suggested adding an example that would illustrate what factors, in addition to post-audit correction, would be sufficient to avoid revocation. The example that has been added illustrates a case where factors other than correction support continued exemption. The IRS and the Treasury Department may consider publication of future guidance on the application of the factors based on other specific fact patterns that the IRS encounters in the course of tax administration.

One comment requested adding an example discussing the effect of ''automatic excess benefit transactions'' that are not de minimis on the organization's tax-exempt status. The term ''automatic excess benefit transaction'' refers to a transaction in which a disqualified person provides services to an organization and receives economic benefits from the organization that are not substantiated, contemporaneously and in writing, as compensation within the meaning of § 53.4958–4(c). After the enactment of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)), the term ''automatic excess benefit transaction'' also refers to any grant, loan, compensation or other similar payment from a donor advised fund to a donor or donor advisor with respect to such fund and from a supporting organization to any of its disqualified persons. See section 4958(c)(2) and (3). Although not in the context of an automatic excess benefit transaction, the new example in the final regulations involves an excess benefit transaction that is not de minimis.

e. Removal of Disqualified Person

One comment suggested that the regulations address whether and under what circumstances removal of a disqualified person may be necessary to avoid revocation. The new example added by these final regulations illustrates that removal of a disqualified person is not a necessary condition for continued exemption. In the example, the organization implemented safeguards designed to prevent future excess benefit transactions involving the same disqualified persons.

f. Best Practices

One comment described specific actions that boards of applicable tax-exempt organizations should be required to take to improve governance and to prevent excess benefit transactions at their organizations. This comment was not adopted because the purpose of these regulations is to set forth an analytical framework for determining whether to revoke tax-exempt status if an organization engages in one or more excess benefit transactions.

Special Analyses

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because this regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on business.

Drafting Information

The principal authors of these regulations are Galina Kolomietz and Phyllis Haney, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 53 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2**. Section 1.501(c)(3)–1 is revised by:

■ 1. Redesignating paragraph (d)(1)(iii) as paragraph (d)(1)(iv) and adding a new paragraph (d)(1)(iii).

■ 2. Redesignating paragraph (f) as paragraph (g) and adding a new paragraph (f).

The additions read as follows:

§ 1.501(c)(3)–1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

* * * * *

(d) * * *

(1) * * *

(iii) *Examples.* The following examples illustrate the requirement of paragraph (d)(1)(ii) of this section that an organization serve a public rather than a private interest:

Example 1. (i) O is an educational organization the purpose of which is to study history and immigration. O's educational activities include sponsoring lectures and publishing a journal. The focus of O's historical studies is the genealogy of one family, tracing the descent of its present members. O actively solicits for membership only individuals who are members of that one family. O's research is directed toward publishing a history of that family that will document the pedigrees of family members. A major objective of O's research is to identify and locate living descendants of that family to enable those descendants to become acquainted with each other.

(ii) O's educational activities primarily serve the private interests of members of a single family rather than a public interest. Therefore, O is operated for the benefit of private interests in violation of the restriction on private benefit in paragraph (d)(1)(ii) of this section. Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

Example 2. (i) O is an art museum. O's principal activity is exhibiting art created by a group of unknown but promising local artists. O's activity, including organized tours of its art collection, promotes the arts. O is governed by a board of trustees unrelated to the artists whose work O exhibits. All of the art exhibited is offered for sale at prices set by the artist. Each artist whose work is exhibited has a consignment arrangement with O. Under this arrangement, when art is sold, the museum retains 10 percent of the selling price to cover the costs of operating the museum and gives the artist 90 percent.

(ii) The artists in this situation directly benefit from the exhibition and sale of their art. As a result, the sole activity of O serves the private interests of these artists. Because O gives 90 percent of the proceeds from its sole activity to the individual artists, the direct benefits to the artists are substantial and O's provision of these benefits to the artists is more than incidental to its other purposes and activities. This arrangement causes O to be operated for the benefit of private interests in violation of the restriction on private benefit in paragraph (d)(1)(ii) of this section. Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

Example 3. (i) O is an educational organization the purpose of which is to train individuals in a program developed by P, O's president. The program is of interest to academics and professionals, representatives

of whom serve on an advisory panel to O. All of the rights to the program are owned by Company K, a for-profit corporation owned by P. Prior to the existence of O, the teaching of the program was conducted by Company K. O licenses, from Company K, the right to conduct seminars and lectures on the program and to use the name of the program as part of O's name, in exchange for specified royalty payments. Under the license agreement, Company K provides O with the services of trainers and with course materials on the program. O may develop and copyright new course materials on the program but all such materials must be assigned to Company K without consideration if and when the license agreement is terminated. Company K sets the tuition for the seminars and lectures on the program conducted by O. O has agreed not to become involved in any activity resembling the program or its implementation for 2 years after the termination of O's license agreement.

(ii) O's sole activity is conducting seminars and lectures on the program. This arrangement causes O to be operated for the benefit of P and Company K in violation of the restriction on private benefit in paragraph (d)(1)(ii) of this section, regardless of whether the royalty payments from O to Company K for the right to teach the program are reasonable. Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

* * * * *

(f) *Interaction with section 4958*—(1) *Application process.* An organization that applies for recognition of exemption under section 501(a) as an organization described in section 501(c)(3) must establish its eligibility under this section. The Commissioner may deny an application for exemption for failure to establish any of section 501(c)(3)'s requirements for exemption. Section 4958 does not apply to transactions with an organization that has failed to establish that it satisfies all of the requirements for exemption under section 501(c)(3). See § 53.4958–2.

(2) *Substantive requirements for exemption still apply to applicable tax-exempt organizations described in section 501(c)(3)*—(i) *In general.* Regardless of whether a particular transaction is subject to excise taxes under section 4958, the substantive requirements for tax exemption under section 501(c)(3) still apply to an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958–2) described in section 501(c)(3) whose disqualified persons or organization managers are subject to excise taxes under section 4958. Accordingly, an organization will no longer meet the requirements for tax-exempt status under section 501(c)(3) if the organization fails to satisfy the requirements of paragraph (b), (c) or (d) of this section. See § 53.4958–8(a).

(ii) *Determination of whether revocation of tax-exempt status is appropriate when section 4958 excise taxes also apply.* In determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958–2) described in section 501(c)(3) that engages in one or more excess benefit transactions (as defined in section 4958(c) and § 53.4958–4) that violate the prohibition on inurement under section 501(c)(3), the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following—

(A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;

(B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;

(C) Whether the organization has been involved in multiple excess benefit transactions with one or more persons;

(D) Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and

(E) Whether the excess benefit transaction has been corrected (within the meaning of section 4958(f)(6) and § 53.4958–7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

(iii) All factors will be considered in combination with each other. Depending on the particular situation, the Commissioner may assign greater or lesser weight to some factors than to others. The factors listed in paragraphs (f)(2)(ii)(D) and (E) of this section will weigh more heavily in favor of continuing to recognize exemption where the organization discovers the excess benefit transaction or transactions and takes action before the Commissioner discovers the excess benefit transaction or transactions. Further, with respect to the factor listed in paragraph (f)(2)(ii)(E) of this section, correction after the excess benefit transaction or transactions are discovered by the Commissioner, by itself, is never a sufficient basis for continuing to recognize exemption.

(iv) *Examples.* The following examples illustrate the principles of paragraph (f)(2)(ii) of this section. For purposes of each example, assume that O is an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958–2) described in section 501(c)(3). The examples read as follows:

Example 1. (i) O was created as a museum for the purpose of exhibiting art to the general public. In Years 1 and 2, O engages in fundraising and in selecting, leasing, and preparing an appropriate facility for a museum. In Year 3, a new board of trustees is elected. All of the new trustees are local art dealers. Beginning in Year 3 and continuing to the present, O uses a substantial portion of its revenues to purchase art solely from its trustees at prices that exceed fair market value. O exhibits and offers for sale all of the art it purchases. O's Form 1023, ''Application for Recognition of Exemption,'' did not disclose the possibility that O would purchase art from its trustees.

(ii) O's purchases of art from its trustees at more than fair market value constitute excess benefit transactions between an applicable tax-exempt organization and disqualified persons under section 4958. Therefore, these transactions are subject to the applicable excise taxes provided in that section. In addition, O's purchases of art from its trustees at more than fair market value violate the proscription against inurement under section 501(c)(3) and paragraph (c)(2) of this section.

(iii) The application of the factors in paragraph (f)(2)(ii) of this section to these facts is as follows. Beginning in Year 3, O does not engage primarily in regular and ongoing activities that further exempt purposes because a substantial portion of O's activities consists of purchasing art from its trustees and dealing in such art in a manner similar to a commercial art gallery. The size and scope of the excess benefit transactions collectively are significant in relation to the size and scope of any of O's ongoing activities that further exempt purposes. O has been involved in multiple excess benefit transactions, namely, purchases of art from its trustees at more than fair market value. O has not implemented safeguards that are reasonably calculated to prevent such improper purchases in the future. The excess benefit transactions have not been corrected, nor has O made good faith efforts to seek correction from the disqualified persons who benefited from the excess benefit transactions (the trustees). The trustees continue to control O's Board. Based on the application of the factors to these facts, O is no longer described in section 501(c)(3) effective in Year 3.

Example 2. (i) The facts are the same as in *Example 1*, except that in Year 4, O's entire board of trustees resigns, and O no longer offers all exhibited art for sale. The former board is replaced with members of the community who are not in the business of buying or selling art and who have skills and experience running charitable and educational programs and institutions. O promptly discontinues the practice of purchasing art from current or former trustees, adopts a written conflicts of interest policy, adopts written art valuation

guidelines, hires legal counsel to recover the excess amounts O had paid its former trustees, and implements a new program of activities to further the public's appreciation of the arts.

(ii) O's purchases of art from its former trustees at more than fair market value constitute excess benefit transactions between an applicable tax-exempt organization and disqualified persons under section 4958. Therefore, these transactions are subject to the applicable excise taxes provided in that section. In addition, O's purchases of art from its trustees at more than fair market value violate the proscription against inurement under section 501(c)(3) and paragraph (c)(2) of this section.

(iii) The application of the factors in paragraph (f)(2)(ii) of this section to these facts is as follows. In Year 3, O does not engage primarily in regular and ongoing activities that further exempt purposes. However, in Year 4, O elects a new board of trustees comprised of individuals who have skills and experience running charitable and educational programs and implements a new program of activities to further the public's appreciation of the arts. As a result of these actions, beginning in Year 4, O engages in regular and ongoing activities that further exempt purposes. The size and scope of the excess benefit transactions that occurred in Year 3, taken collectively, are significant in relation to the size and scope of O's regular and ongoing exempt function activities that were conducted in Year 3. Beginning in Year 4, however, as O's exempt function activities grow, the size and scope of the excess benefit transactions that occurred in Year 3 become less and less significant as compared to the size and extent of O's regular and ongoing exempt function activities. O was involved in multiple excess benefit transactions in Year 3. However, by discontinuing its practice of purchasing art from its current and former trustees, by replacing its former board with independent members of the community, and by adopting a conflicts of interest policy and art valuation guidelines, O has implemented safeguards that are reasonably calculated to prevent future violations. In addition, O has made a good faith effort to seek correction from the disqualified persons who benefited from the excess benefit transactions (its former trustees). Based on the application of the factors to these facts, O continues to meet the requirements for tax exemption under section 501(c)(3).

Example 3. (i) O conducts educational programs for the benefit of the general public. Since its formation, O has employed its founder, C, as its Chief Executive Officer. Beginning in Year 5 of O's operations and continuing to the present, C caused O to divert significant portions of O's funds to pay C's personal expenses. The diversions by C significantly reduced the funds available to conduct O's ongoing educational programs. The board of trustees never authorized C to cause O to pay C's personal expenses from O's funds. Certain members of the board were aware that O was paying C's personal expenses. However, the board did not terminate C's employment and did not take any action to seek repayment from C or to prevent C from continuing to divert O's funds to pay C's personal expenses. C claimed that O's payments of C's personal expenses represented loans from O to C. However, no contemporaneous loan documentation exists, and C never made any payments of principal or interest.

(ii) The diversions of O's funds to pay C's personal expenses constitute excess benefit transactions between an applicable tax-exempt organization and a disqualified person under section 4958. Therefore, these transactions are subject to the applicable excise taxes provided in that section. In addition, these transactions violate the proscription against inurement under section 501(c)(3) and paragraph (c)(2) of this section.

(iii) The application of the factors in paragraph (f)(2)(ii) of this section to these facts is as follows. O has engaged in regular and ongoing activities that further exempt purposes both before and after the excess benefit transactions occurred. However, the size and scope of the excess benefit transactions engaged in by O beginning in Year 5, collectively, are significant in relation to the size and scope of O's activities that further exempt purposes. Moreover, O has been involved in multiple excess benefit transactions. O has not implemented any safeguards that are reasonably calculated to prevent future diversions. The excess benefit transactions have not been corrected, nor has O made good faith efforts to seek correction from C, the disqualified person who benefited from the excess benefit transactions. Based on the application of the factors to these facts, O is no longer described in section 501(c)(3) effective in Year 5.

Example 4. (i) O conducts activities that further exempt purposes. O uses several buildings in the conduct of its exempt activities. In Year 1, O sold one of the buildings to Company K for an amount that was substantially below fair market value. The sale was a significant event in relation to O's other activities. C, O's Chief Executive Officer, owns all of the voting stock of Company K. When O's board of trustees approved the transaction with Company K, the board did not perform due diligence that could have made it aware that the price paid by Company K to acquire the building was below fair market value. Subsequently, but before the IRS commences an examination of O, O's board of trustees determines that Company K paid less than the fair market value for the building. Thus, O concludes that an excess benefit transaction occurred. After the board makes this determination, it promptly removes C as Chief Executive Officer, terminates C's employment with O, and hires legal counsel to recover the excess benefit from Company K. In addition, O promptly adopts a conflicts of interest policy and new contract review procedures designed to prevent future recurrences of this problem.

(ii) The sale of the building by O to Company K at less than fair market value constitutes an excess benefit transaction between an applicable tax-exempt organization and a disqualified person under section 4958 in Year 1. Therefore, this transaction is subject to the applicable excise taxes provided in that section. In addition, this transaction violates the proscription against inurement under section 501(c)(3) and paragraph (c)(2) of this section.

(iii) The application of the factors in paragraph (f)(2)(ii) of this section to these facts is as follows. O has engaged in regular and ongoing activities that further exempt purposes both before and after the excess benefit transaction occurred. Although the size and scope of the excess benefit transaction were significant in relation to the size and scope of O's activities that further exempt purposes, the transaction with Company K was a one-time occurrence. By adopting a conflicts of interest policy and significant new contract review procedures and by terminating C, O has implemented safeguards that are reasonably calculated to prevent future violations. Moreover, O took corrective actions before the IRS commenced an examination of O. In addition, O has made a good faith effort to seek correction from Company K, the disqualified person who benefited from the excess benefit transaction. Based on the application of the factors to these facts, O continues to be described in section 501(c)(3).

Example 5. (i) O is a large organization with substantial assets and revenues. O conducts activities that further its exempt purposes. O employs C as its Chief Financial Officer. During Year 1, O pays $2,500 of C's personal expenses. O does not make these payments pursuant to an accountable plan, as described in § 53.4958–4(a)(4)(ii). In addition, O does not report any of these payments on C's Form W–2, ''Wage and Tax Statement,'' or on a Form 1099–MISC, ''Miscellaneous Income,'' for C for Year 1, and O does not report these payments as compensation on its Form 990, ''Return of Organization Exempt From Income Tax,'' for Year 1. Moreover, none of these payments can be disregarded as nontaxable fringe benefits under § 53.4958–4(c)(2) and none consisted of fixed payments under an initial contract under § 53.4958–4(a)(3). C does not report the $2,500 of payments as income on his individual Federal income tax return for Year 1. O does not repeat this reporting omission in subsequent years and, instead, reports all payments of C's personal expenses not made under an accountable plan as income to C.

(ii) O's payment in Year 1 of $2,500 of C's personal expenses constitutes an excess benefit transaction between an applicable tax-exempt organization and a disqualified person under section 4958. Therefore, this transaction is subject to the applicable excise taxes provided in that section. In addition, this transaction violates the proscription against inurement in section 501(c)(3) and paragraph (c)(2) of this section.

(iii) The application of the factors in paragraph (f)(2)(ii) of this section to these facts is as follows. O engages in regular and ongoing activities that further exempt purposes. The payment of $2,500 of C's personal expenses represented only a de minimis portion of O's assets and revenues; thus, the size and scope of the excess benefit transaction were not significant in relation to the size and scope of O's activities that further exempt purposes. The reporting omission that resulted in the excess benefit transaction in Year 1 occurred only once and

is not repeated in subsequent years. Based on the application of the factors to these facts, O continues to be described in section 501(c)(3).

Example 6. (i) O is a large organization with substantial assets and revenues. O furthers its exempt purposes by providing social services to the population of a specific geographic area. O has a sizeable workforce of employees and volunteers to conduct its work. In Year 1, O's board of directors adopted written procedures for setting executive compensation at O. O's executive compensation procedures were modeled on the procedures for establishing a rebuttable presumption of reasonableness under § 53.4958–6. In accordance with these procedures, the board appointed a compensation committee to gather data on compensation levels paid by similarly situated organizations for functionally comparable positions. The members of the compensation committee were disinterested within the meaning of § 53.4958–6(c)(1)(iii). Based on its research, the compensation committee recommended a range of reasonable compensation for several of O's existing top executives (the Top Executives). On the basis of the committee's recommendations, the board approved new compensation packages for the Top Executives and timely documented the basis for its decision in board minutes. The board members were all disinterested within the meaning of § 53.4958–6(c)(1)(iii). The Top Executives were not involved in setting their own compensation. In Year 1, even though payroll expenses represented a significant portion of O's total operating expenses, the total compensation paid to O's Top Executives represented only an insubstantial portion of O's total payroll expenses. During a subsequent examination, the IRS found that the compensation committee relied exclusively on compensation data from organizations that perform similar social services to O. The IRS concluded, however, that the organizations were not similarly situated because they served substantially larger geographic regions with more diverse populations and were larger than O in terms of annual revenues, total operating budget, number of employees, and number of beneficiaries served. Accordingly, the IRS concluded that the compensation committee did not rely on ''appropriate data as to comparability'' within the meaning of § 53.4958–6(c)(2) and, thus, failed to establish the rebuttable presumption of reasonableness under § 53.4958–6. Taking O's size and the nature of the geographic area and population it serves into account, the IRS concluded that the Top Executives' compensation packages for Year 1 were excessive. As a result of the examination, O's board added new members to the compensation committee who have expertise in compensation matters and also amended its written procedures to require the compensation committee to evaluate a number of specific factors, including size, geographic area, and population covered by the organization, in assessing the comparability of compensation data. O's board renegotiated the Top Executives' contracts in accordance with the recommendations of the newly constituted compensation committee on a going forward basis. To avoid potential liability for damages under state contract law, O did not seek to void the Top Executives' employment contracts retroactively to Year 1 and did not seek correction of the excess benefit amounts from the Top Executives. O did not terminate any of the Top Executives.

(ii) O's payments of excessive compensation to the Top Executives in Year 1 constituted excess benefit transactions between an applicable tax-exempt organization and disqualified persons under section 4958. Therefore, these payments are subject to the applicable excise taxes provided under that section, including second-tier taxes if there is no correction by the disqualified persons. In addition, these payments violate the proscription against inurement under section 501(c)(3) and paragraph (c)(2) of this section.

(iii) The application of the factors in paragraph (f)(2)(ii) of this section to these facts is as follows. O has engaged in regular and ongoing activities that further exempt purposes both before and after the excess benefit transactions occurred. The size and scope of the excess benefit transactions, in the aggregate, were not significant in relation to the size and scope of O's activities that further exempt purposes. O engaged in multiple excess benefit transactions. Nevertheless, prior to entering into these excess benefit transactions, O had implemented written procedures for setting the compensation of its top management that were reasonably calculated to prevent the occurrence of excess benefit transactions. O followed these written procedures in setting the compensation of the Top Executives for Year 1. Despite the board's failure to rely on appropriate comparability data, the fact that O implemented and followed these written procedures in setting the compensation of the Top Executives for Year 1 is a factor favoring continued exemption. The fact that O amended its written procedures to ensure the use of appropriate comparability data and renegotiated the Top Executives' compensation packages on a going-forward basis are also factors favoring continued exemption, even though O did not void the Top Executives' existing contracts and did not seek correction from the Top Executives. Based on the application of the factors to these facts, O continues to be described in section 501(c)(3).

(3) *Applicability.* The rules in paragraph (f) of this section will apply with respect to excess benefit transactions occurring after March 28, 2008.

* * * * *

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Par. 3**. The authority citation for part 53 continues to read, in part, as follows:

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

■ **Par. 4**. In § 53.4958–2, paragraph (a)(6) is added to read as follows:

§ 53.4958–2 Definition of applicable tax-exempt organization.

(a) * * *

(6) *Examples.* The following examples illustrate the principles of this section, which defines an applicable tax-exempt organization for purposes of section 4958:

Example 1. O is a nonprofit corporation formed under state law. O filed its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). In its application, O described its plans for purchasing property from some of its directors at prices that would exceed fair market value. After reviewing the application, the IRS determined that because of the proposed property purchase transactions, O failed to establish that it met the requirements for an organization described in section 501(c)(3). Accordingly, the IRS denied O's application. While O's application was pending, O engaged in the purchase transactions described in its application at prices that exceeded the fair market values of the properties. Although these transactions would constitute excess benefit transactions under section 4958, because the IRS never recognized O as an organization described in section 501(c)(3), O was never an applicable tax-exempt organization under section 4958. Therefore, these transactions are not subject to the excise taxes provided in section 4958.

Example 2. O is a nonprofit corporation formed under state law. O files its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). The IRS issues a favorable determination letter in Year 1 that recognizes O as an organization described in section 501(c)(3). Subsequently, in Year 5 of O's operations, O engages in certain transactions that constitute excess benefit transactions under section 4958 and violate the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2). The IRS examines the Form 990, ''Return of Organization Exempt From Income Tax'', that O filed for Year 5. After considering all the relevant facts and circumstances in accordance with § 1.501(c)(3)–1(f), the IRS concludes that O is no longer described in section 501(c)(3) effective in Year 5. The IRS does not examine the Forms 990 that O filed for its first four years of operations and, accordingly, does not revoke O's exempt status for those years. Although O's tax-exempt status is revoked effective in Year 5, under the *lookback* rules in paragraph (a)(1) of this section and § 53.4958–3(a)(1) of this chapter, during the five-year period prior to the excess benefit transactions that occurred in Year 5, O was an applicable tax-exempt organization and O's directors were disqualified persons as to O. Therefore, the transactions between O and its directors during Year 5 are subject to the

applicable excise taxes provided in section 4958.

* * * * *

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: March 19, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E8–6305 Filed 3–27–08; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 216

[DoD–2006–OS–0136]

RIN 0790–AI15

Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense revises the current rule addressing military recruiting and Reserve Officer Training Corps program access at institutions of higher education. This final rule implements 10 U.S.C. 983, as amended by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375 (October 28, 2004)). As amended, 10 U.S.C. 983 clarifies access to campuses, access to students and access to directory information on students for the purposes of military recruiting, and now states that access to campuses and students on campuses shall be provided in a manner that is at least equal in quality and scope to that provided to any other employer. The prohibition against providing Federal funds when there is a violation of 10 U.S.C. 983 has an exception for any Federal funds provided to an institution of higher education, or to an individual, that are available solely for student financial assistance, related administrative costs, or costs associated with attendance. Such funds may be used for the purpose for which the funding is provided. A similar provision in section 8120 of the Department of Defense Appropriations Act of 2000 (Pub. L. 106–79; 113 Stat. 1260) has been repealed. This rule also rescinds the previous policy that established an exception that would limit recruiting on the premises of the covered school only in response to an expression of student interest when the covered school certified that too few students had expressed interest to warrant accommodating military recruiters.

DATES: *Effective Date:* This rule is effective April 28, 2008.

FOR FURTHER INFORMATION CONTACT: Christopher Arendt, telephone: (703) 695–5529).

SUPPLEMENTARY INFORMATION: ''Covered funds'' is defined in 10 U.S.C. 983 to be any funds made available for the Departments of Defense, Transportation, Homeland Security, or National Nuclear Security Administration of the Department of Energy, the Central Intelligence Agency, or for any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. None of these covered funds may be provided by contract or grant to a covered school (including any subelement of a covered school) that has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of Defense from establishing or operating a Senior Reserve Officer Training Corps (ROTC) at that covered school (or any subelement of that covered school); or that either prohibits, or in effect prevents, a student at that covered school (or any subelement of that covered school) from enrolling in a ROTC unit at another institution of higher education. The Federal law further provides similar sanctions against these covered funds being provided to a covered school (or any subelement of a covered school) that has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of a Military Department or Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting, where such policy or practice denies the military recruiter access that is at least equal in quality and scope to the access to campuses and students provided to any other employer; or access to student directory information pertaining to the students' names, addresses, telephone listings, dates and places of birth, levels of education, academic majors, degrees received, and the most recent educational institution enrolled in by the student.

The meaning and effect of the term ''equal in quality and scope'' was explained in the U.S. Supreme Court decision in *Rumsfeld* v. *Forum for Academic and Institutional Rights, Inc.*, 126 S. Ct. 1297 (2006). The term means the same access to campus and students provided by the school to any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school's recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute (10 U.S.C. 983) if the policy results in a greater level of access for other recruiters than for the military.

As an exception to the above rule, any Federal funding provided to a covered school or to an individual that is available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.

The Department of Defense drafted this rule in consultation with other Federal agencies, including the Departments of Education, Labor, Transportation, Health and Human Services, Homeland Security, Energy, and the Central Intelligence Agency. Agencies affected by this rule will continue to coordinate with other organizations as they implement their provisions. In addition, comments submitted by institutions and individuals following the publication of the proposed rule on May 7, 2007 (72 FR 25713) were considered and are reflected in this final rule.

This rule defines the criteria for determining whether an institution of higher education has a policy or practice prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior ROTC unit; or has a policy of denying military recruiting personnel access that is at least equal in quality and scope to the access to campuses and students provided to any other employer, or access to directory information on students. Pursuant to 10 U.S.C. 983 and this, institutions of higher education having such policies or practices are ineligible for certain Federal funding.

The criterion of ''efficiently operating a Senior ROTC unit'' refers generally to an expectation that the ROTC Department would be treated on a par with other academic departments; as such, it would not be singled out for unreasonable actions that would impede access to students (and vice versa) or restrict its operations.

This rule also defines the procedures that would be followed in evaluating reports that a covered school has not met requirements defined in this rule.

When a Component of the Department of Defense (DoD Component) believes that policies or practices of an institution of higher education might require such an evaluation, that Component is required to confirm the institution's policy in consultation with the institution. If that exchange suggests that the policy or practice could trigger a denial of funding, as required by the Act, the supporting facts would be forwarded through Department of Defense channels to the decision authority, the Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R)).

In evaluating whether an institution that provides information in response to a request from a military recruiter for military recruiting purposes would violate the Family Educational Rights and Privacy Act of 1972, as amended, (FERPA; 20 U.S.C. 1232g), the Department of Education has informed the Department of Defense that it will not consider the act of providing responsive student information as required under the Act and this rule as an act that violates FERPA. Institutions must take care, however, to release only that information specifically required under 10 U.S.C. 983 and this rule.

Regarding the opportunity for a student to ''opt-out'' of or object to the release of ''directory information'' under FERPA, the Department of Defense provides the following clarification. If an institution receives a request for student-recruiting information, and that request seeks information that the institution has included in its definition of ''directory information'' that is releasable under FERPA, and a student has previously requested, in writing, that the ''directory information'' not be disclosed to any third party, the Department of Defense agrees that information for that student will not be provided to the requesting military recruiter or Department of Defense. If an institution declines to provide student-recruiting information because a student has ''opted-out'' from the institution's policy of disclosing ''directory information'' under FERPA, the Department of Defense will not consider that institution to have denied access under 10 U.S.C. 983. The Department of Defense will honor only those student ''opt-outs'' from the disclosure of directory information that are even-handedly applied to all prospective employers seeking information for recruiting purposes. In those circumstances where an institution's ''directory information'' definition does not include all of the student-recruiting information required under 10 U.S.C. 983, the Department of Defense will also honor the student's ''opt-out'' decision that was made regarding the release of the institution's ''directory information.''

If an institution does not release all of the requested student-recruiting information as part of its ''directory information'' policy under FERPA (or has a policy of disclosing no ''directory information''), the institution must nevertheless honor the request from a military recruiter for student-recruiting information concerning students who have not ''opted-out'', even if that information would not be available to the public under FERPA. Because this information is requested exclusively for military recruiting, a special opportunity for a student to decline the release of student-recruiting information is not necessary or appropriate.

Summary of Rule

In carrying out their customary activities, DoD Components must identify any covered school that, by policy or practice, denies military recruiting personnel access to its campus or access to its students on campus in a manner that is at least equal in quality and scope to access provided to any other employer, in effect denies students permission to participate, or prevents students from participating in recruiting activities, or denies military recruiters access to student-recruiting information. The term ''equal in quality and scope'' means the same access to campus and students provided by the school to the any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school's recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute if the policy results in a greater level of access for other recruiters than for the military. When requests to schedule recruiting visits or to obtain student-recruiting information are unsuccessful, the DoD Component concerned must seek written confirmation of the school's present policy from the head of the covered school through a letter of inquiry, allowing 30 days for response. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments within 30 days to accompany the DoD Component's submission to the PDUSD(P&R). When that 30-day period has elapsed, the DoD Component will forward the case for disposition.

Similarly, in carrying out their customary activities, DoD Components also must identify any covered school that, by policy or practice, denies establishment, maintenance, or efficient operation of a unit of the Senior ROTC, or denies students permission to participate, or effectively prevents students from participating in a unit of the Senior ROTC at another institution of higher education. The DoD Component concerned must seek written confirmation of the school's policy from the head of the covered school through a letter of inquiry, allowing 30 days for response. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments within 30 days to accompany the DoD Component's submission to the PDUSD(P&R). When that 30-day period has elapsed, the DoD Component will forward the case for disposition.

The recommendation of the DoD Component then must be reviewed by the Secretary of the Military Department concerned, or designee, who shall evaluate responses to the letter of inquiry and other such information obtained in accordance with this part, and submit to the PDUSD(P&R) the names and addresses of covered schools that are believed to be in violation of 10 U.S.C. 983. Full documentation must be furnished to the PDUSD(P&R) for each such covered school, including the school's formal response to the letter of inquiry, documentation of any oral response, or evidence showing that attempts were made to obtain either written confirmation or an oral statement of the school's policies. Under agreement with the Department of Homeland Security, reports of covered schools believed to be in violation of 10 U.S.C. 983 with regard to the Coast Guard when not operating as a Service in the Navy shall be furnished to the PDUSD(P&R) for disposition.

Following any determination by the PDUSD(P&R) that the policies or practices of an institution of higher education require ineligibility for certain Federal funding, as required by the Act, the PDUSD(P&R) shall:

- Disseminate to Federal entities affected by the decision, including the DoD Components and the General Services Administration (GSA), and to the Secretary of Education and the head

of each other department and agency the funds of which are subject to the determination, the names of the affected institutions. The PDUSD(P&R) also shall notify the Committees on Armed Services of the Senate and the House of Representatives;

• Publish in the **Federal Register** each such determination, and publish in the **Federal Register** at least once every 6 months a list of all institutions currently determined to be ineligible for contracts and grants by reason of such determinations; and

• Inform the affected institution that its funding eligibility may be restored if the school provides sufficient new information to establish that the basis for the determination no longer exists.

This rule contains procedures under which funding may be restored. Not later than 45 days after receipt of a school's request to restore funding eligibility, the PDUSD(P&R) must determine whether the funding status of the covered school should be changed and notify the applicable school of that determination. Pursuant to that determination, entities of the Federal government affected by the decision, including the DoD Components and the GSA, shall be notified of any change in funding status.

Other Matters

In the event of any determination of ineligibility by the PDUSD(P&R), Federal departments and agencies concerned shall determine what funds provided by grant or contract to the covered school are affected and take appropriate action. As a result of this division of responsibility and the large number of Federal departments and agencies affected, this rule does not detail what specific funds are affected by any determination of ineligibility.

This rule does not affect or cover any Federal funding that is provided to an institution of higher education or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance. This includes, but is not limited to, funds under the Federal Supplemental Educational Opportunity Grant Program (Title IV, Part A, Subpart 3 of the Higher Education Act of 1965, as amended), the Federal Work-Study Program (Title IV, Part C), and the Federal Perkins Loan Program (Title IV, Part E), the Federal Pell Grant Program (Title IV, Part A, Subpart 1), the Federal Family Education Loan Program (Title IV, Part B), and the William D. Ford Federal Direct Loan Program (Title IV, Part D). The Secretary of Education will provide additional information about the applicability of the rule to other Department of Education programs in communications to the affected communities.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that 32 CFR part 216 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, 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 this Executive Order.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule establishes procedures for on-campus military recruiting and student access to Reserve Officer Training Corps (ROTC) programs in implementation of 10 U.S.C. 983.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 216

Armed forces; Colleges and universities.

■ Accordingly, 32 CFR part 216 is revised to reflect the most recent statutory changes and to read as follows:

PART 216—MILITARY RECRUITING AND RESERVE OFFICER TRAINING CORPS PROGRAM ACCESS TO INSTITUTIONS OF HIGHER EDUCATION

Sec.
216.1 Purpose.
216.2 Applicability.
216.3 Definitions.
216.4 Policy.
216.5 Responsibilities.
216.6 Information requirements.
Appendix A of part 216—Military Recruiting Sample Letter of Inquiry
Appendix B of part 216—ROTC Sample Letter of Inquiry

Authority: 10 U.S.C. 983.

§ 216.1 Purpose.

This part:

(a) Implements 10 U.S.C. 983.

(b) Updates policy and responsibilities relating to the management of covered schools that have a policy of denying or effectively preventing military recruiting personnel access to their campuses or access to students on their campuses in a manner that is at least equal in quality and scope to the access to campuses and to students provided to any other employer, or access to student-recruiting information. The term ''equal in quality and scope'' means the same access to campus and students provided by the school to the any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school's recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute (10 U.S.C. 983) if the policy results in a greater level of access for other recruiters than for the military.

(c) Updates policy and responsibilities relating to the management of covered schools that have an anti-ROTC policy.

§ 216.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military

Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as ''the DoD Components''). This part also applies, by agreement with the Department of Homeland Security (DHS), to the Coast Guard at all times, including when it is a service in the Department of Homeland Security. The policies herein also affect the Departments of Transportation, Homeland Security, Energy (National Nuclear Security Administration), the Central Intelligence Agency, and any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. The term ''Military Services,'' as used herein, refers to the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard, including their Reserve or National Guard Components. The term ''Related Agencies'' as used herein refers to the Armed Forces Retirement Home, the Corporation for National and Community Service, the Corporation for Public Broadcasting, the Federal Mediation and Conciliation Service, the Federal Mine Safety and Health Review Commission, the National Commission on Libraries and Information Science, the National Council on Disability, the National Education Goals Panel, the National Labor Relations Board, the National Mediation Board, the Occupational Safety and Health Review Commission, the Social Security Administration, the Railroad Retirement Board and the United States Institute of Peace.

§ 216.3 Definitions.

(a) *Anti-ROTC policy.* A policy or practice whereby a covered school prohibits or in effect prevents the Secretary of Defense from maintaining, establishing, or efficiently operating a unit of the Senior ROTC at the covered school, or prohibits or in effect prevents a student at the covered school from enrolling in a Senior ROTC unit at another institution of higher education.

(b) *Covered funds.* ''Covered funds'' is defined in 10 U.S.C. 983 as any funds made available for the Departments of Defense, Transportation, Homeland Security, or National Nuclear Security Administration of the Department of Energy, the Central Intelligence Agency, or any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, and Education, as well as in Related Agencies Appropriations Act (excluding any Federal funds provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance).

(c) *Covered school.* An institution of higher education, or a subelement of an institution of higher education, subject to the following clarifications:

(1) A determination (§ 216.5(a)) affecting only a subelement of a parent institution (see § 216.3(f)) effects a limitation on the use of funds (see § 216.4 (a)) applicable to the parent institution as a whole, including the institution's offending subelement and all of its subelements, if any.

(2) When an individual institution of higher education that is part of a single university system (*e.g.*, University of (State) at (City)—a part of that state's university system) has a policy or practice that prohibits, or in effect prevents, access to campuses or access to students on campuses in a manner that is at least equal in quality and scope to the access to its campus and students as it provides to any other employer, or access to student-recruiting information by military recruiters, or has an anti-ROTC policy, as defined in this rule, it is only that individual institution within that university system that is affected by the loss of Federal funds. This limited effect applies even though another campus of the same university system may or may not be affected by a separate determination under § 216.5 (a). The funding of a subelement of the offending individual institution of a single university system, if any, will also be withheld as a result of the policies or practices of that offending individual institution.

(d) *Enrolled.* Students are ''enrolled'' when registered for at least one credit hour of academic credit at the covered school during the most recent, current, or next term. Students who are enrolled during the most recent term, but who are no longer attending the institution, are included.

(e) *Equal in quality and scope.* The term means the same access to campus and students provided by the school to the any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school's recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute if the policy results in a greater level of access for other recruiters than for the military. The U.S. Supreme Court further explained that ''the statute does not call for an inquiry into why or how the 'other employer' secured its access * * * We do not think that the military recruiter has received equal 'access' [when a law firm is permitted on campus to recruit students and the military is not]—regardless of whether the disparate treatment is attributable to the military's failure to comply with the school's nondiscrimination policy.''

(f) *Institution of higher education.* A domestic college, university, or other institution (or subelement thereof) providing postsecondary school courses of study, including foreign campuses of such domestic institutions. The term includes junior colleges, community colleges, and institutions providing courses leading to undergraduate and post-graduate degrees. The term does not include entities that operate exclusively outside the United States, its territories, and possessions. A subelement of an institution of higher education is a discrete (although not necessarily autonomous) organizational entity that may establish policies or practices affecting military recruiting and related actions (*e.g.*, an undergraduate school, a law school, a medical school, other graduate schools, or a national laboratory connected or affiliated with that parent institution). For example, the School of Law of XYZ University is a subelement of its parent institution (XYZ University).

(g) *Military recruiters.* Personnel of DoD whose current assignment or detail is to a recruiting activity of the DoD.

(h) *Pacifism.* Opposition to war or violence, demonstrated by refusal to participate in military service.

(i) *Student.* An individual who is 17 years of age or older and is enrolled at a covered school.

(j) *Student-recruiting information.* For those students currently enrolled, the student's name, address, telephone listing, age (or year of birth), place of birth, level of education (*e.g.*, freshman, sophomore, or degree awarded for a recent graduate), most recent educational institution attended, and current major(s).

§ 216.4 Policy.

It is DoD policy that:

(a) Under 10 U.S.C. 983, no covered funds may be provided by contract or grant (to include payment on such contracts or grants previously obligated) to a covered school if the Secretary of Defense determines that the covered school:

(1) Has a policy or practice (regardless of when implemented) that either prohibits or in effect prevents the Secretary of Defense or Secretary of Homeland Security from obtaining, for military recruiting purposes, access to

campuses or access to students on campuses that is at least equal in quality and scope, as defined in § 216.3(d), to the access to campuses and to students provided to any other employer, or access to directory information on students;

(2) Has failed to disseminate military visit information or alerts at least on par with nonmilitary recruiters since schools offering such services to nonmilitary recruiters must also send e-mails, post notices, etc., on behalf of military recruiters to comply with the Solomon Amendment;

(3) Has failed to schedule visits at times requested by military recruiters that coincide with nonmilitary recruiters' visits to campus if this results in a greater level of access for other recruiters than for the military (*e.g.*, offering non-military recruiters a choice of a variety of dates for on-campus interviews while only offering the military recruiters the final day of interviews), as schools must ensure that their recruiting policies operate such that military recruiters are given access to students equal to that provided to any other employer;

(4) Has failed to provide military recruiters with a mainstream recruiting location amidst nonmilitary employers to allow unfettered access to interviewees since military recruiters must be given the same access as recruiters who comply with a school's nondiscrimination policy;

(5) Has failed to enforce time, place, and manner policies established by the covered school such that the military recruiters experience an inferior or unsafe recruiting climate, as schools must allow military recruiters on campus and must assist them in whatever way the school assists other employers;

(6) Has through policy or practice in effect denied students permission to participate, or has prevented students from participating, in recruiting activities; or

(7) Has an anti-ROTC policy or practice, as defined in this rule, regardless of when implemented.

(b) The limitations established in paragraph (a) of this section shall not apply to a covered school if the Secretary of Defense determines that the covered school:

(1) Has ceased the policies or practices defined in paragraph (a) of this section;

(2) Has a long-standing policy of pacifism (see § 216.3(j)) based on historical religious affiliation;

(3) When not providing requested access to campuses or to students on campus, certifies that all employers are similarly excluded from recruiting on the premises of the covered school, or presents evidence that the degree of access by military recruiters is the same access to campuses or to students on campuses provided to the nonmilitary recruiters;

(4) When not providing any student-recruiting information, certifies that such information is not maintained by the covered school; or that such information already has been provided to the Military Service concerned for that current semester, trimester, quarter, or other academic term, or within the past 4 months (for institutions without academic terms); or

(5) When not providing student-recruiting information for a specific student certifies that the student concerned has formally requested, in writing, that the covered school withhold this information from all third parties.

(c) A covered school may charge military recruiters a fee for the costs incurred in providing access to student-recruiting information when that institution can certify that such charges are the actual costs, provided that such charges are reasonable, customary and identical to fees charged to other employers.

(d) An evaluation to determine whether a covered school maintains a policy or practice covered by paragraphs (a)(1) through (a)(6) of this section shall be undertaken when:

(1) Military recruiting personnel are prohibited, or in effect prevented, from the same access to campuses or access to students on campuses provided to nonmilitary recruiters, or are denied access to student-recruiting information;

(2) Information or alerts on military visits are not distributed at least on par with nonmilitary recruiters since schools offering such services to nonmilitary recruiters must also send e-mails, post notices, etc., on behalf of the military recruiter to comply with the Solomon Amendment;

(3) Military recruiters are prohibited from scheduling their visits at requested times that coincide with nonmilitary recruiters' visits to its campus if this results in a greater level of access for other recruiters than for the military as schools must ensure their recruiting policy operates in such a way that military recruiters are given access to students equal to that provided to any other employer;

(4) Military recruiters do not receive a mainstream recruiting location amidst nonmilitary employers to allow unfettered access to interviewees since military recruiters must be given the same access as recruiters who comply with the school's nondiscrimination policy;

(5) The school has failed to enforce time, place, and manner policies established by that school such that military recruiters experience an unsafe recruiting climate, as schools must allow military recruiters on campus and must assist them in whatever way the school chooses to assist other employers;

(6) Evidence is discovered of an institution-sponsored policy or practice that in effect denied students permission to participate, or prevented students from participating in recruiting activities.

(7) The costs being charged by the school for providing student-recruiting information are believed by the military recruiter to be excessive, and the school does not provide information sufficient to support a conclusion that such are the actual costs, provided that they are reasonable and customary, and are identical to those costs charged to other employers; or

(8) The covered school is unwilling to declare in writing, in response to an inquiry from a representative of a DoD Component or a representative from the Department of Homeland Security, that the covered school does not have a policy or practice of prohibiting, or in effect preventing, the Secretary of a Military Department or Secretary of Homeland Security from the same access to campuses or access to students on campuses provided to nonmilitary recruiters, or access to student-recruiting information by military recruiters for purposes of military recruiting.

(e) An evaluation to determine whether a covered school has an anti-ROTC policy covered by paragraph (a)(7) of this section shall be undertaken when:

(1) A Secretary of a Military Department or designee cannot obtain permission to establish, maintain, or efficiently operate a unit of the Senior ROTC; or

(2) Absent a Senior ROTC unit at the covered school, students cannot obtain permission from a covered school to participate, or are effectively prevented from participating, in a unit of the Senior ROTC at another institution of higher education.

§ 216.5 Responsibilities.

(a) The PDUSD(P&R), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Not later than 45 days after receipt of the information described in paragraphs (b)(3) and (c)(1) of this section:

(i) Inform the Office of Naval Research (ONR) and the Director, Defense Finance and Accounting Service that a final determination will be made so those offices can make appropriate preparations to carry out their responsibilities should a covered school be determined ineligible to receive federal funds.

(ii) Make a final determination under 10 U.S.C. 983, as implemented by this part, and notify any affected school of that determination and its basis, and that the school is therefore ineligible to receive covered funds as a result of that determination.

(iii) Disseminate to Federal entities affected by the decision, including the DoD Components and the GSA, and to the Secretary of Education and the head of each other department and agency the funds of which are subject to the determination, the names of the affected institutions identified under paragraph (a)(1)(ii) of this section.

(iv) Notify the Committees on Armed Services of the Senate and the House of Representatives of the affected institutions identified under paragraph (a)(1)(ii) of this section.

(v) Inform the affected school identified under paragraph (a)(1)(ii) of this section that its funding eligibility may be restored if the school provides sufficient new information that the basis for the determination under paragraph (a)(1)(ii) of this section no longer exists.

(2) Not later than 45 days after receipt of a covered school's request to restore its eligibility:

(i) Determine whether the funding status of the covered school should be changed, and notify the applicable school of that determination.

(ii) Notify the parties reflected in paragraphs (a)(1)(i), (a)(1)(iii), and (a)(1)(iv) of this section when a determination of funding ineligibility (paragraph (a)(1)(ii) of this section) has been rescinded.

(3) Publish in the **Federal Register** each determination of the PDUSD(P&R) that a covered school is ineligible for contracts and grants made under 10 U.S.C. 983, as implemented by this part.

(4) Publish in the **Federal Register** at least once every 6 months a list of covered schools that are ineligible for contracts and grants by reason of a determination of the Secretary of Defense under 10 U.S.C. 983, as implemented by this part.

(5) Enter information into the Excluded Parties List System [1] about each covered school that the PDUSD(P&R) determines to be ineligible for contracts and grants under 10 U.S.C. 983 and/or this part, generally within 5 days of making the determination.

(6) Provide ONR with an updated list of the names of institutions identified under paragraph (a)(1)(ii) of this section whenever the list changes due to an institution being added to or dropped from the list, so that ONR can carry out its responsibilities for post-award administration of DoD Components' contracts and grants with institutions of higher education.

(7) Provide the Office of the Deputy Chief Financial Officer, DoD, and the Director, Defense Finance and Accounting Service with an updated list of the names of institutions identified under paragraph (a)(1)(ii) of this section whenever the list changes due to an institution being added or dropped from the list, so those offices can carry out their responsibilities related to cessation of payments of prior contract and grant obligations to institutions of higher education that are on the list.

(8) Publish in the **Federal Register** the list of names of affected institutions that have changed their policies or practices such that they are determined no longer to be in violation of 10 U.S.C. 983 and this part.

(b) The Secretaries of the Military Departments and the Secretary of Homeland Security shall:

(1) Identify covered schools that, by policy or practice, prohibit, or in effect prevent, the same access to campuses or access to students on campuses provided to nonmilitary recruiters, or access to student-recruiting information by military recruiters for military recruiting purposes.

(i) When requests by military recruiters to schedule recruiting visits are unsuccessful, the Military Service concerned, and the Office of the Secretary of Homeland Security when the Coast Guard is operating as a service in the Department of Homeland Security, shall seek written confirmation of the school's present policy from the head of the school through a letter of inquiry. A letter similar to that shown in Appendix A of this part shall be used, but it should be tailored to the situation presented. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments within 30 days to accompany the submission to the PDUSD(P&R).

(ii) When a request for student-recruiting information is not fulfilled within a reasonable period, normally 30 days, a letter similar to that shown in Appendix A shall be used to communicate the problem to the school, and the inquiry shall be managed as described in § 216.5.(b)(1)(ii). Schools may stipulate that requests for student-recruiting information be in writing.

(2) Identify covered schools that, by policy or practice, deny establishment, maintenance, or efficient operation of a unit of the Senior ROTC, or deny students permission to participate, or effectively prevent students from participating in a unit of the Senior ROTC at another institution of higher education. The Military Service concerned, and the Office of the Secretary of Homeland Security when the Coast Guard is operating as a service in the Department of Homeland Security, shall seek written confirmation of the school's policy from the head of the school through a letter of inquiry. A letter similar to that shown in Appendix B of this part shall be used, but it should be tailored to the situation presented. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments within 30 days to accompany the submission to the PDUSD(P&R).

(3) Evaluate responses to the letter of inquiry, and other such evidence obtained in accordance with this part, and submit to the PDUSD(P&R) the names and addresses of covered schools that are believed to be in violation of policies established in § 216.4. Full documentation shall be furnished to the PDUSD(P&R) for each such covered school, including the school's formal response to the letter of inquiry, documentation of any oral response, or evidence showing that attempts were made to obtain either written confirmation or an oral statement of the school's policies.

(c) The Heads of the DoD Components and Secretary of Homeland Security shall:

(1) Provide the PDUSD(P&R) with the names and addresses of covered schools identified as a result of evaluation(s) required under § 216.4(d) and (e).

(2) Take immediate action to deny obligations of covered funds to covered

[1] The Excluded Parties List System (EPLS) is the system that the General Services Administration maintains for Executive Branch agencies, with names and other pertinent information of persons who are debarred, suspended, or otherwise ineligible for Federal procurement and/or covered non-procurement transactions.

schools identified under paragraph (a)(1)(ii) of this section, and to restore eligibility of covered schools identified under paragraph (a)(2) of this section.

§ 216.6 Information requirements.

The information requirements identified at § 216.5(b) and (c)(1) have been assigned Report Control Symbol DD–P&R–(AR)–2038 in accordance with DoD 8910.1–M [2].

Appendix A of Part 216—Military Recruiting Sample Letter of Inquiry

(Tailor letter to situation presented)

Dr. John Doe,

President, ABC University, Anywhere, USA 12345–9876.

Dear Dr. Doe: I understand that military recruiting personnel [have been unable to recruit or have been refused student-recruiting information [3] at (subelement of) ABC University)] by a policy or practice of the school. Specifically, military recruiting personnel have reported [here state policy decisions or practices encountered]. [If preliminary information coming to the attention of a Military Service indicates that other Military Services' recruiting representatives have been similarly informed of the policy or experienced a similar practice affecting their ability for military recruiting purposes to have the access or information require, so state.]

Current Federal law (10 U.S.C. 983) denies the use of certain Federal funds through grants or contracts, to include payment on such contracts or grants previously obligated, (excluding any Federal funding to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance) from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and related agencies to institutions of higher education (including any subelements of such institutions) that have a policy or practice of denying military recruiting personnel access to campuses or access to students on campuses, in a manner that is at least equal in quality and scope (as explained in § 216.3 of Title 32, Code of Federal Regulations, Part 216), as it provides to nonmilitary recruiters, or access to student recruiting information. Implementing regulations are codified at Title 32, Code of Federal Regulations, Part 216.

This letter provides you an opportunity to clarify your institution's policy regarding military recruiting on the campus of [University]. In that regard, I request, within the next 30 days, a written policy statement of the institution with respect to access to campus and students by military recruiting personnel. Your response should highlight any difference between access for military recruiters and access for recruiting by other potential employers.

Based on this information and any additional facts you can provide, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision may affect eligibility for funding from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and related agencies. Should it be determined that [University] as an institution of higher education (or any subelement of the institution) is in violation of the aforementioned statutes and regulations, such funding would be stopped, and the institution of higher education (including any subelements of the institution) would remain ineligible to receive such funds until and unless the Department of Defense determines that the institution has ceased the offending policies and practices.

I regret that this action may have to be taken. Successful recruiting requires that Department of Defense recruiters have equal access to students on the campuses of colleges and universities [and student-recruiting information], and at the same time, have effective relationships with the officials and student bodies of those institutions. I hope it will be possible to identify and correct any policies or practices that inhibit military recruiting at your school. [My representative, (name), is] [I am] available to answer any of your questions by telephone at [telephone number]. I look forward to your reply.

Sincerely,

Appendix B of Part 216—ROTC Sample Letter of Inquiry

(Tailor letter to situation presented)

Dr. Jane Smith,

President, ABC University, Anywhere, USA 12345–9876.

Dear Dr. Smith: I understand that ABC University has [refused a request from a Military Department to establish a Senior ROTC unit at your institution] [refused to continue existing ROTC programs at your institution][prevented students from participation at a Senior ROTC program at another institution] by a policy or practice of the University.

Current Federal law (10 U.S.C. 983) denies the use of certain Federal funds through grants or contracts, to include payment on such contracts or grants previously obligated, (excluding any Federal funding to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance) from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and related agencies to institutions of higher education (including any subelements of such institutions) that have a policy or practice of prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior ROTC unit. Implementing regulations are codified at Title 32, Code of Federal Regulations, Part 216.

This letter provides you an opportunity to clarify your institution's policy regarding ROTC access on the campus of ABC University. In that regard, I request, within the next 30 days, a written statement of the institution with respect to [define the problem area(s)].

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive the above-referenced funds by grant or contract. That decision may affect eligibility for funding from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and related agencies. Should it be determined that [University] as an institution of higher education (or any subelement of the institution) is in violation of the aforementioned statutes and regulations, such funding would be stopped, and the institution of higher education (including any subelements of the institution) would remain ineligible to receive such funds until and unless the Department of Defense determines that the institution has ceased the offending policies and practices.

I regret that this action may have to be taken. Successful officer procurement requires that the Department of Defense maintain a strong ROTC program. I hope it will be possible to [define the correction to the aforementioned problem area(s)]. [My representative, (name), is] [I am] available to answer any of your questions by telephone at [telephone number]. I look forward to your reply.

Sincerely,

Dated: March 20, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E8–6536 Filed 3–27–08; 8:45 am]

BILLING CODE 5001–06–P

[2] Copies may be obtained at *http://www.dtic.mil/whs/directives/.*

[3] Student-recruiting information refers to a student's name, address, telephone listing, age (or year of birth), level of education (e.g., freshman, sophomore, or degree awarded for a recent graduate), and major(s).

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

32 CFR Part 1701

Privacy Act Regulations

AGENCY: Office of the Director of National Intelligence.

ACTION: Final rule.

SUMMARY: This final regulation provides the public the guidelines under which the Office of the Director of National Intelligence (ODNI) will implement the Privacy Act of 1974, 5 U.S.C. 552a, as amended. Subpart A of the regulation describes agency policies for collecting and maintaining personally identifiable records and processes for administering requests for records under the Privacy Act. Subpart B of the regulation articulates agency policy for invoking exemptions under the Act, including retaining exemptions on records

received from other agencies where reasons for exemption remain valid. Subpart B also articulates the basis for exemptions that may be claimed with respect to records in each published system of records. Subpart C sets forth the agency routine uses applicable to more than one system of records.

DATES: *Effective Date:* March 28, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Hackett, Director, Information Management Office (703) 482–3610.

SUPPLEMENTARY INFORMATION: The ODNI was created by the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638 (Dec. 17, 2004). The first Director of National Intelligence, Ambassador John D. Negroponte, was sworn into Office on April 21, 2005 and the ODNI began operations on April 22, 2005. Because the majority of documents held by the ODNI at its inception were previously maintained by the Central Intelligence Agency (CIA) and because the ODNI did not have a Privacy staff upon stand-up, records were administered under the CIA's Privacy Act authorities and using CIA's administrative resources.

On January 2, 2008 (73 FR 113), the ODNI published its own Privacy Act regulation for public comment. The ODNI received no comments on its proposed regulation.

Therefore, under the authority of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638, the Office of the Director of National Intelligence hereby establishes Part 1701, Administration of Records Under the Privacy Act of 1974, to Chapter XVII of Title 32 of the Code of Federal Regulations.

In addition, on December 28, 2007, the ODNI published notices for the following twelve new Privacy Act systems of records: NCTC Access Authorization Records, NCTC Human Resources Management System, NCTC Telephone Directory, NCTC Knowledge Repository (SANCTUM), NCTC Online (NOL), NCTC Tacit Knowledge Management Records, NCTC Terrorism Analysis Records, NCTC Terrorist Identities Records, NCTC Partnership Management Records, ONCIX Counterintelligence Damage Assessment Records, OIG Experts Contact Records, OIG Human Resources Records and OIG Investigation and Interview Records. The ODNI received no comments regarding these systems of records notices. These systems of records notices are published at 72 **Federal Register** 73887–73904 (Dec. 28, 2007).

Regulatory Flexibility Act

This rule affects only the manner in which ODNI collects and maintains information about individuals. ODNI certifies that this rulemaking does not impact small entities and that analysis under the Regulatory Flexibility Act, 5 U.S.C. 601–612, is not required.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the ODNI to comply with small entity requests for information and advice about compliance with statutes and regulations within the ODNI jurisdiction. Any small entity that has a question regarding this document may address it to the information contact listed above. Further information regarding SBREFA is available on the Small Business Administration's Web page at *http://www.sga.gov/advo/law/law-lib.html.*

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the ODNI consider the impact of paperwork and other burdens imposed on the public associated with the collection of information. There are no information collection requirements associated with this rule and therefore no analysis of burden is required.

Executive Order 12866, Regulatory Planning and Review

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866. This rule will not adversely affect the economy or sector of the economy in a material way; will not create inconsistency with or interfere with other agency action; will not materially alter the budgetary impact of entitlements, grants, fees or loans or the right and obligations of recipients thereof; or raise legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order. Accordingly, further regulatory evaluation is not required.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. This rule imposes no Federal mandate on any State, local, or tribal government or on the private sector. Accordingly, no UMRA analysis of economic and regulatory alternatives is required.

Executive Order 13132, Federalism

Executive Order 13132 requires agencies to examine the implications for the distribution of power and responsibilities among the various levels of government resulting from their rules. ODNI concludes that this rule does not affect the rights, roles and responsibilities of the States, involves no preemption of State law and does not limit State policymaking discretion. This rule has no federalism implications as defined by the Executive Order.

Environmental Impact

The ODNI has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347, and has determined that this action does not affect the human environment.

Energy Impact

This rulemaking is not a major regulatory action under the provisions of the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended, 42 U.S.C. 6362.

List of Subjects in 32 CFR Part 1701

Records and Privacy Act.

■ For the reasons set forth in the preamble, ODNI adds part 1701 as follows:

PART 1701—ADMINISTRATION OF RECORDS UNDER THE PRIVACY ACT OF 1974

Subpart A—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

Sec.

1701.1 Purpose, scope, applicability.
1701.2 Definitions.
1701.3 Contact for general information and requests.
1701.4 Privacy Act responsibilities/policy.
1701.5 Collection and maintenance of records.
1701.6 Disclosure of records/policy.
1701.7 Requests for notification of and access to records.
1701.8 Requests to amend or correct records.
1701.9 Requests for an accounting of record disclosures.
1701.10 ODNI responsibility for responding to access requests.
1701.11 ODNI responsibility for responding to requests for amendment or correction.
1701.12 ODNI responsibility for responding to requests for accounting.
1701.13 Special procedures for medical/psychiatric/psychological testing records.
1701.14 Appeals.
1701.15 Fees.
1701.16 Contractors.
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Subpart B—Exemption of Records Systems Under the Privacy Act

1701.20 Exemption policies.
1701.21 Exemption of National Counterterrorism Center (NCTC) systems of records.
1701.22 Exemption of Office of the National Counterintelligence Executive (ONCIX) systems of records.
1701.23 Exemption of Office of Inspector General (OIG) systems of records.

Subpart C—Routine Uses Applicable to More Than One ODNI System of Records

1701.30 Policy and applicability.
1701.31 General routine uses.

Authority: 50 U.S.C. 401–442; 5 U.S.C. 552a.

Subpart A—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

§ 1701.1 Purpose, scope, applicability.

(a) *Purpose.* This subpart establishes the policies and procedures the Office of the Director of National Intelligence (ODNI) will follow in implementing the requirements of the Privacy Act of 1974, 5 U.S.C.552a, as amended. This subpart sets forth the procedures ODNI must follow in collecting and maintaining personal information from or about individuals, as well as procedures by which individuals may request to access or amend records about themselves and request an accounting of disclosures of those records by the ODNI. In addition, this subpart details parameters for disclosing personally identifiable information to persons other than the subject of a record.

(b) *Scope.* The provisions of this subpart apply to all records in systems of records maintained by ODNI directorates, centers, mission managers and other sub-organizations [hereinafter called ''components''] that are retrieved by an individual's name or personal identifier.

(c) *Applicability.* This subpart governs the following individuals and entities:

(1) All ODNI staff and components must comply with this subpart. The terms ''staff'' and ''component'' are defined in § 1701.2.

(2) Unless specifically exempted, this subpart also applies to advisory committees and councils within the meaning of the Federal Advisory Committee Act (FACA) which provide advice to: Any official or component of ODNI; or the President, and for which ODNI has been delegated responsibility for providing service.

(d) *Relation to Freedom of Information Act.* The ODNI shall provide a subject individual under this subpart all records which are otherwise accessible to such individual under the provisions of the Freedom of Information Act, 5 U.S.C. 552.

§ 1701.2 Definitions.

For purposes of this subpart, the following terms have the meanings indicated:

Access means making a record available to a subject individual.

Act means the Privacy Act of 1974.

Agency means the ODNI or any of its components.

Component means any directorate, mission manager, or other sub-organization in the ODNI or reporting to the Director, that has been designated or established in the ODNI pursuant to Section 103 of the National Security Act of 1947, as amended, including the National Counterterrorism Center (NCTC), the National Counterproliferation Center (NCPC) and the Office of the National Counterintelligence Executive (ONCIX), or such other offices and officials as may be established by law or as the Director may establish or designate in the ODNI, for example, the Program Manager, Information Sharing Environment (ISE) and the Inspector General (IG).

Disclosure means making a record about an individual available to or releasing it to another party.

FOIA means the Freedom of Information Act.

Individual, when used in connection with the Privacy Act, means a living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. It does not include sole proprietorships, partnerships, or corporations.

Information means information about an individual and includes, but is not limited to, vital statistics; race, sex, or other physical characteristics; earnings information; professional fees paid to an individual and other financial information; benefit data or claims information; the Social Security number, employer identification number, or other individual identifier; address; phone number; medical information; and information about marital, family or other personal relationships.

Maintain means to establish, collect, use, or disseminate when used in connection with the term record; and, to have control over or responsibility for a system of records, when used in connection with the term system of records.

Notification means communication to an individual whether he is a subject individual.

Office of the Director of National Intelligence means any and all of the components of the ODNI.

Record means any item, collection, or grouping of information about an individual that is maintained by the ODNI including, but not limited to, information such as an individual's education, financial transactions, medical history, and criminal or employment history that contains the individual's name, or an identifying number, symbol, or any other identifier assigned to an individual. When used in this subpart, record means only a record that is in a system of records.

Routine use means the disclosure of a record outside ODNI, without the consent of the subject individual, for a purpose which is compatible with the purpose for which the record was collected. It does not include disclosure which the Privacy Act otherwise permits pursuant to subsection (b) of the Act.

Staff means any current or former regular or special employee, detailee, assignee, employee of a contracting organization, or independent contractor of the ODNI or any of its components.

Subject individual means the person to whom a record pertains (or ''record subject'').

System of records means a group of records under ODNI's control from which information about an individual is retrieved by the name of the individual or by an identifying number, symbol, or other particular assigned to the individual. Single records or groups of records which are not retrieved by a personal identifier are not part of a system of records,

§ 1701.3 Contact for general information and requests.

Privacy Act requests and appeals and inquiries regarding this subpart or about ODNI's Privacy Act program must be submitted in writing to the Director, Information Management Office (D/IMO), Office of the Director of National Intelligence, Washington, DC 20511 (by mail or by facsimile at 703–482–2144) or to the contact designated in the specific Privacy Act System of Records Notice. Privacy Act requests with the required identification statement and signature pursuant to paragraphs (d) and (e) of § 1701.7 of this subpart must be filed in original form.

§ 1701.4 Privacy Act responsibilities/policy.

The ODNI will administer records about individuals consistent with statutory, administrative, and program responsibilities. Subject to exemptions authorized by the Act, ODNI will

collect, maintain and disclose records as required and will honor subjects' rights to view and amend records and to obtain an accounting of disclosures.

§ 1701.5 Collection and maintenance of records.

(a) ODNI will not maintain a record unless:

(1) It is relevant and necessary to accomplish an ODNI function required by statute or Executive Order;

(2) It is acquired to the greatest extent practicable from the subject individual when ODNI may use the record to make any determination about the individual;

(3) The individual providing the record is informed of the authority for providing the record (including whether providing the record is mandatory or voluntary), the principal purpose for maintaining the record, the routine uses for the record, and what effect refusing to provide the record may have;

(4) It is maintained with such accuracy, relevance, timeliness and completeness as is reasonably necessary to ensure fairness to the individual in the determination;

(b) Except as to disclosures made to an agency or made under the FOIA, ODNI will make reasonable efforts prior to disseminating a record about an individual, to ensure that the record is accurate, relevant, timely, and complete;

(c) ODNI will not maintain or develop a system of records that is not the subject of a current or planned public notice;

(d) ODNI will not adopt a routine use of information in a system without notice and invitation to comment published in the **Federal Register** at least 30 days prior to final adoption of the routine use;

(e) To the extent ODNI participates with a non-Federal agency in matching activities covered by section (8) of the Act, ODNI will publish notice of the matching program in the **Federal Register**;

(f) ODNI will not maintain a record which describes how an individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the subject individual, or unless pertinent to and within the scope of an authorized law enforcement activity;

(g) When required by the Act, ODNI will maintain an accounting of all disclosures of records by the ODNI to persons, organizations or agencies;

(h) Each ODNI component shall implement administrative, physical and technical controls to prevent unauthorized access to its systems of records, to prevent unauthorized disclosure of records, and to prevent physical damage to or destruction of records;

(i) ODNI will establish rules and instructions for complying with the requirements of the Privacy Act, including notice of the penalties for non-compliance, applicable to all persons involved in the design, development, operation or maintenance of any system of records.

§ 1701.6 Disclosure of records/policy.

Consistent with 5 U.S.C. 552a(b), ODNI will not disclose any record which is contained in a system of records by any means (written, oral or electronic) without the consent of the subject individual unless disclosure without consent is made for reasons permitted under applicable law, including:

(a) Internal agency use on a need-to-know basis;

(b) Release under the Freedom of Information Act (FOIA) if not subject to protection under the FOIA exemptions;

(c) A specific ''routine use'' as described in the ODNI's published compilation of Routine Uses Applicable to More Than One ODNI System of Records or in specific published Privacy Act Systems of Records Notices (available at *http://www.dni.gov*);

(d) Release to the Bureau of the Census, the National Archives and Records Administration, or the Government Accountability Office, for the performance of those entities' statutory duties;

(e) Release in non-identifiable form to a recipient who has provided written assurance that the record will be used solely for statistical research or reporting;

(f) Compelling circumstances in which the health or safety of an individual is at risk;

(g) Release pursuant to the order of a court of competent jurisdiction or to a governmental entity for a specifically documented civil or criminal law enforcement activity;

(h) Release to either House of Congress or to any committee, subcommittee or joint committee thereof to the extent of matter within its jurisdiction;

(i) Release to a consumer reporting agency in accordance with section 3711(e) of Title 31.

§ 1701.7 Requests for notification of and access to records.

(a) *How to request.* Unless records are not subject to access (see paragraph (b) of this section), individuals seeking access to records about themselves may submit a request in writing to the D/IMO, as directed in Sec. 1701.3 of this subpart, or to the contact designated in the specific Privacy Act System of Records Notice. To ensure proper routing and tracking, requesters should mark the envelope ''Privacy Act Request.''

(b) *Records not subject to access.* The following records are not subject to review by subject individuals:

(1) Records in ODNI systems of records that ODNI has exempted from access and correction under the Privacy Act, 5 U.S.C. 552a(j) or (k), by notice published in the **Federal Register**, or where those exemptions require that ODNI can neither confirm nor deny the existence or nonexistence of responsive records (see § 1701.10(c)(iii)).

(2) Records in ODNI systems of records that another agency has exempted from access and correction under the Privacy Act, 5 U.S.C. 552a(j) or (k), by notice published in the **Federal Register**, or where those exemptions require that ODNI can neither confirm nor deny the existence or nonexistence of responsive records (see § 1701.10(c)(iii)).

(c) *Description of records.* Individuals requesting access to records about themselves should, to the extent possible, describe the nature of the records, why and under what circumstances the requester believes ODNI maintains the records, the time period in which they may have been compiled and, ideally, the name or identifying number of each Privacy Act System of Records in which they might be included. The ODNI publishes notices in the **Federal Register** that describe its systems of records. The **Federal Register** compiles these notices biennially and makes them available in hard copy at large reference libraries and in electronic form at the Government Printing Office's World Wide Web site, *http://www.gpoaccess.gov.*

(d) *Verification of identity.* A written request for access to records about oneself must include full (legal) name, current address, date and place of birth, and citizenship status. Aliens lawfully admitted for permanent residence must provide their Alien Registration Number and the date that status was acquired. The D/IMO may request additional or clarifying information to ascertain identity. Access requests must be signed and the signature either notarized or submitted under 28 U.S.C. 1746, authorizing statements made under penalty of perjury as a substitute for notarization.

(e) *Verification of guardianship or representational relationship.* The parent or guardian of a minor, the guardian of an individual under judicial

disability, or an attorney retained to represent an individual shall provide, in addition to establishing the identity of the minor or individual represented as required in paragraph (d) of this section, evidence of such representation by submitting a certified copy of the minor's birth certificate, court order, or representational agreement which establishes the relationship and the requester's identity.

(f) ODNI will permit access to or provide copies of records to individuals other than the record subject (or the subject's legal representative) only with the requester's written authorization.

§ 1701.8 Requests to amend or correct records.

(a) *How to request.* Unless the record is not subject to amendment or correction (see paragraph (b) of this section), individuals (or guardians or representatives acting on their behalf) may make a written amendment or correction request to the D/IMO, as directed in § 1701.3 of this subpart, or to the contact designated in a specific Privacy Act System of Records. Requesters seeking amendment or correction should identify the particular record or portion subject to the request, explain why an amendment or correction is necessary, and provide the desired replacement language. Requesters may submit documentation supporting the request to amend or correct. Requests for amendment or correction will lapse (but may be re-initiated with a new request) if all necessary information is not submitted within forty-five (45) days of the date of the original request. The identity verification procedures of paragraphs (d) and (e) of § 1701.7 of this subpart apply to amendment requests.

(b). (1) Records which are determinations of fact or evidence received (e.g., transcripts of testimony given under oath or written statements made under oath; transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings; pre-sentence records that originated with the courts) and

(2) Records in ODNI systems of records that ODNI or another agency has exempted from amendment and correction under Privacy Act, 5 U.S.C. 552a(j) or (k) by notice published in the **Federal Register**.

§ 1701.9 Requests for an accounting of record disclosures.

(a) *How to request.* Except where accountings of disclosures are not required to be kept (see paragraph (b) of this section), record subjects (or their guardians or representatives) may request an accounting of disclosures that have been made to another person, organization, or agency as permitted by the Privacy Act at 5 U.S.C. 552a(b). This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. Requests for accounting should identify each record in question and must be made in writing to the D/IMO, as indicated in § 1701.3 of this subpart, or to the contact designated in a specific Privacy Act System of Records.

(b) *Accounting not required.* The ODNI is not required to provide accounting of disclosure in the following circumstances:

(1) Disclosures for which the Privacy Act does not require accounting, i.e., disclosures to employees within the agency and disclosures made under the FOIA;

(2) Disclosures made to law enforcement agencies for authorized law enforcement activities in response to written requests from the respective head of the law enforcement agency specifying the law enforcement activities for which the disclosures are sought; or

(3) Disclosures from systems of records that have been exempted from accounting requirements under the Privacy Act, 5 U.S.C. 552a(j) or (k), by notice published in the **Federal Register**.

§ 1701.10 ODNI responsibility for responding to access requests.

(a) *Acknowledgement of requests.* Upon receipt of a request providing all necessary information, the D/IMO shall acknowledge receipt to the requester and provide an assigned request number for further reference.

(b) *Tasking to component.* Upon receipt of a proper access request, the D/IMO shall provide a copy of the request to the point of contact (POC) in the ODNI component with which the records sought reside. The POC within the component shall determine whether responsive records exist and, if so, recommend to the D/IMO:

(1) Whether access should be denied in whole or part (and the legal basis for denial under the Privacy Act); or

(2) Whether coordination with or referral to another component or federal agency is appropriate.

(c) *Coordination and referrals*—(1) *Examination of records.* If a component POC receiving a request for access determines that an originating agency or other agency that has a substantial interest in the record is best able to process the request (e.g., the record is governed by another agency's regulation, or another agency originally generated or classified the record), the POC shall forward to the D/IMO all records necessary for coordination with or referral to the other component or agency, as well as specific recommendations with respect to any denials.

(2) *Notice of referral.* Whenever the D/IMO refers all or any part of the responsibility for responding to a request to another agency, the D/IMO shall notify the requester of the referral.

(3) *Effect of certain exemptions.* (i) In processing a request, the ODNI shall decline to confirm or deny the existence or nonexistence of any responsive records whenever the fact of their existence or nonexistence:

(A) May reveal protected intelligence sources and collection methods (50 U.S.C. 403–1(i)); or

(B) Is classified and subject to an exemption appropriately invoked by ODNI or another agency under subsections (j) or (k) of the PrivacyAct.

(ii) In such event, the ODNI will inform the requester in writing and advise the requestor of the right to file an administrative appeal of any adverse determination.

(d) *Time for response.* The D/IMO shall respond to a request for access promptly upon receipt of recommendations from the POC and determinations resulting from any necessary coordination with or referral to another agency. The D/IMO may determine to update a requester on the status of a request that remains outstanding longer than reasonably expected.

(e) *ODNI action on requests for access*—(1) *Grant of access.* Once the D/IMO determines to grant a request for access in whole or in part, the D/IMO shall notify the requester in writing and come to agreement with the requester about how to effect access, whether by on-site review or duplication of the records. If a requester is accompanied by another person, the requester shall be required to authorize in writing any discussion of the records in the presence of the other person.

(2) *Denial of access.* The D/IMO shall notify the requester in writing when an adverse determination is made denying a request for access in any respect. Adverse determinations, or denials, consist of a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Privacy Act; or a determination that

the existence of a record can neither be confirmed nor denied. The notification letter shall state:

(i) The reason(s) for the denial; and

(ii) The procedure for appeal of the denial under § 1701.14 of this subpart.

§ 1701.11 ODNI responsibility for responding to requests for amendment or correction.

(a) *Acknowledgement of request.* The D/IMO shall acknowledge receipt of a request for amendment or correction of records in writing and provide an assigned request number for further reference.

(b) *Tasking of component.* Upon receipt of a proper request to amend or correct a record, the D/IMO shall forward the request to the POC in the component maintaining the record. The POC shall promptly evaluate the proposed amendment or correction in light of any supporting justification and recommend that the D/IMO grant or deny the request or, if the request involves a record subject to correction by an originating agency, refer the request to the other agency.

(c) *Action on request for amendment or correction.* (1) If the POC determines that the request for amendment or correction is justified, in whole or in part, the D/IMO shall promptly:

(i) Make the amendment, in whole or in part, as requested and provide the requester a written description of the amendment or correction made; and

(ii) Provide written notice of the amendment or correction to all persons, organizations or agencies to which the record has been disclosed (if an accounting of the disclosure was made);

(2) Where the D/IMO has referred an amendment request to another agency, the D/IMO, upon confirmation from that agency that the amendment has been effected, shall provide written notice of the amendment or correction to all persons, organizations or agencies to which ODNI previously disclosed the record.

(3) If the POC determines that the requester's records are accurate, relevant, timely and complete, and that no basis exists for amending or correcting the record, either in whole or in part, the D/IMO shall inform the requester in writing of:

(i) The reason(s) for the denial; and

(ii) The procedure for appeal of the denial under Sec. 1701.15 of this subpart.

§ 1701.12 ODNI responsibility for responding to requests for accounting.

(a) *Acknowledgement of request.* Upon receipt of a request for accounting, the D/IMO shall acknowledge receipt of the request in writing and provide an assigned request number for further reference.

(b) *Tasking of component.* Upon receipt of a request for accounting, the D/IMO shall forward the request to the POC in the component maintaining the record. The POC shall work with the component's information management officer and the systems administrator to generate the requested disclosure history.

(c) *Action on request for accounting.* The D/IMO will notify the requester when the accounting is available for on-site review or transmission in paper or electronic medium.

(d) *Notice of court-ordered disclosures.* The D/IMO shall make reasonable efforts to notify an individual whose record is disclosed pursuant to court order. Notice shall be made within a reasonable time after receipt of the order; however, when the order is not a matter of public record, the notice shall be made only after the order becomes public. Notice shall be sent to the individual's last known address and include a copy of the order and a description of the information disclosed. No notice shall be made regarding records disclosed from a criminal law enforcement system that has been exempted from the notice requirement.

(e) *Notice of emergency disclosures.* ODNI shall notify an individual whose record it discloses under compelling circumstances affecting health or safety. This notice shall be mailed to the individual's last known address and shall state the nature of the information disclosed; the person, organization, or agency to which it was disclosed; the date of disclosure; and the compelling circumstances justifying the disclosure. This provision shall not apply in circumstances involving classified records that have been exempted from disclosure pursuant to subsection (j) or (k) of the Privacy Act.

§ 1701.13 Special procedures for medical/psychiatric/psychological records.

Current and former ODNI employees, including current and former employees of ODNI contractors, and unsuccessful applicants for employment may seek access to their medical, psychiatric or psychological testing records by writing to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505, and provide identifying information as required by paragraphs (d) and (e) of § 1701.7 of this subpart. The Central Intelligence Agency's Privacy Act Regulations will govern administration of these types of records, including appeals from adverse determinations.

§ 1701.14 Appeals.

(a) Individuals may appeal denials of requests for access, amendment, or accounting by submitting a written request for review to the Director, Information Management Office (D/IMO) at the Office of the Director of National Intelligence, Washington, DC 20511. The words ''PRIVACY ACT APPEAL'' should be written on the letter and the envelope. The appeal must be signed by the record subject or legal representative. No personal appearance or hearing on appeal will be allowed.

(b) The D/IMO must receive the appeal letter within 45 calendar days of the date the requester received the notice of denial. The postmark is conclusive as to timeliness. Copies of correspondence from ODNI denying the request to access or amend the record should be included with the appeal, if possible. At a minimum, the appeal letter should identify:

(1) The records involved;

(2) The date of the initial request for access to or amendment of the record;

(3) The date of ODNI's denial of that request; and

(4) A statement of the reasons supporting the request for reversal of the initial decision. The statement should focus on information not previously available or legal arguments demonstrating that the ODNI's decision is improper.

(c) Following receipt of the appeal, the Director of Intelligence Staff (DIS) shall, in consultation with the Office of General Counsel, make a final determination in writing on the appeal.

(d) Where ODNI reverses an initial denial, the following procedures apply:

(1) If ODNI reverses an initial denial of access, the procedures in paragraph (e)(1) of § 1701.10 of this subpart will apply.

(2) If ODNI reverses its initial denial of a request to amend a record, the POC will ensure that the record is corrected as requested, and the D/IMO will inform the individual of the correction, as well as all persons, organizations and agencies to which ODNI had disclosed the record.

(3) If ODNI reverses its initial denial of a request for accounting, the POC will notify the requester when the accounting is available for on-site review or transmission in paper or electronic medium.

(e) If ODNI upholds its initial denial or reverses in part (*i.e.*, only partially granting the request), ODNI's notice of

final agency action will inform the requester of the following rights:

(1) Judicial review of the denial under 5 U.S.C. 552a(g)(1), as limited by 5 U.S.C. 552a(g)(5).

(2) Opportunity to file a statement of disagreement with the denial, citing the reasons for disagreeing with ODNI's final determination not to correct or amend a record. The requester's statement of disagreement should explain why he disputes the accuracy of the record.

(3) Inclusion in one's record of copies of the statement of disagreement and the final denial, which ODNI will provide to all subsequent recipients of the disputed record, as well as to all previous recipients of the record where an accounting was made of prior disclosures of the record.

§ 1701.15 Fees.

ODNI shall charge fees for duplication of records under the Privacy Act, 5 U.S.C. 552a, in the same way in which it will charge for duplication of records under § 1700.7(g), ODNI's regulation implementing the fee provision of the Freedom of Information Act, 5 U.S.C. 552.

§ 1701.16 Contractors.

(a) Any approved contract for the operation of a Privacy Act system of records to accomplish a function of the ODNI will contain the Privacy Act provisions prescribed by the Federal Acquisition Regulations (FAR) at 48 CFR part 24, requiring the contractor to comply with the Privacy Act and this subpart. The contracting component will be responsible for ensuring that the contractor complies with these contract requirements. This section does not apply to systems of records maintained by a contractor as a function of management discretion, e.g., the contractor's personnel records.

(b) Where the contract contains a provision requiring the contractor to comply with the Privacy Act and this subpart, the contractor and any employee of the contractor will be considered employees of the ODNI for purposes of the criminal penalties of the Act, 5 U.S.C. 552a(i).

§ 1701.17 Standards of conduct.

(a) *General.* ODNI will ensure that staff are aware of the provisions of the Privacy Act and of their responsibilities for protecting personal information that ODNI collects and maintains, consistent with Sec. 1701.5 and 1701.6 of this subpart.

(b) *Criminal penalties*—(1) *Unauthorized disclosure.* Criminal penalties may be imposed against any ODNI staff who, by virtue of employment, has possession or access to ODNI records which contain information identifiable with an individual, the disclosure of which is prohibited by the Privacy Act or by these rules, and who, knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it.

(2) *Unauthorized maintenance.* Criminal penalties may be imposed against any ODNI staff who willfully maintains a system of records without meeting the requirements of subsection (e)(4) of the Privacy Act, 5 U.S.C. 552a. The D/IMO, the Civil Liberties Protection Officer, the General Counsel, and the Inspector General are authorized independently to conduct such surveys and inspect such records as necessary from time to time to ensure that these requirements are met.

(3) *Unauthorized requests.* Criminal penalties may be imposed upon any person who knowingly and willfully requests or obtains any record concerning an individual from the ODNI under false pretenses.

Subpart B—Exemption of Record Systems Under the Privacy Act

§ 1701.20 Exemption policies.

(a) *General.* The DNI has determined that invoking exemptions under the Privacy Act and continuing exemptions previously asserted by agencies whose records ODNI receives is necessary: to ensure against the release of classified information essential to the national defense or foreign relations; to protect intelligence sources and methods; and to maintain the integrity and effectiveness of intelligence, investigative and law enforcement processes. Accordingly, as authorized by the Privacy Act, 5 U.S.C. 552a, subsections (j) and (k), and in accordance with the rulemaking procedures of the Administrative Procedures Act, 5 U.S.C. 553, the ODNI shall:

(1) Exercise its authority pursuant to subsections (j) and (k) of the Privacy Act to exempt certain ODNI systems of records or portions of systems of records from various provisions of the Privacy Act; and

(2) Continue in effect and assert all exemptions claimed under Privacy Act subsections (j) and (k) by an originating agency from which the ODNI obtains records where the purposes underlying the original exemption remain valid and necessary to protect the contents of the record.

(b) *Related policies.* (1) The exemptions asserted apply to records only to the extent they meet the criteria of subsections (j) and (k) of the Privacy Act, whether claimed by the ODNI or the originator of the records.

(2) Discretion to supersede exemption: Where complying with a request for access or amendment would not appear to interfere with or adversely affect a counterterrorism or law enforcement interest, and unless prohibited by law, the D/IMO may exercise his discretion to waive the exemption. Discretionary waiver of an exemption with respect to a record will not obligate the ODNI to waive the exemption with respect to any other record in an exempted system of records. As a condition of such discretionary access, ODNI may impose any restrictions (*e.g.*, concerning the location of file reviews) deemed necessary or advisable to protect the security of agency operations, information, personnel, or facilities.

(3) Records in ODNI systems also are subject to protection under 50 U.S.C. 403–1(i), the provision of the National Security Act of 1947 which requires the DNI to protect intelligence sources and methods from unauthorized disclosure.

§ 1701.21 Exemption of National Counterterrorism Center (NCTC) systems of records.

(a) The ODNI exempts the following systems of records from the requirements of subsections (c)(3); (d)(1), (2), (3) and (4); (e)(1); (e)(4)(G), (H), (I); and (f) of the Privacy Act to the extent that information in the system is subject to exemption pursuant subsections (k)(1) and (k)(5) of the Act:

(1) NCTC Human Resources Management System (ODNI/NCTC–001).

(2) [Reserved]

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an investigative interest on the part of the ODNI or recipient agency and could result in release of properly classified national security or foreign policy information.

(2) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because affording access and amendment rights could alert the record subject to the investigative interest of intelligence or law enforcement agencies or compromise sensitive information classified in the interest of national

security. In the absence of a national security basis for exemption, records in this system may be exempted from access and amendment to the extent necessary to honor promises of confidentiality to persons providing information concerning a candidate for position. Inability to maintain such confidentiality would restrict the free flow of information vital to a determination of a candidate's qualifications and suitability.

(3) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible to establish relevance and necessity before all information is considered and evaluated in relation to an intelligence concern. In the absence of a national security basis for exemption under subsection (k)(1), records in this system may be exempted from the relevance requirement pursuant to subsection (k)(5) because it is not possible to determine in advance what exact information may assist in determining the qualifications and suitability of a candidate for position. Seemingly irrelevant details, when combined with other data, can provide a useful composite for determining whether a candidate should be appointed.

(4) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment, and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(5) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information, intelligence sources and methods, and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(6) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records, and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

(c) The ODNI exempts the following systems of records from the requirements of subsections (c)(3); (d)(1), (2), (3) and (4); (e)(1); (e)(4)(G), (H), (I); and (f) of the Privacy Act to the extent that information in the system is subject to exemption pursuant to subsection(k)(1) of the Act:

(1) NCTC Access Authorization Records (ODNI/NCTC–002).

(2) NCTC Telephone Directory (ODNI/NCTC–003).

(3) NCTC Partnership Management Records (ODNI/NCTC–006).

(4) NCTC Tacit Knowledge Management Records (ODNI/NCTC–007).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an investigative interest on the part of the ODNI or recipient agency and could result in release of properly classified national security or foreign policy information.

(2) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because affording access and amendment rights could alert the record subject to the investigative interest of intelligence or law enforcement agencies or compromise sensitive information classified in the interest of national security.

(3) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible to establish relevance and necessity before all information is considered and evaluated in relation to an intelligence concern.

(4) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(5) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information, intelligence sources and methods, and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(6) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records, and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

(e) The ODNI exempts the following systems of records from the requirements of subsections (c)(3); (d)(1), (2), (3), (4); (e)(1); (e)(4)(G), (H), (I); and (f) of the Privacy Act, to the extent that information in the system is subject to exemption pursuant to subsections (k)(1) and (k)(2) of the Act:

(1) NCTC Knowledge Repository (SANCTUM) (ODNI/NCTC–004).

(2) NCTC Online (ODNI/NCTC–005).

(3) NCTC Terrorism Analysis Records (ODNI/NCTC–008).

(4) NCTC Terrorist Identities Records (ODNI/NCTC–009).

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an investigative interest on the part of the ODNI as well as the recipient agency and could: Result in release of properly classified national security or foreign policy information; compromise ongoing efforts to investigate a known or suspected terrorist; reveal sensitive investigative or surveillance techniques; or identify a confidential source. With this information, the record subject could frustrate counterintelligence

measures; impede an investigation by destroying evidence or intimidating potential witnesses; endanger the physical safety of sources, witnesses, and law enforcement and intelligence personnel and their families; or evade apprehension or prosecution by law enforcement personnel.

(2) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because these provisions concern individual access to and amendment of counterterrorism, investigatory and intelligence records. Affording access and amendment rights could alert the record subject to the fact and nature of an investigation or the investigative interest of intelligence or law enforcement agencies; permit the subject to frustrate such investigation, surveillance or potential prosecution; compromise sensitive information classified in the interest of national security; identify a confidential source or disclose information which would reveal a sensitive investigative or intelligence technique; and endanger the health or safety of law enforcement personnel, confidential informants, and witnesses. In addition, affording subjects access and amendment rights would impose an impossible administrative burden to continuously reexamine investigations, analyses, and reports.

(3) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible for intelligence or law enforcement agencies to know in advance what information about an encounter with a known or suspected terrorist will be relevant for the purpose of conducting an operational response. Relevance and necessity are questions of judgment and timing, and only after information is evaluated can relevance and necessity be established. In addition, information in the system of records may relate to matters under the investigative jurisdiction of another agency, and may not readily be segregated. Furthermore, information in these systems of records, over time, aid in establishing patterns of criminal activity that can provide leads for other law enforcement agencies.

(4) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(5) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information. Additionally, exemption from this provision is necessary to protect the privacy and safety of witnesses and sources of information, including intelligence sources and methods and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(6) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

§ 1701.22 Exemption of Office of the National Counterintelligence Executive (ONCIX) system of records.

(a) The ODNI exempts the following system of records from the requirements of subsections (c)(3); (d)(1), (2), (3), (4); (e)(1); (e)(4)(G), (H), (I); and (f) of the Privacy Act, to the extent that information in the system is subject to exemption pursuant to subsections (k)(1) and (k)(2) of the Act:

(1) ONCIX Counterintelligence Damage Assessment Records (ODNI/ONCIX–001).

(2) [Reserved]

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an investigative interest on the part of the ODNI as well as the recipient agency and could: result in release of properly classified national security or foreign policy information; compromise ongoing efforts to investigate a known or suspected terrorist; reveal sensitive investigative or surveillance techniques; or identify a confidential source. With this information, the record subject could frustrate counterintelligence measures; impede an investigation by destroying evidence or intimidating potential witnesses; endanger the physical safety of sources, witnesses, and law enforcement and intelligence personnel and their families; or evade apprehension or prosecution by law enforcement personnel.

(2) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because these provisions concern individual access to and amendment of counterterrorism, investigatory and intelligence records. Affording access and amendment rights could alert the record subject to the fact and nature of an investigation or the investigative interest of intelligence or law enforcement agencies; permit the subject to frustrate such investigation, surveillance or potential prosecution; compromise sensitive information classified in the interest of national security; identify a confidential source or disclose information which would reveal a sensitive investigative or intelligence technique; and endanger the health or safety of law enforcement personnel, confidential informants, and witnesses. In addition, affording subjects access and amendment rights would impose an impossible administrative burden to continuously reexamine investigations, analyses, and reports.

(3) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible to know in advance what information will be relevant to evaluate and mitigate damage to the national security. Relevance and necessity are questions of judgment and timing, and only after information is evaluated can relevance and necessity be established. In addition, information in the system of records may relate to matters under the investigative jurisdiction of another agency, and may not readily be segregated. Furthermore, information in these systems of records, over time, aid in establishing patterns of criminal activity that can provide leads for other law enforcement agencies.

(4) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects to the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published

notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(5) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information. Additionally, exemption from this provision is necessary to protect the privacy and safety of witnesses and sources of information, including intelligence sources and methods and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(6) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

§ 1701.23 Exemption of Office of Inspector General (OIG) systems of records.

(a) The ODNI exempts the following systems of records from the requirements of subsections (c)(3); (d)(1), (2), (3) and (4); (e)(1); (e)(4)(G), (H), (I); and (f) of the Privacy Act to the extent that information in the system is subject to exemption pursuant subsections (k)(1) and (k)(5) of the Act:

(1) OIG Human Resources Records (ODNI/OIG–001).

(2) OIG Experts Contact Records (ODNI/OIG–002).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an investigative interest on the part of the ODNI or recipient agency and could result in release of properly classified national security or foreign policy information.

(2) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because affording access and amendment rights could alert the record subject to the investigative interest of intelligence or law enforcement agencies or compromise sensitive information classified in the interest of national security. In the absence of a national security basis for exemption under subsection (k)(1), records in this system may be exempted from access and amendment pursuant to subsection (k)(5) to the extent necessary to honor promises of confidentiality to persons providing information concerning a candidate for position. Inability to maintain such confidentiality would restrict the free flow of information vital to a determination of a candidate's qualifications and suitability.

(3) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible to establish relevance and necessity before all information is considered and evaluated in relation to an intelligence concern. In the absence of a national security basis for exemption under subsection (k)(1), records in this system may be exempted from the relevance requirement pursuant to subsection (k)(5) because it is not always possible to determine in advance what exact information may assist in determining the qualifications and suitability of a candidate for position. Seemingly irrelevant details, when combined with other data, can provide a useful composite for determining whether a candidate should be appointed.

(4) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published such a notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(5) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information, intelligence sources and methods and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(6) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

(c) The ODNI exempts the following system of records from the requirements of subsections (c)(3) and (4); (d)(1), (2), (3), (4); (e)(1), (2), (3), (5), (8) and (12); and (g) of the Privacy Act, to the extent that information in the system is subject to exemption pursuant to subsection (j)(2) of the Act. In addition, the following system of records is exempted from the requirements of subsections (c)(3); (d)(1), (2), (3) and (4); (e)(1); (e)(4)(G), (H) and (I); and (f) of the Privacy Act, to the extent that information in the system is subject to exemption pursuant to subsections (k)(1) and (k)(2) of the Act.

(1) OIG Investigation and Interview Records (ODNI/OIG–003).

(2) [Reserved]

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an investigative interest on the part of the ODNI as well as the recipient agency and could: result in release of properly classified national security or foreign policy information; compromise ongoing efforts to investigate a known or suspected terrorist; reveal sensitive investigative or surveillance techniques; or identify a confidential source. With this information, the record subject could frustrate counterintelligence measures; impede an investigation by destroying evidence or intimidating potential witnesses; endanger the physical safety of sources, witnesses, and law enforcement and intelligence personnel and their families; or evade apprehension or prosecution by law enforcement personnel.

(2) From subsection (c)(4) (notice of amendment to record recipients) because the system is exempted from the access and amendment provisions of subsection (d).

(3) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because these provisions concern individual access to and amendment of counterterrorism, investigatory and intelligence records. Affording access and amendment rights could alert the record subject to the fact and nature of an investigation or the investigative interest of intelligence or law enforcement agencies; permit the subject to frustrate such investigation, surveillance or potential prosecution; compromise sensitive information classified in the interest of national security; identify a confidential source or disclose information which would reveal a sensitive investigative or intelligence technique; and endanger the health or safety of law enforcement personnel, confidential informants, and witnesses. In addition, affording subjects access and amendment rights would impose an impossible administrative burden to continuously reexamine investigations, analyses, and reports.

(4) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible to know in advance what information will be relevant for the purpose of conducting an investigation. Relevance and necessity are questions of judgment and timing, and only after information is evaluated can relevance and necessity be established. In addition, information in the system of records may relate to matters under the investigative jurisdiction of another agency, and may not readily be segregated. Furthermore, information in these systems of records, over time, aid in establishing patterns of criminal activity that can provide leads for other law enforcement agencies.

(5) From subsection (e)(2) (collection directly from the individual) because application of this provision would alert the subject of a counterterrorism investigation, study or analysis to that fact, permitting the subject to frustrate or impede the activity. Counterterrorism investigations necessarily rely on information obtained from third parties rather than information furnished by subjects themselves.

(6) From subsection (e)(3) (provide Privacy Act Statement to subjects furnishing information) because the system is exempted from the (e)(2) requirement to collect information directly from the subject.

(7) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(8) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information. Additionally, exemption from this provision is necessary to protect the privacy and safety of witnesses and sources of information, including intelligence sources and methods and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(9) From subsection (e)(5) (maintain timely, accurate, complete and up-to-date records) because many of the records in the system are derived from other domestic and foreign agency record systems over which ODNI exercises no control. In addition, in collecting information for counterterrorism, intelligence, and law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time and the development of additional facts and circumstances, seemingly irrelevant or dated information may acquire significance. The restrictions imposed by (e)(5) would limit the ability of intelligence analysts to exercise judgment in conducting investigations and impede development of intelligence necessary for effective counterterrorism and law enforcement efforts.

(10) From subsection (e)(8) (notice of compelled disclosures) because requiring individual notice of legally compelled disclosure poses an impossible administrative burden and could alert subjects of counterterrorism, law enforcement, or intelligence investigations to the previously unknown fact of those investigations.

(11) From subsection (e)(12) (public notice of matching activity) because, to the extent such activities are not otherwise excluded from the matching requirements of the Privacy Act, publishing advance notice in the **Federal Register** would frustrate the ability of intelligence analysts to act quickly in furtherance of analytical efforts.

(12) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records and for assessing fees) because the system is exempt from the subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

(13) From subsection (g) (civil remedies) to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

Subpart C—Routine Uses Applicable to More Than One ODNI System of Records

§ 1701.30 Policy and applicability.

(a) ODNI proposes the following general routine uses to foster simplicity and economy and to avoid redundancy or error by duplication in multiple ODNI systems of records and in systems of records established hereafter by ODNI or by one of its components.

(b) These general routine uses may apply to every Privacy Act system of records maintained by ODNI and its components, unless specifically stated otherwise in the System of Records Notice for a particular system. Additional general routine uses may be identified as notices of systems of records are published.

(c) Routine uses specific to a particular System of Records are identified in the System of Records Notice for that system.

§ 1701.31 General routine uses.

(a) Except as noted on Standard Forms 85 and 86 and supplemental forms thereto (questionnaires for employment in, respectively, ''non-sensitive'' and ''national security'' positions within the Federal government), a record that on its face or in conjunction with other information indicates or relates to a violation or potential violation of law, whether civil, criminal, administrative or regulatory in nature, and whether arising by general

statute, particular program statute, regulation, rule or order issued pursuant thereto, may be disclosed as a routine use to an appropriate federal, state, territorial, tribal, local law enforcement authority, foreign government or international law enforcement authority, or to an appropriate regulatory body charged with investigating, enforcing, or prosecuting such violations.

(b) A record from a system of records maintained by the ODNI may be disclosed as a routine use, subject to appropriate protections for further disclosure, in the course of presenting information or evidence to a magistrate, special master, administrative law judge, or to the presiding official of an administrative board, panel or other administrative body.

(c) A record from a system of records maintained by the ODNI may be disclosed as a routine use to representatives of the Department of Justice or any other entity responsible for representing the interests of the ODNI in connection with potential or actual civil, criminal, administrative, judicial or legislative proceedings or hearings, for the purpose of representing or providing advice to: The ODNI; any staff of the ODNI in his or her official capacity; any staff of the ODNI in his or her individual capacity where the staff has submitted a request for representation by the United States or for reimbursement of expenses associated with retaining counsel; or the United States or another Federal agency, when the United States or the agency is a party to such proceeding and the record is relevant and necessary to such proceeding.

(d) A record from a system of records maintained by the ODNI may be disclosed as a routine use in a proceeding before a court or adjudicative body when any of the following is a party to litigation or has an interest in such litigation, and the ODNI, Office of General Counsel, determines that use of such records is relevant and necessary to the litigation: The ODNI; any staff of the ODNI in his or her official capacity; any staff of the ODNI in his or her individual capacity where the Department of Justice has agreed to represent the staff or has agreed to provide counsel at government expense; or the United States or another Federal agency, where the ODNI, Office of General Counsel, determines that litigation is likely to affect the ODNI.

(e) A record from a system of records maintained by the ODNI may be disclosed as a routine use to representatives of the Department of Justice and other U.S. Government entities, to the extent necessary to obtain advice on any matter within the official responsibilities of such representatives and the responsibilities of the ODNI.

(f) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Federal, state or local agency or other appropriate entities or individuals from which/whom information may be sought relevant to: A decision concerning the hiring or retention of an employee or other personnel action; the issuing or retention of a security clearance or special access, contract, grant, license, or other benefit; or the conduct of an authorized investigation or inquiry, to the extent necessary to identify the individual, inform the source of the nature and purpose of the inquiry, and identify the type of information requested.

(g) A record from a system of records maintained by the ODNI may be disclosed as a routine use to any Federal, state, local, tribal or other public authority, or to a legitimate agency of a foreign government or international authority to the extent the record is relevant and necessary to the other entity's decision regarding the hiring or retention of an employee or other personnel action; the issuing or retention of a security clearance or special access, contract, grant, license, or other benefit; or the conduct of an authorized inquiry or investigation.

(h) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Member of Congress or Congressional staffer in response to an inquiry from that Member of Congress or Congressional staffer made at the written request of the individual who is the subject of the record.

(i) A record from a system of records maintained by the ODNI may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation, as set forth in Office of Management and Budget Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in the Circular.

(j) A record from a system of records maintained by the ODNI may be disclosed as a routine use to any agency, organization, or individual for authorized audit operations, and for meeting related reporting requirements, including disclosure to the National Archives and Records Administration for records management inspections and such other purposes conducted under the authority of 44 U.S.C. 2904 and 2906, or successor provisions.

(k) A record from a system of records maintained by the ODNI may be disclosed as a routine use to individual members or staff of Congressional intelligence oversight committees in connection with the exercise of the committees' oversight and legislative functions.

(l) A record from a system of records maintained by the ODNI may be disclosed as a routine use pursuant to Executive Order to the President's Foreign Intelligence Advisory Board, the President's Intelligence Oversight Board, to any successor organizations, and to any intelligence oversight entity established by the President, when the Office of the General Counsel or the Office of the Inspector General determines that disclosure will assist such entities in performing their oversight functions and that such disclosure is otherwise lawful.

(m) A record from a system of records maintained by the ODNI may be disclosed as a routine use to contractors, grantees, experts, consultants, or others when access to the record is necessary to perform the function or service for which they have been engaged by the ODNI.

(n) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a former staff of the ODNI for the purposes of responding to an official inquiry by a Federal, state, or local government entity or professional licensing authority or facilitating communications with a former staff of the ODNI that may be necessary for personnel-related or other official purposes when the ODNI requires information or consultation assistance, or both, from the former staff regarding a matter within that person's former area of responsibility.

(o) A record from a system of records maintained by the ODNI may be disclosed as a routine use to legitimate foreign, international or multinational security, investigatory, law enforcement or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in, formal agreements and arrangements to include those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

(p) A record from a system of records maintained by the ODNI may be disclosed as a routine use to any Federal agency when documents or other information obtained from that agency are used in compiling the record and the record is relevant to the official responsibilities of that agency, provided that disclosure of the recompiled or

enhanced record to the source agency is otherwise authorized and lawful.

(q) A record from a system of records maintained by the ODNI may be disclosed as a routine use to appropriate agencies, entities, and persons when: The security or confidentiality of information in the system of records has or may have been compromised; and the compromise may result in economic or material harm to individuals (e.g., identity theft or fraud), or harm to the security or integrity of the affected information or information technology systems or programs (whether or not belonging to the ODNI) that rely upon the compromised information; and disclosure is necessary to enable ODNI to address the cause(s) of the compromise and to prevent, minimize, or remedy potential harm resulting from the compromise.

(r) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Federal, state, local, tribal, territorial, foreign, or multinational agency or entity or to any other appropriate entity or individual for any of the following purposes: to provide notification of a serious terrorist threat for the purpose of guarding against or responding to such threat; to assist in coordination of terrorist threat awareness, assessment, analysis, or response; or to assist the recipient in performing authorized responsibilities relating to terrorism or counterterrorism.

(s) A record from a system of records maintained by the ODNI may be disclosed as a routine use for the purpose of conducting or supporting authorized counterintelligence activities as defined by section 401a(3) of the National Security Act of 1947, as amended, to elements of the Intelligence Community, as defined by section 401a(4) of the NationalSecurity Act of 1947, as amended; to the head of any Federal agency or department; to selected counterintelligence officers within the Federal government.

(t) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Federal, state, local, tribal, territorial, foreign, or multinational government agency or entity, or to other authorized entities or individuals, but only if such disclosure is undertaken in furtherance of responsibilities conferred by, and in a manner consistent with, the National Security Act of 1947, as amended; the Counterintelligence Enhancement Act of 2002, as amended; Executive Order 12333 or any successor order together with its implementing procedures approved by the Attorney General; and other provisions of law, Executive Order or directive relating to national intelligence or otherwise applicable to the ODNI. This routine use is not intended to supplant the other routine uses published by the ODNI.

Dated: March 18, 2008.

Ronald L. Burgess, Jr.,

Lieutenant General, USA, Director of the Intelligence Staff.

[FR Doc. E8–5904 Filed 3–27–08; 11:00 am]

BILLING CODE 3910–A7–P–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0647; FRL–8546–3]

Approval and Promulgation of State Implementation Plans; State of Utah; Interstate Transport of Pollution and Other Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Utah on March 22 and September 17, 2007. The revisions address Interstate Transport Pollution requirements of Section 110(a)(2)(D)(i) of the Clean Air Act and a typographical error in Rule R307–130–4, ''Options.'' The March 22, 2007 submittal adds ''Section XXIII, Interstate Transport'' to the Utah SIP, and Rule R307–110–36 to the Utah Administrative Code (UAC). The new Rule R307–110–36 incorporates by reference the Interstate Transport declaration into the State rules. The September 17, 2007 submittal amends UAC Rule R307–130–4, ''Options,'' by removing from the text the word ''not'' which had been accidentally placed in this rule. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on May 27, 2008 without further notice, unless EPA receives adverse comment by April 28, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2007–0647, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: videtich.callie@epa.gov* and *mastrangelo.domenico@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2007–0647. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6436, *mastrangelo.domenico@epa.gov*.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

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I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. What is the purpose of this action?

EPA is approving the addition of ''Section XXIII, Interstate Transport'' to the Utah SIP, and of Rule R307–110–36 (incorporating by reference Section XXIII) to the Utah Administrative Code (UAC). The Interstate Transport SIP and Rule R307–110–36 were adopted by the Utah Air Quality Board (UAQB) on February 7, 2007, and were submitted by the Governor to EPA on March 22, 2007. Section XXIII of the Utah SIP, Interstate Transport, addresses the requirements of the ''good neighbor'' provisions of the CAA Section 110(a)(2)(D)(i). This section requires that each state's SIP include adequate provisions prohibiting emissions that adversely affect another state's air quality through interstate transport of air pollutants.

EPA is also approving an amendment removing the word ''not,'' a typographical error, from the provisions of Rule R307–130–4, ''Options.'' The amendment to this rule was adopted by the UAQB on June 21, 2007, effective July 13, 2007, and submitted by the Governor to EPA on September 17, 2007.

III. What is the State process to submit these materials to EPA?

Section 110(k) of the CAA addresses EPA actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to EPA.

The UAQB held a public hearing on December 21, 2006 for the addition of Section XXIII, Interstate Transport to the Utah SIP, and Rule R307–110–36 to the Utah Administrative Code (UAC). The new Rule R307–110–36 incorporates by reference the Interstate Transport declaration into the State rules. These additions to the State SIP were adopted by the Board on February 7, 2007, and were submitted by the Governor to EPA on March 22, 2007. Rule R307–110–36 became effective February 9, 2007.

The UAQB held a public hearing on April 18, 2007 for a revision to UAC Rule R307–130–4, Options, correcting a typographical error. This revision was adopted by the Board on June 21, 2007, effective July 13, 2007, and submitted by the Governor to EPA on September 17, 2007.

We have evaluated the Governor's submittals of these SIP revisions and have determined that the State met the requirements for reasonable notice and public hearing under Section 110(a)(2) of the CAA.

IV. EPA's Evaluation of the State of Utah March 22, 2007 Submittal

EPA has reviewed the State of Utah Interstate Transport SIP submitted on March 22, 2007, and believes that approval is warranted. The ''good neighbor'' provisions of the CAA, Section 110 (a)(2)(D)(i), require that the Utah SIP contain adequate provisions prohibiting air pollutant emissions from sources or activities in the State from adversely affecting another state. A state SIP must include provisions that prohibit sources from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state; (2) interfere with maintenance of the NAAQS by another state; (3) interfere with another state's measures to prevent significant deterioration of its air quality; and (4) interfere with the efforts of another state to protect visibility. EPA issued guidance on August 15, 2006 relating to SIP submissions that meet the requirements of Section 110 (a)(2)(D)(i) for the 1997

$PM_{2.5}$ and 8-hour ozone standards. Section XXIII of the SIP, Interstate Transport, submitted by the State of Utah is consistent with the guidance.

To support the first two of the four elements noted above, the State of Utah relies on EPA assessments and modeling analysis results published in **Federal Register** notices as part of the Clean Air Interstate Rule (CAIR) rulemaking process.[1] In addition, EPA has examined factors specific to Utah and to a number of downwind or potentially downwind states that have the potential to be significantly affected by any transport of $PM_{2.5}$ and ozone or ozone precursors from Utah. Utah's neighboring states considered here as downwind or potentially downwind include Colorado, Idaho, Montana, North and South Dakota, and Wyoming.

The Utah Interstate Transport SIP addresses the question of potential $PM_{2.5}$ and ozone transport to other states by quoting from the explanation given by EPA in support of the exclusion of seven western states (including Utah) from the analysis that underlies the CAIR notice of proposed rulemaking:

> In analyzing significant contribution to nonattainment, we determined it was reasonable to exclude the Western U.S., including the States of Washington, Idaho, Oregon, California, Nevada, Utah and Arizona from further analysis due to geography, meteorology, and topography. Based on these factors, we concluded that the $PM_{2.5}$ and 8-hour ozone nonattainment problems are not likely to be affected significantly by pollution transported across these States' boundaries. Therefore, for the purpose of assessing State's contributions to nonattainment in other States, we have only analyzed the nonattainment counties located in the rest of the US.[2]

Next, the Utah Interstate Transport SIP quotes a paragraph from an EPA April 2005 response to public comments to the CAIR notice of proposed rule. EPA's response extrapolates from the results of the modeling analysis conducted for the January 30, 2004 proposed rule to validate the previous decision to exclude Utah and other six western states from the CAIR analysis:

> Regarding modeling of all states, in the $PM_{2.5}$ modeling for the NPRM, we modeled 41 states, and found that the westernmost of these states made very small contributions to nonattainment in any other state. For the revised modeling for the final rule, we reduced the set of states modeled for reasons of efficiency. The results again showed that the westernmost states modeled did not make contributions above the significance threshold, indicating that had other even more western States been modeled they also would not have done so.[3]

These assessments are substantiated by data and consideration of additional factors EPA examined. Findings from the modeling analysis conducted by EPA for the CAIR proposed rule include the maximum annual average $PM_{2.5}$ contribution by 41 states to the downwind counties identified in nonattainment for the base years 2010 and 2015. For the states included in the study, the maximum $PM_{2.5}$ annual average contribution to nonattainment by the westernmost states amounted to: 0.04 $\mu g/m^3$ for Colorado, 0.03 for Montana, 0.08 for Nebraska, 0.12 for North Dakota, 0.04 for South Dakota, and 0.05 for Wyoming (69 FR 4608). These amounts are well below the ''significant contribution'' threshold of 0.20 $\mu g/m^3$ set by EPA.

A review of the attainment/nonattainment areas for the 1997 $PM_{2.5}$ standard in these states and in Utah yields similar conclusions. Utah's closest, potentially downwind, $PM_{2.5}$ nonattainment area is centered in Libby, Lincoln County, Montana, which is about 500 miles north of the northern Utah border. EPA's findings based on a nine-factor analysis of Lincoln County, and reported in the Agency's technical support document for the December 17, 2004 designations, stressed the local origins of $PM_{2.5}$ nonattainment in Libby.[4] These findings, in combination with other factors such as the absence of $PM_{2.5}$ nonattainment areas in Utah, the distance between Utah and Libby, and the absence of $PM_{2.5}$ nonattainment areas along the 500 miles between the Utah northern border and Libby lead to the conclusion that it is unlikely that Utah is making a significant contribution to the $PM_{2.5}$ nonattainment status of Lincoln County or interfering with maintenance of the NAAQS in Montana. Similarly, the absence of $PM_{2.5}$ nonattainment areas in Utah and in the other neighboring downwind states makes it unlikely that Utah interferes with the maintenance of the 1997 $PM_{2.5}$ NAAQS standard in Colorado, Idaho, North Dakota, South Dakota, or Wyoming.

For the 1997 8-hour ozone standard, our review of the attainment/nonattainment status in Utah and its downwind states confirms the EPA positions incorporated by the State of Utah into its Interstate Transport SIP. Utah does not have any ozone nonattainment areas, and the same is true for all of its closest downwind states, except Colorado. On this basis it is plausible to conclude that Utah does not contribute significantly to ozone nonattainment, or interfere with ozone maintenance, in the states of Idaho, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

Several factors need to be considered about potential ozone transport between Utah and the Denver-Fort Collins metropolitan area, in Colorado, which is designated nonattainment for the 1997 8-hour ozone standard. Certain geographical, topographical, and meteorological factors indicate that it is unlikely that Utah contributes significantly to the 8-hour ozone nonattainment of the Denver-Fort Collins metropolitan area. The 400 miles distance between Salt Lake City and Denver, in combination with high natural barriers such as the Wasatch Range in Utah and several ranges of the Rocky Mountains in Colorado, constitute a sizeable physical barrier to potential eastward transport of ozone or ozone precursors from Utah to Colorado. Also, observed days of high ozone levels in the Salt Lake City metropolitan area are usually associated with a 'bowl effect' resulting from an inversion that has a stagnant air pollution mass surrounded by the Oquirrh Mountains to the west, the Great Salt Lake to the north, and the Wasatch Range on the east. In contrast, high ozone levels in the Denver metropolitan area are often associated with light up-slope (easterly) winds occurring at the surface level, that keep ozone and its precursors stagnating against the Front Range on the west side of metropolitan Denver and Fort Collins. In light of these considerations, it is unlikely that Utah makes a significant contribution of ozone and/or ozone precursors to ozone nonattainment in the Denver-Fort Collins metropolitan area.

The third element of the Section 110(a)(2)(D)(i) provisions requires states to prohibit emissions that interfere with any other state's measures to prevent

[1] Unless otherwise noted, in this action the expression CAIR rulemaking process or CAIR rule refers to materials (data, analyses, assessments) developed during the rulemaking process that resulted in the May 12, 2005 **Federal Register** notice ''Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to NO_X SIP Call; Final Rule,'' (70 FR 25162).

[2] ''Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule); Proposed Rule,'' January 30, 2004 (69 FR 4566). Alaska and Hawaii complete the list of states not included in EPA's modeling analysis.

[3] ''Corrected Response to Significant Public Comments on the Proposed Clean Air Interstate Rule Received in response to: Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule); Proposed Rule (69 FR 4566; January 30, 2004) Supplemental Proposal for the Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Proposal Rule (69 FR 32684; June 10, 2004) Docket Number OAR–2003–0053,'' April 2005.

[4] ''Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations,'' December 2004; Chapter 6, pages 347–352.

significant deterioration (PSD) of air quality. The State of Utah's SIP provisions include EPA-approved PSD and Nonattainment New Source Review (NNSR) programs that have been successfully implemented in past years. For $PM_{2.5}$, the State PSD and NNSR programs are being implemented in accordance with EPA's interim guidance calling for the use of PM_{10} as a surrogate for $PM_{2.5}$ in the PSD program. In addition, Utah has committed to transitioning from use of the interim $PM_{2.5}$ guidance to the final $PM_{2.5}$ implementation guidance after this guidance is finalized. EPA published proposed regulations to establish this guidance on September 21, 2007 (72 FR 54112).

The fourth element of the ''good neighbor'' provisions concerns the requirement that a state SIP prohibit sources from emitting pollutants that interfere with the efforts of another state to protect visibility. Consistent with EPA's August 15, 2007 guidance, the Utah Interstate Transport SIP declares that, under the 1980 regulations addressing Reasonably Attributable Visibility Impairment (RAVI), in Utah there are no sources that interfere with implementation of RAVI in other states. The Interstate Transport SIP refers also to the Utah Regional Haze SIP submitted to EPA in 2003 as an indication of the State's commitment to reduce impacts on Class I areas on the Colorado Plateau. Consistent with the EPA guidance cited above, Utah will fully address in the State's regional haze SIP the requirements for SIP measures protecting visibility in downwind states.

Based on EPA's review and analysis of how the State of Utah addresses the four elements identified in the ''good neighbor'' provisions, we are approving the State's Section XXIII of its SIP, Interstate Transport, as meeting the requirements of the CAA Section 110(a)(2)(D)(i). We are also approving the Utah Administrative Code (UAC) Rule R307–110–36 which incorporates Section XXIII of the SIP into the State rules.

V. EPA's Evaluation of the State of Utah September 17, 2007 Submittal

In its September 17, 2007 submittal to EPA, Utah corrected a typographical error in UAC Rule R307–130–4 by eliminating the term ''not'' from its language. This change is approvable as it does not modify, and makes clearer, the meaning of the rule. During the required five year review of State rules, the Utah Division of Air Quality, Department of Environmental Quality, discovered that the term ''not'' was a typographical error. Rule R307–130–4, ''Options,'' under the General Penalty Policy Provisions of the UAC, reads: ''Consideration may be given to suspension of monetary penalties in trade-off for expenditures resulting in additional controls and/or emissions reductions beyond those *not* [italics ours] required to meet existing requirements. Consideration may be given to an increased amount of suspended penalty as deterrent to future violations where appropriate.'' It is clear that Utah intended for the rule to indicate that monetary penalties assessed for violations may be suspended by the State in exchange for a violator's investment in additional pollution control measure and/or emissions reductions ''beyond those required to meet existing requirements,'' thus, the change is appropriate.

VI. Final Action

EPA is approving, through direct final rulemaking, the addition of Section XXIII, Interstate Transport, to the Utah SIP, and of Rule R307–110–36 (which incorporates Section XXIII) to the Utah Administrative Code (UAC), to reflect that the State has adequately addressed the required elements of Section 110(a)(2)(D)(i) of the Clean Air Act. These revisions were adopted on February 7, 2007, and were submitted to EPA on March 22, 2007. Rule R307–110–36 became effective February 9, 2007.

EPA is also approving the removal of the word ''not,'' a typographical error, from the provisions of Rule R307–130–4, ''Options.'' The amended text was adopted by the UAQB on June 21, 2007, effective July 13, 2007, and submitted by the Governor to EPA on September 17, 2007.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This rule will be effective May 27, 2008 without further notice unless the Agency receives adverse comments by April 28, 2008. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *May 27, 2008.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 12, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read as follows:

PART 52—[AMENDED]

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

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

Subpart TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(65) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(65) On March 22, 2007 the Governor of Utah submitted the addition to the Utah Administrative Code (UAC) of Rule R307–110–36. This rule incorporates by reference Section XXIII, Interstate Transport, of the Utah State Implementation Plan (SIP). The Interstate Transport declaration satisfies the requirements of Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). On September 17, 2007, the Governor of Utah also submitted an amendment to the UAC Rule R307–130–4, ''Options,'' that removes from the text a typographical error. It removes the word ''not'' which had been accidentally placed in this rule.

(i) Incorporation by reference.

(A) Addition to the UAC of rule R307–110–36 that incorporates by reference Section XXIII, ''Interstate Transport,'' of the Utah SIP. Rule R307–110–36 was adopted by the UAQB on February 7, 2007, effective February 9, 2007, and it was submitted by the Governor to EPA on March 22, 2007.

(B) Revision to UAC Rule R307–130–4, ''Options.'' This revision removes from the text the word ''not.'' The amended text was adopted by the UAQB on June 21, 2007, effective July 13, 2007, and it was submitted by the Utah Governor to EPA on September 17, 2007.

(ii) Additional material.

(A) Replacement page for UAC Rule R307–110–36 attached to the March 22, 2007 submittal letter by the Utah Governor to EPA. The new page correctly refers to Section XXIII of the Utah SIP instead of the incorrect reference to Section XXII included in the corresponding page submitted with the Administrative Documentation for Rule R307–110–36.

■ 3. Section 52.2354 is added to read as follows:

§ 52.2354 Interstate Transport.

CAA Section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone and $PM_{2.5}$ standards. Section XXIII, Interstate Transport, of the Utah SIP submitted by the Utah Governor on March 22, 2007, satisfies the requirements of the Clean Air Act Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ NAAQS promulgated by EPA in July 1997. Section XXIII, Interstate Transport, was adopted by the UAQB on February 9, 2007. The March 22, 2007 Governor's letter included as an attachment a set of replacement pages for the Interstate Transport text. The new pages reflect correctly that the Interstate Transport declaration is under Section XXIII of the Utah SIP and not under Section XXII as incorrectly indicated in the pages submitted with the Administrative Documentation for the adoption of this SIP section.

[FR Doc. E8–6275 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R04–OAR–2007–0959–200804; FRL–8547–8]

Determination of Nonattainment and Reclassification of the Memphis, TN/Crittenden County, AR 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule finalizes EPA's finding of nonattainment and reclassification of the Memphis, Tennessee and Crittenden County, Arkansas 8-hour ozone nonattainment area (Memphis TN–AR Nonattainment Area). EPA finds that the Memphis TN–AR Nonattainment Area has failed to attain the 8-hour ozone national ambient air quality standard (''NAAQS'' or ''standard'') by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. As a result, on the effective date of this rule, the Memphis TN–AR Nonattainment Area will be reclassified by operation of law as a moderate 8-hour ozone nonattainment area. The moderate area attainment date for the reclassified Memphis TN–AR Nonattainment Area would then be ''as expeditiously as practicable,'' but no later than June 15, 2010. Once reclassified, Tennessee and Arkansas must submit State Implementation Plan (SIP) revisions that meet the 8-hour ozone nonattainment requirements for moderate areas, as required by the CAA. In this action, EPA is establishing the schedule for the States' submittal of the SIP revisions required for the

nonattainment area once it is reclassified. EPA determines that the States must submit these SIP revisions by March 1, 2009.

DATES: *Effective Date:* April 28, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2007–0959. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy 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 or Air Planning Section, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. 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 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9029. Mrs. Spann can also be reached via electronic mail at *spann.jane@epa.gov.*Or Jeffrey Riley, Air Planning Section, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. The telephone number is 214–665–8542. Mr. Riley can also be reached via electronic mail at *riley.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Is the Background for This Action?

On October 16, 2007, EPA proposed its finding that the Memphis TN–AR Nonattainment Area did not attain the 8-hour ozone NAAQS by June 15, 2007, the applicable attainment date (72 FR 58577). The proposed finding was based upon ambient air quality data from the years 2004, 2005, and 2006. In addition, as explained in the proposed rule, the Area did not qualify for an attainment date extension under the provisions of CAA section 181(a)(5) and 40 CFR 51.907, because the 4th highest daily value in the attainment year of 2006 was greater than 0.084 parts per million (ppm). In the October 16, 2007, proposal, EPA proposed that the appropriate reclassification of the area was to ''moderate'' nonattainment, in accordance with CAA Section 181(b)(2).

II. Response to Comments

EPA received comments from the Shelby County Government of Tennessee (Shelby County), the Arkansas Department of Environmental Quality (ADEQ), the Sierra Club Chickasaw Group-Tennessee Chapter and two citizens in response to the proposed reclassification of the Memphis TN–AR Nonattainment Area from marginal to moderate, published on October 16, 2007 (72 FR 58577). Comments can be found on the internet in the electronic docket for this action. To access the comments, please go to *http://www.regulations.gov* and search for Docket No. EPA–R04–OAR–2007–0959, or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph above. A summary of the adverse comments received and EPA's response to the comments is presented below.

Comment: All commenters discussed including DeSoto County, Mississippi in the 8-hour ozone nonattainment area. Shelby County commented that the area's failure to meet the attainment date is not due to a lack of local control measures and regulation of ozone precursors, but is due to errors made in the original designation and that EPA's decision to exclude DeSoto County was an error that is negatively affecting the Area's ability to achieve the standard. Shelby County also commented that the DeSoto County monitor is exhibiting a disturbing trend towards violation that should be reversed. Shelby County and ADEQ suggested that the appropriate action would be to expand the nonattainment area to include DeSoto County rather than to reclassify the current area to moderate status.

Response: The validity of the 2004 designations for DeSoto County or the Memphis ozone nonattaiment area are not the subject of this rulemaking, nor is it relevant to EPA's determination of whether the Memphis area attained the 8-hour ozone NAAQS by its attainment date. The CAA establishes a process for air quality management for purposes of attaining and maintaining the NAAQS. After promulgation of a new or revised NAAQS, section 107(d)(1) of the CAA requires EPA to designate areas as meeting or not meeting the standard. EPA published the designations for the 8-hour ozone NAAQS on April 30, 2004. Prior to April 30, 2004, each State Governor had an opportunity to recommend air quality designations, including appropriate boundaries, to EPA. One hundred and twenty days prior to promulgating designations, EPA was required to notify the States, if EPA disagreed with a State's recommended designation and intended to modify the recommended designation. States then had an opportunity to provide a demonstration as to why the proposed modification was inappropriate. Any issues concerning the initial designations, including whether a county should have been included as part of a specific nonattainment area, should have been raised at that time and any challenges to EPA's final rule designating areas were required to be filed within 60 days of April 30, 2004. Thus, any claims now that DeSoto County should have been included as part of the Memphis ozone nonattainment area are not timely. The time for addressing the validity of the designations is past, and the appropriateness of the 2004 designations is not at issue in this rulemaking. As a result, all comments concerning purported deficiencies in the final designations for these areas are not relevant to this rulemaking.

With respect to the commenters' contention that EPA should now expand the nonattainment area to include DeSoto County, this rulemaking action, which involves a determination of nonattainment for the Memphis 8-hour ozone nonattainment area pursuant to section 181(b)(2), is not the appropriate time in which to address a reevaluation of the designation for the area.

In its proposed rulemaking EPA noted that DeSoto County is not included in the Memphis Area, but stated that ''its monitoring data is regularly considered for potential contributions to the Memphis TN–AR Nonattainment Area airshed.'' 72 FR 58579. EPA is clarifying

in this final rulemaking that, while we reviewed the data from the DeSoto monitor, we are not relying on data from that monitor in reaching a final determination that the Memphis Area failed to attain the 8-hour ozone standard by its June 15, 2007, attainment date.

Notably, for the years 2004–2006, the monitor in DeSoto County demonstrated attainment. Because this final determination was based upon the Marion, AR monitor which provided the Area its 2004–2006 design value of .087 ppm, the additional DeSoto County data would not alter this determination. EPA also notes that preliminary data for 2007 for both the Marion and DeSoto monitors show that, if the data were quality assured, both monitors would register as nonattainment for 2005–2007. Again, the additional DeSoto County data would not alter the determination that the Area did not attain the standard.

Comment: Shelby County and ADEQ commented that EPA has invoked the legal principle known as ''operation of law'' as justification for reclassifying the Memphis, TN–AR Nonattainment Area from marginal to moderate. The commenters believe that the invocation of ''operation of law'' is, in this instance, a discretionary power. Shelby County commented that reclassification is not needed and will not serve to move the Area into attainment of the ozone standard any sooner than is currently predicted by the extensive computer modeling, and that reclassification will place an undue and completely unnecessary administrative cost on the taxpayers of Tennessee and Arkansas without improving air quality in the Area. ADEQ commented that reclassification is unmerited at this time and that ''there would be no demonstrable harm to the public if the EPA Administrator used discretionary authority to waive the action otherwise the result of operation of law.'' ADEQ also commented that delays in federal ozone programs were responsible for higher regional design values, and that ''States and localities should not be required to take on new regulatory burdens as a result of programmatic delays over which they had no control. The EPA has not taken this into account in its deliberations as to whether redesignation [sic] is appropriate in this instance.''

Response: EPA disagrees with the assertion that reclassification upon a determination of failure to attain is a discretionary power, and that EPA can ''waive'' reclassification after it has determined that the area has failed to attain by its attainment date. In the October 16, 2007, proposed rule (72 FR 58577), EPA cited section 181(b)(2)(A) of the CAA, which provides that, for reclassification upon failure to attain, ''within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) (of Section 181) to the higher of—(i) the next higher classification for the area, or (ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).'' Pursuant to section 181(b)(2), EPA has determined that the Memphis TN–AR Nonattainment Area failed to attain the 8-hour ozone NAAQS by June 15, 2007, the attainment deadline set forth in the CAA and CFR for marginal nonattainment areas. Because the Area is not classified as severe or extreme, the area shall be reclassified by operation of law to the next higher classification. The next higher classification for the Area (moderate) is higher than the classification applicable to the Area's design value (marginal). Therefore, in accordance with the CAA, the Area must be reclassified by operation of law to a moderate nonattainment area. 72 FR 58579.

As EPA noted above, under section 181(b)(2)(A), the attainment determination is made solely on the basis of air quality, and any reclassification is by operation of law. Thus, the resulting requirements apply regardless of how the nonattainment came about, and the CAA does not allow EPA to assess the need, or lack thereof, for additional local measures. With respect to any perceived burden imposed by the new planning requirements, EPA notes that the moderate area requirements are imposed by section 182(b) of the CAA and the impact, economic or otherwise, of a reclassification is not a consideration in making the attainment determination under section 181(b)(2).

Comment: Shelby County and ADEQ commented that if EPA determines that it has no discretion on reclassification, the public comment process provides no opportunity for relevant comments on the proposed action to be considered.

Response: EPA disagrees that the public comment process provides no opportunity for relevant comments on the proposed action. The process allows for an opportunity to ascertain whether EPA's analysis of the relevant data and CAA requirements is correct. Under section 182(b)(2)(A), the attainment determination is made solely on the basis of air quality data, and reclassification and the level to which an area is reclassified is by operation of law. Section 181(b)(2)(B) requires EPA to publish a notice in the **Federal Register** identifying the reclassification status of an area that has failed to attain the standard by its attainment date. Thus, in making the determinations required by the CAA, EPA solicits and will consider comments addressing EPA's determination with respect to whether air quality data show attainment or nonattainment by the applicable attainment date, and EPA's identification of any resulting reclassification that occurs by operation of law. There is, therefore, a meaningful role for public comments in determinations of attainment, specifically with regard to the data and EPA's analysis of the data, but this is not inconsistent with, and does not alter the statutory scheme that provides that reclassification occurs as a matter of law, and is not within EPA's discretion.

Comment: ADEQ commented that for the 2007 ozone season to date, the fourth highest value in the nonattainment Area had not exceeded 0.084 ppm and that the Area's air quality appears to be improving. ADEQ further requested that EPA consider calendar year 2007 as an ''extension year'' and grant a one-year extension of the attainment date as a means of providing relief from the duplication of effort that will be required in the event that the recently proposed revisions to the ozone standard are promulgated in the near future.

Response: Sections 172(a)(2)(C) and 181(a)(5) of the CAA provide states with an opportunity to apply to extend the attainment date by one year. Section 181(a)(5) applies to areas classified under Subpart 2 of the CAA, and 40 CFR 51.907 provides EPA's interpretation of section 172(a)(2)(C) and 181(a)(5) for purposes of the 8-hour ozone standard. For the 8-hour ozone standard, if an area's fourth highest daily maximum 8-hour average value in the attainment year is 0.084 ppm or less, the area is eligible for a 1-year extension of the attainment date (40 CFR 51.907). The attainment year is the year in which the last full ozone season relied on for purposes of demonstrating attainment occurs. Because the attainment date for the Memphis Area was June 15, 2007, the last full ozone season preceding the Area's attainment date was the 2006

ozone season and 2006 is considered the attainment year. In 2006, the Area's fourth highest daily maximum 8-hour average was 0.089 ppm. Based on this information, the Area does not qualify for a 1-year extension of the attainment date. Under the applicable statutory and regulatory provisions, EPA is unable to consider 2007 as an extension year. First, as explained above, the Area did not qualify for an initial 1-year extension based on its 2006 attainment year. Second, even if the Area had qualified for a 1-year extension based on 2006 data (which it did not), it would not qualify for a second 1-year extension based on preliminary data for 2007. This is because the Area's 4th highest daily 8-hour value, averaged over both 2006 (the original attainment year) and 2007 (the hypothetical ''first extension year'') is greater than 0.84 ppm. 40 CFR 51.907(b). Finally, preliminary data for 2005–2007 show that the Area is still not attaining the standard.

Comment: Shelby County commented that air quality in the Memphis Area has in recent years demonstrated a trend of improvement; that pollution measures in place are making a positive impact and will lead to further improvement; and that modeling shows that the Area will soon attain the standard. Shelby County also commented that reclassification could ''result in an absurd conclusion since the possibility exists that, by next year, the only controlling monitor in the area could be located in a county that is attainment.'' ADEQ commented that for the 2007 ozone season to date, the fourth highest 8-hour ozone value for any monitor in the Area did not exceed 0.084 ppm; that they are hopeful ozone levels in 2008 and beyond will continue to show improvement; and that it is unfortunate that EPA considers it necessary to increase the severity of the ozone classification from marginal to moderate when it appears that the Area's air quality is improving. ADEQ also commented that ''the redesignation [sic] to moderate that is proposed would, in this instance, result in an absurd conclusion.''

Response: EPA recognizes the efforts taken by Shelby County, ADEQ, the Tennessee Department of Environment and Conservation, and the Memphis Area in general to improve air quality. However, while it is encouraging that the Area's air quality appears to be improving, unfortunately, it did not improve enough to meet the June 15, 2007, deadline for attainment.[1] The statute requires an assessment of air quality as of an area's attainment date, and that assessment is the subject of today's rulemaking. (See also, our responses to previous comments.) Reclassification of the Area, which occurs by operation of law, as required by the CAA will lead to additional planning and emission controls, which will help ensure that the Area attains and maintains the 8-hour ozone standard.

[1] Moreover, as noted above, preliminary data for 2005–2007 shows that the Area remains in nonattainment.

III. What Is the Effect of This Action?

A. Determination of Nonattainment, Reclassification of Memphis TN–AR Nonattainment Area and New Attainment Date

Pursuant to section 181(b)(2), EPA finds that the Memphis TN–AR Nonattainment Area failed to attain the 8-hour ozone NAAQS by the June 15, 2007, attainment deadline prescribed under the CAA and 69 FR 23858 (April 30, 2004) for marginal ozone nonattainment areas. When this finding is effective, the Memphis TN–AR Nonattainment Area will be reclassified by operation of law from marginal nonattainment to moderate nonattainment. The reclassification to the next higher classification is mandated by Section 181(b)(2)(A) of the CAA. Moderate areas are required to attain the standard ''as expeditiously as practicable'' but no later than 6 years after designation or June 15, 2010. The ''as expeditiously as practicable'' attainment date will be determined as part of the action on the required SIP submittal demonstrating attainment of the 8-hour ozone standard. Also in this action, EPA is establishing a schedule by which Tennessee and Arkansas will submit the SIP revisions necessary for the reclassification to moderate nonattainment of the 8-hour ozone standard.

B. When Must Tennessee and Arkansas Submit SIP Revisions Fulfilling the Requirements for Moderate Ozone Nonattainment Areas

EPA must address the schedule by which Tennessee and Arkansas are required to submit revised SIPs addressing the requirements for the Memphis TN–AR moderate Nonattainment Area. When an area is reclassified, EPA has the authority under section 182(i) of the CAA to adjust the CAA's submittal deadlines for any new SIP revisions that are required as a result of the reclassification. Pursuant to 40 CFR 51.908(d), for each nonattainment area, a state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season. The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date, in this case 2009 (40 CFR 51.900(g)). The ozone season is the ozone monitoring season as defined in 40 CFR part 58, Appendix D, section 4.1, Table D–3 (October 17, 2006, 71 FR 61236). For the purposes of this reclassification of the Memphis TN–AR Nonattainment Area, March 1, 2009, is the beginning of the ozone monitoring season. As a result, EPA is requiring that the necessary SIP revisions be submitted by both Tennessee and Arkansas as expeditiously as practicable, but no later than March 1, 2009.

A revised SIP must include all the moderate area requirements in section 182(b) of the CAA including: (1) An attainment demonstration (40 CFR 51.908); (2) provisions for reasonably available control technology and reasonably available control measures (40 CFR 51.912); (3) reasonable further progress reductions in volatile organic compound (VOC) emissions (40 CFR 51.910); (4) contingency measures to be implemented in the event of failure to meet a milestone or attain the standard (CAA 172(c)(9)); (5) a vehicle inspection and maintenance program (40 CFR 51.350); and (6) nitrogen oxide and VOC emission offsets of 1.15 to 1 for major source permits (40 CFR 51.165(a)).

IV. Final Action

Pursuant to CAA section 181(b)(2), EPA is making a final determination that the Memphis TN–AR marginal 8-hour Ozone Nonattainment Area failed to attain the 8-hour ozone NAAQS by June 15, 2007. Upon the effective date of this rule, the Memphis TN–AR marginal 8-hour Ozone Nonattainment Area will be reclassified by operation of law as a moderate 8-hour ozone nonattainment area. Pursuant to section 182(i) of the CAA, EPA is establishing the schedule for submittal of the SIP revisions required for moderate areas once the area is reclassified. The required SIP revisions for Tennessee and Arkansas shall be submitted as expeditiously as practicable, but no later than March 1, 2009.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive

Order. The Agency has determined that the finding of nonattainment would result in none of the effects identified in the Executive Order. Under section 181(b)(2) of the CAA, determinations of nonattainment are based upon air quality considerations and the resulting reclassifications must occur by operation of law.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action to reclassify the Memphis TN–AR Nonattainment Area as a moderate ozone nonattainment area and to adjust applicable deadlines does not establish any new information collection burden. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. 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 Office of Management and Budget (OMB) control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (see, 13 CFR part 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Determinations of nonattainment and the resulting reclassification of nonattainment areas by operation of law under section 181(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. After considering the economic impacts of today's action on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation to why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any one year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. Also, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and therefore, is not subject to the requirements of sections 203. EPA believes, as discussed previously in this document, that the finding of nonattainment is a factual determination based upon air quality considerations and that the resulting reclassification of the area must occur by operation of law. Thus, EPA believes that the finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It 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. This action merely determines that the Memphis TN–AR Nonattainment Area had not attained by its applicable attainment date, reclassifies the Memphis TN–AR Nonattainment Area as a moderate ozone nonattainment area and adjusts applicable deadlines. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This action does not have ''Tribal implications'' as specified in Executive Order 13175. This action merely determines that the Memphis TN–AR Nonattainment Area has not attained by its applicable attainment date, reclassifies the Memphis TN–AR Nonattainment Area as a moderate ozone nonattainment area and adjusts applicable deadlines. The CAA and the Tribal Authority Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, entitled ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. This action merely determines that the Memphis TN–AR Nonattainment Area has not attained by its applicable attainment date, reclassifies the Memphis TN–AR Nonattainment Area as a moderate ozone nonattainment area and adjusts applicable deadlines.

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

This action is not subject to Executive Order 13211, entitled ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action merely determines that the Memphis TN–AR Nonattainment Area has not attained by its applicable attainment date, reclassifies the Memphis TN–AR ''marginal'' Nonattainment Area as a ''moderate'' ozone nonattainment area and adjusts applicable deadlines. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action merely determines that the Memphis TN–AR Nonattainment Area has not attained by its applicable attainment date, and reclassifies the Memphis TN–AR Nonattainment Area as a moderate ozone nonattainment area and adjusts applicable deadlines.

K. Congressional Review Act

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

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to reclassify the Memphis TN–AR area as a moderate ozone nonattainment area and to adjust applicable deadlines may not be challenged later in proceedings to enforce its requirements. (See, section 307(b)(2).)

List of Subjects in 40 CFR Part 81

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

Dated: March 14, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

Dated: March 19, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

■ 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

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

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

Subpart C—Section 107 Attainment Status Designations

■ 2. In § 81.304 the table for Arkansas—Ozone (8-hour Standard) is amended by revising the entry for Memphis, TN–AR and footnote 2 to read as follows:

§ 81.304 Arkansas.

* * * * *

ARKANSAS—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Memphis, TN–AR: (AQCR 018 Metropolitan Memphis Interstate) Crittenden County.	.....	Nonattainment	([2])	Subpart 2/Moderate.
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
[2] April 28, 2008.

* * * * *

■ 3. In § 81.343 the table for Tennessee—Ozone (8-hour Standard) is amended by removing footnote 3 and revising the entry for ''Memphis, TN–AR'' to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Memphis, TN–AR: Shelby County	.....	Nonattainment	March 28, 2008	Subpart 2/Moderate.
* * *	*	*	*	*

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

* * * * *

[FR Doc. E8–6287 Filed 3–27–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0145; FRL–8354–4]

Boscalid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of boscalid in or on caneberry subgroup 13A at 6.0 parts per million (ppm); bushberry subgroup 13B at 13 ppm; cotton, undelinted seed at 1.0 ppm; cotton, gin by-products at 55 ppm; avocado at 1.5 ppm; sapote, black at 1.5 ppm; canistel at 1.5 ppm; sapote, mamey at 1.5 ppm; mango at 1.5 ppm; papaya at 1.5 ppm; sapodilla at 1.5 ppm; and star apple at 1.5 ppm. It revokes the existing berries, group 13 tolerance at 3.5 ppm because the two new caneberry and bushberry tolerances cover all commodities in the berries, group 13. Tolerances are being increased for cucumber from 0.20 ppm to 0.5 ppm, and vegetable, root, subgroup 1A, except sugarbeet, garden beet, radish, and turnip from 0.7 ppm to 1.0 ppm. BASF, Inc requested these tolerance actions under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, this action establishes a time-limited tolerance for residues of boscalid in or on Endive, Belgian, in response to the approval of a crisis exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing the post harvest use of the fungicide on Endive, Belgian to control the fungal pathogen, scelerotinia sclerotiorum. This regulation establishes a maximum permissible level of residues of boscalid in this food commodity. The time-limited tolerance expires and is revoked on December 31, 2009.

DATES: This regulation is effective March 28, 2008. Objections and requests for hearings must be received on or before May 27, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0145. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–

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

FOR FURTHER INFORMATION CONTACT: Bryant Crowe, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0025; e-mail address: *crowe.bryant@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0145 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before May 27, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2005–0145, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of February 15, 2006 (71 FR 7951) (FRL–7759–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5F6986) by BASF, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.589 be amended by increasing the tolerance for residues of the fungicide boscalid in or on berries, crop group 13 from 3.5 to 8.0 ppm; and increasing the tolerance for strawberries from 1.2 ppm to 4.0 ppm. That notice referenced a summary of the petition prepared by BASF, the registrant, which is available to the public in the docket, *http://www.regulations.gov.*

On April 4, 2007, in the **Federal Register** (72 FR 16352) (FRL–8119–2), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E7164) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, proposes to establish a tolerance for residues of the fungicide boscalid in or on food commodities avocado at 1.5 ppm; sapote, black at 1.5 ppm; canistel at 1.5 ppm; sapote, mamey at 1.5 ppm; mango at 1.5 ppm; papaya at 1.5 ppm; sapodilla at 1.5 ppm; star apple at 1.5 ppm; and herbs, fresh, subgroup 19A at 60.0 ppm. Fresh herbs, subgroup 19A, tolerances were subsequently withdrawn from this petition, on February 6, 2008, by IR-4, in accordance with 40 CFR 180.8. The docket ID number EPA–HQ–OPP–2007–0115, identifies this petition.

On June 27, 2007, EPA issued a notice pertaining to boscalid announcing the filing of a pesticide petition (PP 7F7169), (72 FR) (FRL–8133–4), by BASF, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709. The petition, identified by the docket ID number EPA–HQ–OPP–2007–0377, requested that 40 CFR 180.589 amended by increasing the tolerance for residues of the fungicide boscalid in or on cotton, undelinted seed at 1.0 ppm and cotton, gin byproducts at 55.0 ppm. In the **Federal Register** of February 13, 2008 (73 FR 7951) (FRL–7759–3), EPA issued a notice pertaining to boscalid announcing the filing of a pesticide petition (PP 5F6986) by BASF. The petition requested that 40 CFR 180.589 be amended by increasing the tolerance for residues of the fungicide boscalid in or on caneberry, crop group 13A at 6.0 ppm; bushberry, crop group 13B at 10.0 ppm; cucumber at 0.5 ppm; and vegetable, root, subgroup 1A, except sugar beet, garden beet, radish and turnip at 1.0 ppm.

Each petition's notice referenced a summary of the petition prepared by the registrant BASF, which is available to the public in the docket, *http://www.regulations.gov.* For the foregoing petitions, there were no comments in response to their notice of filing

Based upon review of the data supporting the petition, an increased strawberry tolerance to 4.5 ppm is not needed because EPA previously increased the strawberry tolerance to 4.5 ppm via the rule published May 3, 2006 (71 FR 25956) (FRL–8064–4). Furthermore, whereas the registrant requested the tolerance for the entire berry group 13 be increased from 3.5 ppm to 8.0 ppm, the Agency has established a separate tolerance for each of the two berry group 13 sub groups. Thus, where there was one tolerance for the entire group, there are now two separate tolerances covering all crops in the entire berry crop group 13. Thus, the existing berries, group 13 tolerance is being revoked because it is not needed.

BASF submitted field trial data on cucumbers, mustard greens, and sunflower. These field trials were required as a condition for the registration of boscalid on these crops. BASF has also submitted supplemental field trials on fruiting vegetables, spearmint and peppermint, radishes, stone fruits, and grapes, which were conducted to support the use of boscalid on these crops in Canada. Review of these new data is the basis for the need to increase the existing tolerances in or on cucumber from 0.2 to 0.5 ppm, and vegetable, root, subgroup 1A, except sugarbeet, garden beet, radish, and turnip from 0.7 to 1.0 ppm.

EPA is also establishing a time-limited tolerance for residues of the fungicide boscalid in or on Endive, Belgian at 16 ppm. This tolerance expires and is revoked on December 31, 2009. The Agency is establishing this time-limited tolerance in response to a crisis exemption request under FIFRA section 18 on behalf of the California Environmental Protection Agency, Department of Pesticide Regulation for emergency use of boscalid as a post harvest treatment on chicory roots to control fungal growth of scelerotinia sclerotiorum.

According to the applicant, the dormant chicory roots are taken out of cold storage and propagated in sheds within a controlled environment to stimulate bud development. These edible buds are known as belgian endive, and are marketed in grocery stores throughout the year. Based on information provided in the submission, an emergency situation exists because the pathogen, scelerotinia sclerotiorum, resides in field soils and can grow on the chicory root during cold storage, which makes the produce unmarketable. Vinclozolin had been registered for control of this pest until it was cancelled in 2001. Existing stocks of vinclozolin were used until 2003, and there are currently no other fungicides registered for the post harvest treatment of chicory root to control fungal growth. Further, the State claims that good agricultural practices are not sufficient to control this fungal pathogen.

As part of its assessment of the emergency exemption request, EPA assessed the potential risks presented by the residues of boscalid in or on endive, belgian, as discussed below. In doing so, EPA considered the safety standard in section 408 (b) (2) of the FFDCA, and EPA decided that the necessary time-limited tolerance under section 408 (l) (6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address the urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this time-limited tolerance without notice and opportunity for public comment as provided in section 408 (l) (6) of the FFDCA. Although, this time-limited tolerance expires and is revoked on December 31, 2009, under section 408 (l) (5) of the FFDCA, residues of the pesticide not in excess of the amount specified in the tolerance remaining in or on endive, belgian after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this time-limited tolerance at the time of application. EPA will take action to revoke this time-limited tolerance earlier if any experience with, scientific data, or other relevant information on this pesticide indicates that the residues are not safe.

Because this time-limited tolerance is being approved under emergency conditions, EPA has not made any decisions about whether boscalid meets EPA's registration requirements for use on endive, belgian or whether a permanent tolerance for this use would be appropriate. Under this circumstance, EPA does not believe that the time-limited tolerance serves as a basis for registration of boscalid by a State for special local needs under FIFRA section 24(c). Nor does the time-limited tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b) (2) (D) and the factors specified in FFDCA section 408(b) (2) (D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of boscalid on caneberry subgroup 13A, and bushberry subgroup 13B, respectively at 6.0 and 13 ppm; cotton, undelinted seed at 1.0 ppm; cotton, gin byproducts at 55 ppm; avocado at 1.5 ppm; sapote, black at 1.5 ppm; canistel at 1.5 ppm; sapote, mamey at 1.5 ppm; mango at 1.5 ppm; papaya at 1.5 ppm; sapodilla at 1.5 ppm; star apple at 1.5 ppm; cucumber at 0.5 ppm; and vegetable, root, subgroup 1A, except sugar beet, garden beet, radish and turnip at 1.0 ppm, as well as the time-limited tolerance for residues of boscalid in or on endive, belgian at 16 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Animal studies indicate that repeat dosing with boscalid results in effects in the liver and/or thyroid in various species. Mechanistic studies indicated

that the thyroid effects were derivative of enzymatic effects on the liver. The boscalid database shows no effects that were attributable to a single dose, and thus boscalid is deemed not to pose an acute risk. Testing involving *in utero* and/or post-natal exposure of animals shows no developmental or reproductive effects; however, this testing resulted in some findings of qualitative or quantitative sensitivity with regard to body weight effects in the young.

The Agency determined that boscalid shows suggestive evidence of carcinogenicity. This finding is based on the following weight of evidence considerations. First, in male wistar rats, there was a significant trend (but not pairwise comparison) for the combined thyroid adenomas and carcinomas. This trend is driven by the increase in adenomas. Second, in the female rats, there was only a borderline significant trend for thyroid adenomas (there were no carcinomas). Third, the mouse study was negative as were all of the mutagenic tests. Consistent with this weak evidence of carcinogenic effects, the Agency concluded that a quantitative risk and exposure assessment for cancer (either linear low-dose extrapolation or margin of exposure calculation) was not appropriate.

Specific information on the studies received and the nature of the adverse effects caused by boscalid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov.* The referenced documents are available in the docket established by this action, which are described under **ADDRESSES**, and are identified as follows:

•*Boscalid:* Human Health Risk Assessment for Section 3 Tolerance on Endive, an Amendment to the Tolerances for Strawberries and Berries, Crop Group 13, and an Increase in Tolerances in/on Cucumber and Vegetable, Root, Subgroup 1A, except Sugar Beet, Garden Beet, Radish, and Turnip, dated 7-10-07.

• *Boscalid:* Addendum to the July 10, 2007 Human Risk Assessment to Support a Section 3 Use on Endive, an Amendment to the Tolerances for Strawberries and Berries, Crop Group 13, and an Increase in Tolerances in/on Cucumber and Vegetable, Root, Subgroup 1A, except Sugar Beet, Garden Beet, Radish, and Turnip.PC Code: 128008, Petition Nos: 5E7013, 5F6986, DP Barcode: 34857, dated 2-13-08.

• *Boscalid:* Human Health Risk Assessment to Support Proposed New Uses on Fresh Herbs (Herbs Subgroup 19A), Avocado, Black Sapote, Canistel, Mamey Sapote, Mango, Papaya, Sapodilla, Star Apple and Cotton. PC Code: 128008; Petition Nos: 6E7164, 7F7169; DP Barcodes: 336182, 337369, dated 2-13-08.

B. Toxicological Endpoints

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

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see:

http://www.epa.gov/oppfead1/trac/science

http://www.epa.gov/pesticides/factsheets/riskassess.htm

http://www.epa.gov/pesticides/trac/science/ aggregate.pdf

A summary of the toxicological endpoints for boscalid used for human risk assessment is discussed in Unit III.B of the final boscalid rule published in the **Federal Register** of July 30, 2003 (68 FR 44640) (FRL–7319–6).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to boscalid tolerances in (40 CFR 180.589), EPA assessed dietary exposures from boscalid in food as follows:

i. *Acute exposure.* There are no toxic effects attributable to a single (acute) exposure to boscalid; therefore an acute reference dose was not established for boscalid and an acute dietary exposure assessment is not needed.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the United States Department of Agriculture (USDA) Continuing Survey of Food Intake by Individuals (CSFII) 1994–1996 and 1998. As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues. The Agency did not use anticipated residue estimates or percent crop treated (PCT) information.

iii. *Cancer.* For the reasons described in Unit III.A, the Agency concluded that a quantitative risk and exposure assessment for cancer (either linear low-dose extrapolation or margin of exposure calculation) was not appropriate.

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

Based on the FQPA Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI-GROW) models, the maximum estimated surface and ground drinking water concentrations (EDWCs) of boscalid for chronic exposures are 29.6 parts per billion (PPB) for surface water and 0.63 ppb for ground water. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. The chronic dietary risk assessment used the surface water concentration value of 29.6 ppb to assess the contribution to drinking water.

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

indoor pest control, termiticides, and flea and tick control on pets).

Boscalid is registered for use on sites that would result in residential exposure. From boscalid, residential exposure is only possible on golf courses and at ''U-Pick'' farms and orchards. A non-occupational dermal post-application exposure/risk assessment for these exposures was conducted in the previous occupational and residential exposure assessment and is described in the final rule in the **Federal Register** of July 30, 2003 (68 FR 44640) (FRL–7319–6).

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* In the 2-generation reproduction study in rats, body weight effects were seen in the mid and high doses in the second generation male pups. However, the degree of concern is low for the quantitative evidence of susceptibility seen in this study, since the body weight effects were seen in only one sex and only after dosing for two generations. There is a clear NOAEL for the body weight effects seen in the rat 2-generation reproduction study and EPA is regulating based on a point of departure below where these effects are seen.

In the developmental neurotoxicity study, transient body weight effects were seen in one sex at post-natal days 1–4 with the animals recovering by post-natal day 11. Body weight effects were also seen in the high dose, which was the limit dose. The degree of concern for these effects are low since the effects are either transient in nature or occurred at the limit dose and EPA is regulating based on a point of departure below where these effects are seen.

While qualitative sensitivity was seen in the rabbit developmental study, the fetal effects were seen only at the limit dose in the presence of maternal toxicity. Further, since EPA is regulating based on a point of departure which is an order of magnitude below where these effects are seen in the rabbit developmental study, EPA concludes that the qualitative sensitivity evidenced in the fetuses in the rabbit developmental study does not require retention of the 10X children's safety factor.

3. *Conclusion.* The FQPA safety factor has been reduced to 1X for boscalid for the following reasons. First, EPA has a complete toxicity database for boscalid. The toxicity studies for boscalid show it generally to have low mammalian toxicity. Further, while data involving the testing of young animals did show increased quantitative sensitivity in the young with regard to body weight effects and qualitative sensitivity in one developmental study, clear NOAELs were identified for all of these effects. Moreover, the body weight effects at the LOAELs in these studies were either transient or inconsistent and qualitative sensitivity occurred at the limit dose in the presence of maternal toxicity. EPA concludes that there are no residual uncertainties for pre-natal and/or post-natal toxicity. The NOAEL used for various risk assessments would address the body weight effects seen at higher doses in the developmental and reproductive studies. Finally, EPA has conservatively estimated human exposure to boscalid, relying on worst case exposures in food (assuming all registered crops contain residues at the tolerance level), and conservative models as well as pesticide-specific data in estimating exposure from residues in drinking water and from residential uses.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* There were no toxic effects attributable to a single exposure to boscalid, therefore, neither an acute reference dose (aRfD) nor aPAD were established and acute dietary risk assessment and acute aggregate risk assessment are not required for boscalid.

2. *Chronic risk.* The unrefined chronic dietary risk assessment for boscalid was made using tolerance level residues, default and empirical processing factors and 100% CT assumptions. Results of this analysis indicate that chronic risk from the dietary (food + drinking water) exposure from boscalid will not exceed EPA's level of concern for the general U.S. population, and all population subgroups. The chronic dietary risk estimate for the highest reported exposed population subgroup, children 1-2 years old, is 33% of the cPAD. Chronic residential exposure from residues of boscalid is not expected; therefore the aggregate chronic risk is equivalent to the chronic dietary risk described above.

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

Boscalid is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate average food and water exposures with short-term non-occupational exposures for boscalid. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, water, and residential exposures aggregated result in aggregate MOEs, which are below the Agency's level of

concern. MOEs for the U.S. population, and all subpopulations of concern exceed 1,000. The level of concern for this assessment is for MOEs below 100.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate term, non-occupational exposures are anticipated from the use of boscalid, an intermediate-term aggregate risk assessment is not required for boscalid.

5. *Aggregate cancer risk for U.S. population.* Given the data showing no more than weak evidence of carcinogenic effects for boscalid, EPA concludes that boscalid poses no greater than a negligible risk of cancer.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

There are currently no Codex Maximum Residue Limits (MRLs) for boscalid. Canada has established MRLs for boscalid, but not for the crops that are in this rule.

V. Conclusion

Therefore, this regulation establishes tolerances for residues of boscalid,3-pyridinecarboxamide, 2-chloro-*N*-(4'-chloro[1,1'-biphenyl]-2-yl), in or on caneberry subgroup 13A, and bushberry subgroup 13B, respectively at 6.0 and 13 ppm; cotton, undelinted seed at 1.0 ppm; cotton, gin byproducts at 55 ppm; avocado at 1.5 ppm; sapote, black at 1.5 ppm; canistel at 1.5 ppm; sapote, mamey at 1.5 ppm; mango at 1.5 ppm; papaya at 1.5 ppm; sapodilla at 1.5 ppm; star apple at 1.5 ppm; cucumber at 0.5 ppm; and vegetable, root, subgroup 1A, except sugar beet, garden beet, radish and turnip at 1.0 ppm. In addition, this regulation establishes a time-limited tolerance for residues of boscalid in or on endive, belgian at 16 ppm.

VI. Statutory and Executive Order Reviews

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 18, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.589 is amended by removing the entry for berry group 13, and alphabetically adding the following commodities to the table in paragraph (a)(1), and by revising paragraph (b) to read as follows:

§ 180.589 Boscalid; tolerance for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Avocado	1.5
Bushberry, subgroup 13B	13.0
Caneberry, subgroup13A	6.0
Canistel	1.5
* * * * *	
Cotton, gin byproducts	55.0
Cotton, undelinted seed	1.0
Cucumber	0.5
* * * * *	
Mango	1.5
* * * * *	
Papya	1.5
Sapodilla	1.5
Sapote, black	1.5
Sapote, mamey	1.5
Star Apple	1.5
* * * * *	
Vegetable, root, subgroup 1A, except sugarbeet, garden beet, radish, and turnip	1.0
* * * * *	

* * * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for the residues of the fungicide boscalid, 2-chloro-N-(4'-chloro [1, 1'-biphenyl]-2-yl)-3-pyridinecarboxamide in connection with use of the pesticide under a section 18 emergency exemption granted by EPA. This tolerance will expire and is revoked on the date specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Endive, Belgian	16	12/31/09
Tangerine	2.0	12/31/08

* * * * *

[FR Doc. E8–6264 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0092; FRL–8357–4]

S-Abscisic Acid, Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the biochemical pesticide *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid in or on grapes when applied or used as a plant regulator in accordance with the terms of Experimental Use Permit 73049-EUP-4. Valent Biosciences Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid. The temporary tolerance exemption expires on October 1, 2010.

DATES: This regulation is effective March 28, 2008. Objections and requests for hearings must be received on or before May 27, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0092. To access the electronic docket, go to *http://www.regulations.gov*, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Chris Pfeifer, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703-308-0031; e-mail address: *pfeifer.chris@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in section 5 of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the regulations promulgated to carry out that provision of FIFRA (40 CFR part 172). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0092 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 27, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0092, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of April 30, 2007 (72 FR 21263) (FRL–8124–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7G7202) by Valent Biosciences Corporation, 870 Technology Way, Libertyville, IL 60048. The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid in or on grapes when used in accordance with the terms set forth in Experimental Use Permit 73049-EUP-4. Valent has requested an Experimental Use Permit (EUP)--EPA Experimental Use Permit Number 73049-EUP-4, under which it seeks to apply ABA to grapes in the vineyard to enhance color production of the grape berries. The terms of 73049-EUP-4 provide for a maximum rate of 8.8185 oz. per acre for a maximum annual application of 10.681 oz. per acre. This notice included a summary of the petition prepared by the petitioner, Valent BioSciences Corporation. There were no comments received in response to the notice of filing.

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

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

III. Toxicological Profile

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

Acute toxicity for *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid (commonly abbreviated as ABA): Acute oral toxicity, acute dermal toxicity, acute inhalation toxicity, and acute dermal irritation are all Toxicity Category IV;

acute eye irritation is Toxicity Category III; ABA is not a dermal sensitizer.

The LD_{50} for acute oral toxicity using the rat was greater than 5,000 milligrams/kilogram (mg/kg) of body weight in female rats. The LD_{50} for acute dermal toxicity using the rat was greater than 5,000 mg/kg body weight in male and female rats. The LC_{50} for acute inhalation toxicity was greater than 2.06 milligram/liter (mg/L) in male and female rats. Primary eye irritation, tested in rabbits, showed mild irritation to the eye. Iritis and conjunctivitis cleared after 24 hours. Primary skin irritation, tested in the rabbit, showed this material to be slightly irritating. This irritation cleared within 24 hours after treatment. ABA was tested for Sensitization in the Guinea Pig and found not to be a skin sensitizer.

1. *Genotoxicity*. Three mutagenicity studies determined that ABA was not mutagenic. (The three studies: an Ames test, a mouse micronucleus assay, and an unscheduled DNA synthesis assay in the rat.)

2. *Developmental toxicity and subchronic toxicity*. The Agency accepted the applicant's request to waive the data requirements for teratogenicity and 90–day feeding for the active ingredient based on the rationales, data and public information submitted. The Agency granted a waiver for teratogenicity on the basis of limited exposure for females because of directed applications, a lack of residues, and the pre-existing ubiquity of ABA in our diet without issue. Ninety day feeding was waived based on the limited application, virtual non-toxicity of oral exposure to ABA, and the commonality of ABA in our diets in excess of what would be present on treated grapes. Waiver requests for 90–day feeding emphasized the lack of potential oral exposure, and the relative non-toxicity of ABA through this route of exposure. In short, developmental toxicity and subchronic toxicity are not considered to be of concern.

IV. Aggregate Exposures

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

A. Dietary Exposure

ABA is a plant regulator present in all vascular plants, algae and some fungi. It is naturally present in fruits and vegetables at various levels, generally not in excess of 10 ppm, and has always been a component of any diet containing plant materials. The proposed uses of this product are not expected to result in residues in or on grapes, above the natural background levels typically found in other commonly consumed fruits or vegetables.

1. *Food*. Residues of ABA applied to grapes can be expected to rapidly dissipate to levels consistent with those observed naturally. Data submitted by the registrant confirm ABA's dissipation through rapid metabolism, photo-isomerization, and rapid degradation. Because of its ability to dissipate rapidly, ABA, when used in accordance with the terms of the EUP 73049-EUP-4, is not expected to result in residues in or on grapes, above the natural background levels typically found in other commonly consumed fruits or vegetables. As mentioned above, it is noted that ABA is already commonly consumed. It is naturally present in fruits and vegetables at various levels (up to 10 ppm) and has always been a component of any diet containing plant materials.

2. *Drinking water exposure*. Pursuant to the terms of the EUP 73049-EUP-4, applications are expected to be made to grape vineyards using a maximum application rate of 200 ppm per acre (using a maximum of 200 gallons). Due to the low concentration and volume of application solution, leaching into groundwater is unlikely. Applications are directed to the grape fruit clusters; therefore, accidental application to lakes or steams is unlikely. However, even if ABA leached into groundwater, data show that ABA is rapidly metabolized and photo-isomerized, further diminishing the likelihood of any extra-normal ABA residues being transferred to water. Data submitted to the Agency show ABA is also naturally present in water. The Agency therefore concludes that any residues resulting from the application of ABA to grapes are not expected to result in any significant drinking water exposure beyond natural background levels of ABA already present in water.

B. Other Non-Occupational Exposure

Potential non-occupational exposure is considered unlikely for this distinctly agricultural use.

1. *Dermal exposure*. Non-occupational dermal exposures to ABA when used as a pesticide are expected to be negligible because it is limited to an agricultural use.

2. *Inhalation exposure*. Non-occupational inhalation exposures to ABA when used as a pesticide are expected to be negligible because it is limited to an agricultural use.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires the Agency, when considering whether to establish, modify, or revoke a tolerance, to consider ''available information'' concerning the cumulative effects of pesticide residues and ''other substances that have a common mechanism of toxicity.'' These considerations include the cumulative effects of such residues on infants and children. Because there is no indication of mammalian toxicity from ABA, the Agency concludes that ABA cannot share a common mechanism of toxicity with other substances. Therefore, section 408(b)(2)(D)(v) does not apply.

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

1. *U.S. population*. The Agency has determined that there is a reasonable certainty that no harm will result from aggregate exposure to residues of ABA to the U.S. population. This includes all anticipated dietary exposures and other non- occupational exposures for which there is reliable information. The Agency arrived at this conclusion based on the relatively low levels of mammalian dietary toxicity associated with ABA, the natural ubiquity of ABA in our food stuffs, and data indicating that the pesticidal use of ABA on grapes results in residues that approximate natural background levels. For these reasons, the Agency has determined that ABA residues on grapes will be safe, i.e., there is a reasonable certainty that no harm will result from aggregate exposure to residues of ABA when used in accordance with the terms of EUP 73049-EUP-4.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless the EPA determines that a different margin of exposure (safety) will be safe for infants and children. Based on all the reliable available information the Agency reviewed on ABA, the Agency concludes that there are no residual uncertainties for prenatal/postnatal toxicity resulting from ABA and that ABA has relatively low toxicity to mammals from a dietary standpoint, including infants and children. Accordingly, there are no threshold effects of concern and an

additional margin of safety is not necessary to protect infants and children.

VII. Other Considerations

A. Endocrine Disruptors

Based on available data, no endocrine system-related effects have been identified with the consumption of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid.

B. Analytical Method(s)

Through this action, the Agency proposes a temporary exemption from the requirement of a tolerance of ABA when used on grapes without any numerical limitations for residues. It has determined that residues resulting from the pesticidal uses of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid, would be so low as to be indistinguishable from natural background levels. As a result, the Agency has concluded that an analytical method is not required for enforcement purposes for this proposed use of ABA.

C. Codex Maximum Residue Level

There are no codex maximum residue levels established for residues of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid.

VIII. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

IX. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: March 20, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

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

PART 180—AMENDED]

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

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

■ 2. Section 180.1281 is added to subpart D to read as follows:

§ 180.1281 S-Abscisic Acid; exemption from the requirement of a tolerance.

S-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid, is temporarily exempt from the requirement of a tolerance when used as a plant regulator in or on grape in accordance with the Experimental Use Permit 73049–EUP–4. This temporary exemption from tolerance will expire October 1, 2010.

[FR Doc. E8–6404 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 190, 191, 192, 193, 194, 195, and 199

RIN 2137–AE29

[Docket No. PHMSA–2007–0033]

Pipeline Safety: Administrative Procedures, Address Updates, and Technical Amendments

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Interim final rule and request for comments.

SUMMARY: This interim final rule conforms PHMSA's administrative procedures with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act) by establishing the procedures PHMSA will follow in issuing safety orders and handling requests for special permits, including emergency special permits. This interim final rule also notifies operators about electronic docket information availability; updates

addresses, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This interim final rule does not impose any new operating, maintenance, or other substantive requirements on pipeline owners or operators.

DATES: *Effective Date:* This interim final rule is effective April 28, 2008. *Comment date:* Persons interested in submitting written comments on this interim final rule must do so by April 28, 2008. PHMSA will consider late filed comments so far as practicable.

ADDRESSES: Comments should reference Docket No. PHMSA–2007–0033 and may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* DOT Docket Operations Facility (M–30), U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* DOT Docket Operations Facility, U.S. Department of Transportation, West Building, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2007–0033, at the beginning of your comments. If you mail your comments, we request that you send two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. **Note:** All comments are electronically posted without changes or edits, including any personal information provided.

Privacy Act Statement

Anyone can search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: Larry White, PHMSA, Office of Chief Counsel, 202–366–4400, or by e-mail at *lawrence.white@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

This interim final rule conforms PHMSA's administrative procedures with the PIPES Act by outlining the procedures PHMSA will follow in issuing safety orders under 49 U.S.C. 60117(l) and handling requests for special permits, including emergency special permits under 49 U.S.C. 60118(c). This interim final rule also notifies operators about electronic docket information availability; makes minor amendments reflecting the recent relocation of DOT headquarters; updates several Web site addresses, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This interim final rule does not impose any new operating, maintenance or other substantive requirements on pipeline operators. The following is a brief summary of each amendment.

1. Safety Orders

Section 13 of the PIPES Act amended 49 U.S.C. 60117(l) to read as follows:

''(1) In general.—Not later than December 31, 2007, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy that condition.

(2) Considerations.—In making a determination under paragraph (1), the Secretary, if relevant and pursuant to the regulations issued under paragraph (1), shall consider—

(A) The considerations specified in paragraphs (1) through (6) of section 60112(b);

(B) The likelihood that the condition will impair the serviceability of a pipeline;

(C) The likelihood that the condition will worsen over time; and

(D) The likelihood that the condition is present or could develop on other areas of the pipeline.''

The Secretary has delegated to PHMSA all necessary authority to establish and enforce regulations under the pipeline safety laws, including the PIPES Act (49 CFR 1.53). Pursuant to this delegation, PHMSA is prepared to issue safety orders under the procedures and standards prescribed in Section 13 of the PIPES Act and this interim final rule. We will consider initiating safety order proceedings to address identified pipeline integrity risks that may not rise to the level of a hazardous condition requiring immediate corrective action under 49 U.S.C. 60112, but should be addressed over time to protect life, property, or the environment and prevent pipeline failures or conditions that could disrupt energy supplies. In keeping with legislative objectives, we intend to broadly consider all known integrity risks on a given pipeline or pipeline segment, including those related to external or environmental forces. Over time, changes in external factors, such as climate, geology, and land use, may pose direct threats to the integrity of a pipeline warranting additional monitoring and special precautions.

The PIPES Act amended 49 U.S.C. 60117(l) by establishing statutory standards for issuance of a safety order. A safety order must be based on a finding by the Associate Administrator for Pipeline Safety that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment. In making the required finding, the Associate Administrator will consider all relevant information, including the nine considerations expressly enumerated in § 60117(l)(2) (and by cross-reference to § 60112(b)):

- The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;
- The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;
- The characteristics of the geographical areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;
- For hazardous liquid pipelines, the proximity of the area in which the pipeline facility is located to unusually sensitive areas;
- The population density and population and growth patterns of the area in which the pipeline facility is located;
- Any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board;
- The likelihood that the condition will impair the serviceability of the pipeline;
- The likelihood that the condition will worsen over time; and
- The likelihood that the condition is present or could develop on other areas of the pipeline.

The statute also gives PHMSA broad authority to prescribe corrective action based on the nature of the identified risk condition. As provided in section 60117(l)(2), we are authorized to ''order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy th[e] condition.'' For purposes of this interim final rule, we have identified specific measures that may be considered appropriate for inclusion in a safety order. In addition to physical inspection, testing, integrity assessment, and repair, PHMSA will consider ordering an operator to establish procedures for continuous monitoring of pipeline conditions; implement or strengthen its data integration processes; and improve information management systems. Through such measures, the operator would identify and incorporate findings from its continuous evaluation of the pipeline's operations and performance. PHMSA believes this approach is consistent with the language and purpose of the PIPES Act and the clear legislative intent to address problems before they present immediate hazards.

The amendment made by the PIPES Act also requires PHMSA to provide operators with notice and an opportunity for a hearing before issuing a safety order and directs PHMSA to issue applicable procedural regulations. This interim final rule establishes the procedures PHMSA will use to issue safety orders. In general, PHMSA will use its longstanding procedures for administrative enforcement proceedings set forth in 49 CFR part 190. In addition, PHMSA will provide operators with an opportunity for informal consultation in advance of a hearing. PHMSA believes the informal consultation process will benefit the agency, operators, and the public by providing a more streamlined and timely means of achieving safety improvements. The process is summarized as follows: *Notice of Proposed Safety Order.* PHMSA will initiate a safety order proceeding by serving written notice of a proposed safety order in accordance with § 190.5 upon the operator of the identified facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline facility. The notice will also propose testing, integrity assessment, evaluations, repairs, or other corrective action to be taken by the operator and may propose that the operator submit a work plan and schedule to address the condition(s) identified in the notice. The notice will describe the respondent operator's response options, including procedures for requesting informal consultation and hearing. An operator receiving a notice will have 30 days to respond.

Informal consultation. Upon timely request by the operator, PHMSA will provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the operator to explain the circumstances associated with the risk condition(s) alleged in the notice and, as appropriate, to present a proposal for remedial action, without prejudice to the operator's position in any subsequent hearing. If the operator and PHMSA agree within 30 days of informal consultation on a plan for the operator to address each identified risk condition, they may enter into a written consent agreement, and PHMSA will then issue an administrative consent order incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing.

Hearing and final action. An operator receiving a notice of proposed safety order will be granted an administrative hearing upon written request filed within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. The hearing will be conducted informally, without strict adherence to formal rules of evidence before a Presiding Official who has had no significant prior involvement in the case. The respondent may submit any relevant information or materials, call witnesses, and present arguments addressing the proposed safety order. After conclusion of a hearing under this section, based on the record and the recommendation of the Presiding Official, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice, and promptly notify the operator in writing. PHMSA and the operator may enter into a consent agreement at any time before a safety order is issued.

Termination of a safety order. Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will terminate the safety order and notify the operator of such termination. In any case, the Associate Administrator may suspend or terminate a safety order upon a finding that the facility no longer has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

2. Special Permits

Section 10 of the PIPES Act amended 49 U.S.C. 60118(c) to read as follows:

(c) Waivers by Secretary.—

(1) Nonemergency waivers.—

(A) In general.—On application of an operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to such facility on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.

(B) Hearing.—The Secretary may act on a waiver under this paragraph only after notice and an opportunity for a hearing.

(2) Emergency waivers.—

(A) In general.—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that—

(i) It is in the public interest to grant the waiver;

(ii) The waiver is not inconsistent with pipeline safety; and

(iii) The waiver is necessary to address an actual or impending emergency involving pipeline transportation, including an emergency caused by a natural or manmade disaster.

(B) Period of waiver.—A waiver under this paragraph may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) Statement of reasons.—The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.

This amendment granted PHMSA new authority to waive compliance with a pipeline safety regulation on an emergency basis, without the prior notice and hearing required under the agency's general waiver authority.

Special Permit Applications and Procedures. PHMSA now uses the term ''special permits'' to refer to orders granting regulatory waivers. In most cases, such orders impose conditions requiring the special permit holder to perform alternative measures, such as integrity assessment and additional inspections and monitoring, in lieu of the measures otherwise required by the relevant regulation. Therefore, PHMSA believes the term ''special permit'' better reflects the limited and conditional nature of these agency actions.

To clarify the procedures governing special permits, and to establish new procedures for exercise of the agency's emergency authority, this interim final rule adds a new section entitled ''Special permits,'' to our administrative procedures in 49 CFR part 190. This interim final rule outlines the procedures under which pipeline operators (and prospective operators) may request special permits. It specifies the information that must be provided in each application and, in accordance with 49 U.S.C. 60118(c)(1)(B), provides for public notice and comment on applications for nonemergency special permits.

Our procedures for notice and comment in these cases are comparable to those governing the adoption or repeal of regulations: PHMSA ordinarily publishes advance notice in the **Federal Register** of its intent to consider a special permit application; invites written comments on the proposal; and establishes a public docket for submission of all comments. PHMSA also notifies the state pipeline safety program manager or other appropriate authority in each affected state. We address all public comments in our decisions granting or denying special permits and publish all special permits on the PHMSA Web site.

These general procedures govern all nonemergency special permit applications, including those involving proposed new pipelines. In the case of proposed pipelines, however, additional efforts may be warranted to notify affected communities of our proceeding. Because special permits may affect material orders and other investment decisions, and because a planned pipeline route is subject to change during the design and permitting process, a prospective operator may need to seek a special permit in advance of final site selection. In these cases, we will make special efforts to verify that communities likely to be affected have notice of the application and opportunity for comment. PHMSA has no authority over pipeline siting, but we work closely with appropriate authorities and members of the public to address site-specific safety concerns. In the case of proposed interstate natural gas transmission pipelines, PHMSA regularly provides technical assistance on safety issues to the Federal Energy Regulatory Commission (FERC), which has exclusive authority over pipeline siting, including authority to impose site-specific safety controls.

PHMSA inspects new pipelines during construction to verify compliance with our requirements and engages in ongoing oversight of pipeline operations. PHMSA has a longstanding record of issuing corrective action orders to require operators to mitigate imminent hazards and, in accordance with this interim final rule, now is prepared to issue safety orders addressing less urgent risk conditions. On an appropriate record, moreover, PHMSA retains inherent authority to revoke a special permit, or impose additional conditions, in the interests of safety. As explained below, this interim final rule sets forth the procedures and standards that would govern such a determination. Accordingly, although we would not propose to revoke or impose additional conditions on a special permit simply because the pipeline route has changed since issuance, we are prepared to address safety concerns at any time.

This interim final rule also clarifies the relationship between special permits and other administrative orders and sets forth the grounds and procedures under which a special permit may be modified, suspended, or revoked. To protect the integrity of the special permit process, PHMSA reserves the right to revoke, suspend, or modify a special permit at any time if it discovers a material or intentional misrepresentation or omission in the application; material error in the agency's evaluation of the special permit application; or a material change in the circumstances underlying the agency's decision. PHMSA also will monitor the operator's performance and may suspend or revoke a special permit based on the holder's failure to comply with any term or condition of the special permit.

Except as may be warranted in an emergency, PHMSA will take such action only after providing the operator an opportunity to show cause why its special permit should not be revoked, suspended, or modified. This interim final rule also sets forth the administrative procedure for requesting reconsideration of a denial of an application for a special permit or revocation of an existing special permit.

Emergency Special Permits. This interim final rule also outlines the procedures for operators to request emergency special permits. PHMSA has authority to issue an emergency waiver of a pipeline safety regulation without prior notice and comment if necessary to address an emergency involving pipeline transportation. This interim final rule specifies additional information that must be in the application concerning how the applicant is being affected by the emergency. In accordance with the PIPES Act, this rule limits the duration of an emergency special permit to no longer than 60 days unless renewed.

State Waivers for Intrastate Pipelines. This interim final rule maintains the existing role that states participating in the oversight of pipelines pursuant to a certification under 49 U.S.C. 60105 or an agreement under section 60106 have in granting state waivers for intrastate pipelines. The PIPES Act does not alter the requirement that a state pipeline authority give PHMSA 60-day notice of a state waiver. However, if a state notifies PHMSA that it believes the waiver is necessary to respond to an emergency involving an intrastate pipeline subject to state regulation, PHMSA will expedite its review of the state's decision. Because the PIPES Act does not affect the authority of a state to waive the requirements of state law, each state regulator should review its particular state law to determine the extent to which it has the authority to grant emergency waivers of state pipeline requirements.

3. Electronic Docket Information Availability

This interim final rule amends § 190.209 by adding a new paragraph notifying operators that all materials they submit in response to administrative enforcement actions may be placed on publicly accessible Web sites. Pursuant to section 6 of the PIPES Act and in accordance with its commitment to enforcement transparency, PHMSA has established a Web site that makes information and documents associated with an administrative enforcement action available to the public by electronic means. A Respondent that seeks confidential treatment under 5 U.S.C. 552(b) for any portion of its responsive materials must provide a second copy of such materials along with the complete original document. A Respondent may redact the portions it believes qualify for confidential treatment in the second copy but must provide an explanation for each redaction. The interim rule sets forth this procedure, along with other

information concerning the agency's new enforcement transparency Web site. This interim rule also reflects the decommissioning of the Department's electronic docket management system and the recent migration to the government-wide electronic docket system found at regulations.gov and allows electronic service of enforcement documents.

4. Miscellaneous Amendments

On April 20, 2007, PHMSA relocated its headquarters to the new DOT building at 1200 New Jersey Avenue, SE., Washington, DC 20590. Accordingly, this interim final rule amends 49 CFR parts 190, 191, 192, 193, 194, 195, and 199 to reflect the new address. In addition, this rule updates several Web site addresses, telephone numbers, and routing symbols, and clarifies the time period for processing requests for written interpretations of the regulations.

Comments on This Interim Final Rule and Effective Date

This interim final rule conforms agency practice and procedures to current public law and reflects the relocation of PHMSA headquarters. This rule does not impose any new substantive requirements on operators or the public. Accordingly, we have determined that it is unnecessary to precede it with a notice of proposed rulemaking. The Regulatory Policies and Procedures of DOT (44 FR 1134; February 26, 1979) provide that, to the maximum extent possible, DOT operating administrations should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, we encourage persons to participate in this rulemaking by submitting comments containing relevant information, data, or views. We will consider all comments received on or before the closing date for comments. We will consider late filed comments so far as practicable.

Although we may later amend it based on comments received, this interim final rule will go into effect in 30 days. Because the rule conforms agency practice and procedures to reflect current public law and does not impose any new substantive requirements on operators or the public, and because its expeditious issuance facilitates implementation of the PIPES Act, we find that there is good cause under 5 U.S.C. 553(d) to make this rule effective on April 28, 2008.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not considered a significant regulatory action under Section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This interim final rule is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). Because this rule conforms agency practice and procedure to reflect current public law and does not impose any new substantive requirements on operators or the public, it has no significant economic impact on regulated entities, and preparation of a regulatory impact analysis was not warranted.

B. Executive Order 13132

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This rule does not introduce any regulation that: (1) Has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on state and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Further, this rule does not have impacts on federalism sufficient to warrant the preparation of a federalism assessment.

C. Executive Order 13175

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this rule does not significantly or uniquely affect the communities of the Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Executive Order 13211

This interim final rule is not a significant energy action under Executive Order 13211. 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. Further, this rule has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

E. Regulatory Flexibility Act

Because this interim final rule conforms 49 CFR part 190 to the PIPES Act, updates the part 190 procedures to reflect current public law, and reflects the relocation of PHMSA headquarters, and will have no direct or indirect economic impacts for government units, businesses, or other organizations, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

F. Paperwork Reduction Act

This interim final rule contains no new information collection requirements and imposes no additional paperwork burdens. Therefore, submitting an analysis of the burdens to OMB pursuant to the Paperwork Reduction Act was unnecessary.

G. Unfunded Mandates Reform Act

This interim final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more, as adjusted for inflation, to either state, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

H. Environmental Assessment

Because this interim final rule conforms agency practice and procedure to reflect current public law and does not impose any new substantive requirements on operators or the public, there are no significant environmental impacts associated with this rule.

List of Subjects 49 CFR Part 190

Administrative practice and procedure; Penalties.

■ For the reasons discussed in the preamble, PHMSA is amending 49 CFR parts 190, 191, 192, 193, 194, 195, and 199 as follows:

PART 190—PIPELINE SAFETY PROGRAMS AND RULEMAKING PROCEDURES

■ 1. The authority citation for part 190 continues to read as follows:

Authority: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 et seq.; 49 CFR 1.53.

■ 2. In 49 CFR part 190, remove the words ''400 7th Street, SW'' and add, in their place, the words ''1200 New Jersey Avenue, SE'' in the following places:

■ a. Section 190.9(b)(1)(ii) and (b)(2);

■ b. Section 190.11(b)(1) and (b)(2);

■ c. Section 190.305 (a) and (b); and

■ d. Section 190.309

■ 3. Section 190.5 is amended by revising paragraphs (a) and (c) to read as follows:

§ 190.5 Service.

(a) Each order, notice, or other document required to be served under this part shall be served personally, by registered or certified mail, overnight courier, or electronic transmission by facsimile or other electronic means that includes reliable acknowledgement of actual receipt.

* * * * *

(c) Service by registered or certified mail or overnight courier is complete upon mailing. Service by electronic transmission is complete upon transmission and acknowledgement of receipt. An official receipt for the mailing from the U.S. Postal Service or overnight courier, or a facsimile or other electronic transmission confirmation, constitutes prima facie evidence of service.

§ 190.11 [Amended]

■ 4. Section 190.11 is amended as follows:

■ A. The last sentence of § 190.11(a) is amended by removing the telephone number ''(202) 366–0918'' and adding in its place the number ''(202) 366–4595''.

■ B. The first sentence of § 190.11(b)(1) is amended by removing the routing symbol ''(DPS–10)'' and adding in its place ''(PHP–30)''.

■ C. Section 190.11(b)(1) is further amended by adding a new sentence at the end to read as follows: ''Written requests should be submitted at least 120 days before the time the requestor needs the response.''

■ 5–7. Section 190.209 is amended by adding a new paragraph (d) to read as follows:

§ 190.209 Response options.

* * * * *

(d) All materials submitted by operators in response to enforcement actions may be placed on publicly accessible Web sites. A Respondent that seeks confidential treatment under 5 U.S.C. 552(b) for any portion of its responsive materials must provide a second copy of such materials along with the complete original document. A Respondent may redact the portions it believes qualify for confidential treatment in the second copy but must provide an explanation for each redaction.

§ 190.227 [Amended]

■ 8. Section 190.227(a) is amended by removing the routing symbol ''(AMZ–120)'' and adding in its place ''(AMZ–341)''.

■ 9. Section 190.239 is added to read as follows:

§ 190.239 Safety orders.

(a) When may PHMSA issue a safety order? If the Associate Administrator, OPS finds, after notice and an opportunity for hearing under paragraph (b) of this section, that a particular pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue an order requiring the operator of the facility to take necessary corrective action. Such action may include physical inspection, testing, repair, risk assessment, risk control, data integration, information management, or other appropriate action to remedy the identified risk condition.

(b) How is an operator notified of the proposed issuance of a safety order and what are its response options? (1) *Notice of proposed safety order.* PHMSA will serve written notice of a proposed safety order under § 190.5 to an operator of the pipeline facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline or portion thereof. The notice will also specify proposed testing, evaluations, integrity assessment, or other actions to be taken by the operator and may propose that the operator submit a work plan and schedule to address the conditions identified in the notice. The notice will also provide the operator with its response options, including procedures for requesting informal consultation and a hearing. An operator receiving a notice will have 30 days to respond.

(2) *Informal consultation.* Upon timely request by the operator, PHMSA will provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the respondent to explain the circumstances associated with the risk condition(s) identified in the notice and, where appropriate, to present a proposal for corrective action, without prejudice to the operator's position in any subsequent hearing. If the respondent and PHMSA agree within 30 days of the informal consultation on a plan for the operator to address each risk condition, they may enter into a written consent agreement and PHMSA may issue a consent order incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached within 30 days of the informal consultation (or if informal consultation is not requested), the Associate Administrator may proceed under paragraphs (b)(3) through (5) of this section. If PHMSA subsequently determines that an operator has failed to comply with the terms of a consent order, PHMSA may obtain any administrative or judicial remedies available under 49 U.S.C. 60101 *et seq.* and this part. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing. Nothing in this paragraph (b) precludes PHMSA from terminating the informal consultation process if it has reason to believe that the operator is not engaging in good faith discussions or otherwise concludes that further consultation would not be productive or in the public interest.

(3) *Hearing.* An operator receiving a notice of proposed safety order may contest the notice, or any portion thereof, by filing a written request for a hearing within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. In the absence of a timely request for a hearing, the Associate Administrator may issue a safety order in the form of the proposed order in accordance with paragraphs (c) through (g) of this section.

(4) *Conduct of hearing.* An attorney from the Office of Chief Counsel, PHMSA, will serve as the Presiding Official in a hearing under this section. The hearing will be conducted informally, without strict adherence to formal rules of evidence in accordance with § 190.211. The respondent may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether a safety order should be issued to address the alleged presence of a condition that poses a pipeline integrity risk to public safety, property, or the environment.

(5) *Post-hearing action.* Following a hearing under this section, the Presiding Official will submit a recommendation to the Associate Administrator concerning issuance of a final safety order. Upon receipt of the recommendation, the Associate Administrator may proceed under paragraphs (c) through (g) of this

section. If the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator will issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice and promptly notify the operator in writing by service as prescribed in § 190.5. Nothing in this subsection precludes PHMSA and the operator from entering into a consent agreement at any time before a safety order is issued.

(6) *Termination of safety order.* Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will notify the operator that the safety order has been lifted. The Associate Administrator shall suspend or terminate a safety order whenever the Associate Administrator determines that the pipeline facility no longer has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

(c) How is the determination made that a pipeline facility has a condition that poses an integrity risk? The Associate Administrator, OPS may find a pipeline facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator determines the particular facility has such a condition; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique with a history of being susceptible to failure when used in pipeline service, unless the operator involved demonstrates that such equipment, material, or technique is not susceptible to failure given the manner it is being used for a particular facility.

(d) What factors must PHMSA consider in making a determination that a risk condition is present? In making a determination under paragraph (c) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas where the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;

(4) For hazardous liquid pipelines, the proximity of the pipeline to an unusually sensitive area;

(5) The population density and growth patterns of the area in which the pipeline facility is located;

(6) Any relevant recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board;

(7) The likelihood that the condition will impair the serviceability of the pipeline;

(8) The likelihood that the condition will worsen over time; and

(9) The likelihood that the condition is present or could develop on other areas of the pipeline.

(e) What information will be included in a safety order? A safety order shall contain the following:

(1) A finding that the pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment;

(2) The relevant facts which form the basis of that finding;

(3) The legal basis for the order;

(4) The nature and description of any particular corrective actions to be required of the operator; and

(5) The date(s) by which the required corrective actions must be taken or completed and, where appropriate, the duration of the order.

(f) Can PHMSA take other enforcement actions on the affected facilities? Nothing in this section precludes PHMSA from issuing a Notice of Probable Violation under § 190.207 or taking other enforcement action if noncompliance is identified at the facilities that are the subject of a safety order proceeding.

■ 10. Section 190.305(b) is revised to read as follows:

§ 190.305 Regulatory dockets.

* * * * *

(b) Once a public docket is established, docketed material may be accessed at *http://www.regulations.gov*. Public comments also may be submitted at *http://www.regulations.gov*. Comment submissions must identify the docket number. You may also examine public docket material at the offices of the Docket Operations Facility (M–30), U.S. Department of Transportation, West Building, First Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may obtain a copy during normal business hours, excluding Federal holidays, for a fee, with the exception of material which the Administrator of PHMSA determines should be withheld from public disclosure under 5 U.S.C. 552(b) or any other applicable statutory provision.

■ 11. Section 190.341 is added to read as follows:

§ 190.341 Special permits.

(a) What is a special permit? A special permit is an order by which PHMSA waives compliance with one or more of the Federal pipeline safety regulations under the standards set forth in 49 U.S.C. 60118(c) and subject to conditions set forth in the order. A special permit is issued to a pipeline operator (or prospective operator) for specified facilities that are or, absent waiver, would be subject to the regulation.

(b) How do I apply for a special permit? Applications for special permits must be submitted at least 120 days before the requested effective date using any of the following methods:

(1) Direct fax to PHMSA at: 202–366–4566; or

(2) Mail, express mail, or overnight courier to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590.

(c) What information must be contained in the application? Applications must contain the following information:

(1) The name, mailing address, and telephone number of the applicant and whether the applicant is an operator;

(2) A detailed description of the pipeline facilities for which the special permit is sought, including:

(i) The beginning and ending points of the pipeline mileage to be covered and the Counties and States in which it is located;

(ii) Whether the pipeline is interstate or intrastate and a general description of the right-of-way including proximity of the affected segments to populated areas and unusually sensitive areas;

(iii) Relevant pipeline design and construction information including the year of installation, the material, grade,

diameter, wall thickness, and coating type; and

(iv) Relevant operating information including operating pressure, leak history, and most recent testing or assessment results;

(3) A list of the specific regulation(s) from which the applicant seeks relief;

(4) An explanation of the unique circumstances that the applicant believes make the applicability of that regulation or standard (or portion thereof) unnecessary or inappropriate for its facility;

(5) A description of any measures or activities the applicant proposes to undertake as an alternative to compliance with the relevant regulation, including an explanation of how such measures will mitigate any safety or environmental risks;

(6) A description of any positive or negative impacts on affected stakeholders and a statement indicating how operating the pipeline pursuant to a special permit would be in the public interest;

(7) A certification that operation of the applicant's pipeline under the requested special permit would not be inconsistent with pipeline safety; and

(8) If the application is for a renewal of a previously granted waiver or special permit, a copy of the original grant of the waiver or permit.

(d) How does PHMSA handle special permit applications? (1) *Public notice.* Upon receipt of an application for a special permit, PHMSA will provide notice to the public of its intent to consider the application and invite comment. In addition, PHMSA may consult with other Federal agencies before granting or denying an application on matters that PHMSA believes may have significance for proceedings under their areas of responsibility.

(2) *Grants and denials.* If the Associate Administrator determines that the application complies with the requirements of this section and that the waiver of the relevant regulation or standard is not inconsistent with pipeline safety, the Associate Administrator may grant the application, in whole or in part, on a temporary or permanent basis. Conditions may be imposed on the grant if the Associate Administrator concludes they are necessary to assure safety, environmental protection, or are otherwise in the public interest. If the Associate Administrator determines that the application does not comply with the requirements of this section or that a waiver is not justified, the application will be denied. Whenever the Associate Administrator grants or denies an application, notice of the decision will be provided to the applicant. PHMSA will post all special permits on its Web site at *http://www.phmsa.dot.gov/*.

(e) Can a special permit be requested on an emergency basis? Yes. PHMSA may grant an application for an emergency special permit without notice and comment or hearing if the Associate Administrator determines that such action is in the public interest, is not inconsistent with pipeline safety, and is necessary to address an actual or impending emergency involving pipeline transportation. For purposes of this section, an emergency event may be local, regional, or national in scope and includes significant fuel supply disruptions and natural or manmade disasters such as hurricanes, floods, earthquakes, terrorist acts, biological outbreaks, releases of dangerous radiological, chemical, or biological materials, war-related activities, or other similar events. PHMSA will determine on a case-by-case basis what duration is necessary to address the emergency. However, as required by statute, no emergency special permit may be issued for a period of more than 60 days. Each emergency special permit will automatically expire on the date specified in the permit. Emergency special permits may be renewed upon application to PHMSA only after notice and opportunity for a hearing on the renewal.

(f) How do I apply for an emergency special permit? Applications for emergency special permits may be submitted to PHMSA using any of the following methods:

(1) Direct fax to the Crisis Management Center at: 202–366–3768;

(2) Direct e-mail to PHMSA at: *phmsa.pipeline-emergencyspecpermit@dot.gov*; or

(3) Express mail/overnight courier to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590.

(g) What must be contained in an application for an emergency special permit? In addition to the information required under paragraph (c) of this section, applications for emergency special permits must include:

(1) An explanation of the actual or impending emergency and how the applicant is affected;

(2) A citation of the regulations that are implicated and the specific reasons the permit is necessary to address the emergency (e.g., lack of accessibility, damaged equipment, insufficient manpower);

(3) A statement indicating how operating the pipeline pursuant to an emergency special permit is in the public interest (e.g., continuity of service, service restoration);

(4) A description of any proposed alternatives to compliance with the regulation (e.g., additional inspections and tests, shortened reassessment intervals); and

(5) A description of any measures to be taken after the emergency situation or permit expires—whichever comes first—to confirm long-term operational reliability of the pipeline facility.

Note to paragraph (g): If PHMSA determines that handling of the application on an emergency basis is not warranted, PHMSA will notify the applicant and process the application under normal special permit procedures of this section.

(h) In what circumstances will PHMSA revoke, suspend, or modify a special permit?

(1) PHMSA may revoke, suspend, or modify a special permit on a finding that:

(i) Intervening changes in Federal law mandate revocation, suspension, or modification of the special permit;

(ii) Based on a material change in conditions or circumstances, continued adherence to the terms of the special permit would be inconsistent with safety;

(iii) The application contained inaccurate or incomplete information, and the special permit would not have been granted had the application been accurate and complete;

(iv) The application contained deliberately inaccurate or incomplete information; or

(v) The holder has failed to comply with any term or condition of the special permit.

(2) Except as provided in paragraph (h)(3) of this section, before a special permit is modified, suspended or revoked, PHMSA will notify the holder in writing of the proposed action and the reasons for it, and provide an opportunity to show cause why the proposed action should not be taken.

(i) The holder may file a written response that shows cause why the proposed action should not be taken within 30 days of receipt of notice of the proposed action.

(ii) After considering the holder's written response, or after 30 days have passed without response since receipt of the notice, PHMSA will notify the holder in writing of the final decision with a brief statement of reasons.

(3) If necessary to avoid a risk of significant harm to persons, property, or the environment, PHMSA may in the

notification declare the proposed action immediately effective.

(4) Unless otherwise specified, the terms and conditions of a corrective action order, compliance order, or other order applicable to a pipeline facility covered by a special permit will take precedence over the terms of the special permit.

(5) A special permit holder may seek reconsideration of a decision under paragraph (h) of this section as provided in paragraph (i) of this section.

(i) Can a denial of a request for a special permit or a revocation of an existing special permit be appealed? Reconsideration of the denial of an application for a special permit or a revocation of an existing special permit may be sought by petition to the Associate Administrator. Petitions for reconsideration must be received by PHMSA within 20 calendar days of the notice of the grant or denial and must contain a brief statement of the issue and an explanation of why the petitioner believes that the decision being appealed is not in the public interest. The Associate Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Associate Administrator's decision is the final administrative action.

(j) Are documents related to an application for a special permit available for public inspection? Documents related to an application, including the application itself, are available for public inspection on regulations.gov or the Docket Operations Facility to the extent such documents do not include information exempt from public disclosure under 5 U.S.C. 552(b). Applicants may request confidential treatment under part 7 of this title.

PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS

■ 12. The authority citation for part 191 continues to read as follows:

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

§ 191.7 [Amended]

■ 13. The first sentence of § 191.7 is amended by removing the words ''the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW.,'' and adding in their place the words ''Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, PHP–10, 1200 New Jersey Avenue SE,''.

§ 191.27 [Amended]

■ 14. Section § 191.27(b) is amended by removing the words ''the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW.,'' and adding in its place ''Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP–10, 1200 New Jersey Avenue SE.''

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 15. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, and 60118; and 49 CFR 1.53.

§ 192.7 [Amended]

■ 16. The first sentence of § 192.7(b) is amended by removing the words ''400 Seventh Street, SW.'' and adding in their place the words ''1200 New Jersey Avenue, SE.''

§ 192.727 [Amended]

■ 17. The seventh sentence of § 192.727(g)(1) is amended by removing the words ''Room 2103, 400 Seventh Street, SW., Washington, DC 20590; fax (202) 366–4566; e-mail, *roger.little@dot.gov*.'' and adding in their place the words ''PHP–10, 1200 New Jersey Avenue, SE., Washington, DC 20590; fax (202) 366–4566; e-mail *InformationResourcesManager@phmsa.dot.gov*.''

§ 192.949 [Amended]

■ 18. Section 192.949(a) is amended by removing the words ''Room 2103, 400 Seventh Street, SW.'' and adding in their place the words ''PHP–10, 1200 New Jersey Avenue, SE.''

§ 192.951 [Amended]

■ 19. Section 192.951(a) is amended by removing the words ''Room 2103, 400 Seventh Street, SW.'' and adding in their place the words ''PHP–10, 1200 New Jersey Avenue, SE.''

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

■ 20. The authority citation for part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

§ 193.2013 [Amended]

■ 21. Section § 193.2013(b) is amended by removing the words ''400 Seventh Street, SW.'' and adding in their place the words ''PHP–30, 1200 New Jersey Avenue, SE.''

PART 194—RESPONSE PLANS FOR ONSHORE OIL PIPELINES

■ 22. The authority citation for part 194 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.53.

§ 194.119 [Amended]

■ 23. The second sentence of § 194.119(a) is amended by removing the words ''Pipeline Response Plans Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW'' and adding in their place the words ''Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP 80, 1200 New Jersey Avenue, SE''.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 24. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

§ 195.3 [Amended]

■ 25. Section 195.3(b) is amended by removing the words ''400 Seventh Street, SW.'' and adding in their place the words ''1200 New Jersey Avenue, SE,''

§ 195.57 [Amended]

■ 26. Section § 195.57(b), is amended by removing the words ''Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW'' and adding in their place the words ''Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP–10, 1200 New Jersey Avenue, SE.''

§ 195.59 [Amended]

■ 27. Section 195.59(a) is amended by removing the words ''Room 2103, 400 Seventh Street, SW., Washington, DC 20590; fax (202) 366–4566; e-mail, *roger.little@dot.gov*'', and adding in their place the words ''PHP–10, 1200

New Jersey Avenue, SE., Washington, DC 20590; fax (202) 366–4566; e-mail, ''*InformationResourcesManager@phmsa.dot.gov*''.

§ 195.452 [Amended]

■ 28. Section 195.452(m) is amended by removing the words, ''Room 7128, 400 Seventh Street SW.'' and adding in their place the words ''1200 New Jersey Avenue, SE.''

PART 199—DRUG AND ALCOHOL TESTING

■ 29. The authority citation for part 199 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

■ 30. In 49 CFR part 199, remove the words ''Room 7128, 400 Seventh Street, SW.'' and add in their place the words ''PHP–60, 1200 New Jersey Avenue, SE'' in the following places:
■ a. Section 199.119(b); and
■ b. Section 199.229(c).

Issued in Washington, DC on March 18, 2008.

Carl T. Johnson,

Administrator.

[FR Doc. E8–5926 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 060525140–6221–02]

RIN 0648–XG34

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper/Grouper Resources of the South Atlantic; Trip Limit Reduction

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, April 6, 2008, through December 31, 2008, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone 727–824–5305, fax 727–824–5308, e-mail *susan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Resources of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish from 4,000 lb (1,814 kg) to 300 lb (136 kg) per trip when 75 percent of the fishing year quota is met, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before April 6, 2008. Accordingly, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, on April 6, 2008, until the quota is reached and the fishery closes or 12:01 a.m., local time, on January 1, 2009, whichever occurs first.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest, because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

NMFS also finds good cause that the implementation of this action cannot be delayed for 30 days. There is a need to implement this measure immediately to prevent an overrun of the commercial fishery for golden tilefish in the South Atlantic, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be contrary to the Magnuson-Stevens Act and the FMP. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: March 24, 2008.

Alan D. Risenhoover

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

[FR Doc. E8–6434 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071004577–8124–02]

RIN 0648–AW13

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Total Allowable Catches for Eastern Georges Bank Cod, Eastern Georges Bank Haddock, and Georges Bank Yellowtail Flounder in the U.S./Canada Management Area for Fishing Year 2008

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

ACTION: Temporary rule; specifications.

SUMMARY: The following Total Allowable Catches (TACs) in the U.S./Canada Management Area are implemented for the 2008 fishing year (FY): 667 mt of Eastern Georges Bank (GB) cod, 8,050 mt of Eastern GB haddock, and 1,950 mt of GB yellowtail flounder. These TACs may be adjusted during FY 2008, if NMFS determines that the harvest of these stocks in FY 2007 exceeded the TACs specified for FY 2007. Further, NMFS is postponing the FY 2008 opening of the Eastern U.S./Canada Area until August 1, 2008, for trawl vessels. Longline gear vessels are allowed to fish in the Eastern U.S./Canada Area during the May through July 2008 period with a cap on the amount of cod caught during this period set at 5 percent of the cod TAC (i.e., 33.4 mt). The intent of this action is to provide for the conservation and management of the three shared stocks of fish, as required by the regulations implementing the Northeast Multispecies Fishery Management Plan.

DATES: This rule is effective May 1, 2008, through April 30, 2009.

ADDRESSES: Copies of the Transboundary Management Guidance Committee's (TMGC's) 2007 Guidance

Document and copies of the Environmental Assessment (EA) of the 2008 TACs (including the Regulatory Impact Review and Final Regulatory Flexibility Analysis (FRFA) may be obtained from NMFS at the mailing address specified above; telephone (978) 281–9315. NMFS prepared a summary of the FRFA, which is contained in the Classification section of this final rule.

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

SUPPLEMENTARY INFORMATION: A proposed rule for this action was published on January 3, 2008 (73 FR 441), with public comment accepted though February 4, 2008. A detailed description of the administrative process used to develop the TACs was contained in the preamble of the proposed rule and is not repeated here. The 2008 TACs are based upon the most recent stock assessments (Transboundary Resource Assessment Committee (TRAC) Status Reports for 2007), and the fishing mortality strategy shared by both the United States and Canada. For Eastern GB cod, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2008 is 2,300 mt. The United States is entitled to 29 percent and Canada to 71 percent, resulting in a quota of 667 mt of cod for the United States and 1,633 mt of cod for Canada. For Eastern GB haddock, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2008 is 23,000 mt. The United States is entitled to 35 percent and Canada to 65 percent, resulting in a quota of 8,050 mt of haddock for the United States and 14,950 mt of haddock for Canada. For GB yellowtail flounder, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2008 is 2,500 mt. The United States is entitled to 78 percent and Canada to 22 percent, resulting in a quota of 1,950 mt of yellowtail flounder for the United States and 550 mt of yellowtail flounder for Canada. On September 18, 2007, the New England Fishery Management Council (Council) approved, consistent with the 2007 Guidance Document, the U.S. TACs recommended by the TMGC and recommended their adoption to NMFS. The 2008 TACs represent increases over the 2007 TAC levels (Tables 1 and 2).

TABLE 1: 2008 U.S./CANADA TACS (MT) AND PERCENTAGE SHARES (IN PARENTHESES)

	GB Cod	GB Haddock	GB Yellowtail flounder
Total Shared TAC	2,300	23,000	2,500
U.S. TAC	667 (29)	8,050 (35)	1,950 (78)
Canada TAC	1,633 (71)	14,950 (65)	550 (22)

TABLE 2: 2007 U.S./CANADA TACS (MT) AND PERCENTAGE SHARES (IN PARENTHESES)

	GB Cod	GB Haddock	GB Yellowtail flounder
Total Shared TAC	1,900	19,000	1,250
U.S. TAC	494 (26)	6,270 (33)	900 (72)
Canada TAC	1,406 (74)	12,730 (67)	350 (28)

The regulations for the U.S./Canada Management Understanding, implemented by Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP), at § 648.85(a)(2)(ii), state the following: ''Any overages of the GB cod, haddock, or yellowtail flounder TACs that occur in a given fishing year will be subtracted from the respective TAC in the following fishing year.'' Therefore, should an analysis of the catch of the shared stocks by U.S. vessels indicate that an overage occurred during FY 2007, the pertinent TAC will be adjusted downward in order to be consistent with the FMP and the Understanding. Although it is very unlikely, it is possible that a very large overage could result in an adjusted TAC of zero. If an adjustment to one of the 2008 TACs for cod, haddock, or yellowtail flounder is necessary, the public will be notified through publication in the **Federal Register** and through a letter to permit holders.

On November 7, 2007, the Council voted to postpone the FY 2008 opening of the Eastern U.S./Canada Area for vessels fishing with trawl gear (from May 1, 2008) until August 1, 2008, and allow vessels fishing with more selective longline gear access during the May through July period, provided such vessels are limited to a cod catch of 5 percent of the cod TAC (i.e., 33.4 mt). The goal of the restriction, which is more fully described in the proposed rule, is to prolong access to the Eastern U.S./Canada Area in order to maximize the catch of available haddock, yellowtail flounder, and other species. The objective of the action is to prevent trawl fishing in the Eastern U.S./Canada Area during the time period when cod bycatch is likely to be very high, and prevent early closure of the Eastern U.S./Canada Area.

Therefore, based upon pertinent information on the catch rate of cod in the Eastern U.S./Canada Area, the Regional Administrator is implementing (under existing authority for in- season management) the Council's recommendation to delay access to the Eastern U.S./Canada Area to trawl gear vessels in FY 2008 to August 1, 2008, in order to maximize total fishing opportunity. If NMFS projects that 33.4 mt of GB cod will be caught by longline vessels from the Eastern U.S./Canada Area prior to August 1, 2008, it will close the Eastern Area to such vessels until August 1.

Comments and Responses

One pertinent comment was received on the proposed rule from the Cape Cod Commercial Hook Fisherman's Association.

Comment: The commenter expressed support for the delayed opening of the Eastern U.S./Canada Area to trawl vessels.

Response: NMFS agrees with the commenter that delayed opening of the Eastern U.S./Canada Area will reduce bycatch of cod and result in increased catch of haddock and other species.

Classification

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

This temporary rule is published pursuant to 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a FRFA, which incorporates the IRFA and this final rule, and describes the economic impact that this action may have on small entities. No comments on the economic impacts of the TACs were received.

The specification of hard TACs for the U.S./Canada shared stocks of Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder is necessary in order to ensure that the fishing mortality levels for these shared stocks are achieved in the U.S./Canada Management Area (the geographic area on GB defined to facilitate management of stocks of cod, haddock, and yellowtail flounder that are shared with Canada). A full description of the objectives and legal basis for the TACs is contained in the preamble of the proposed rule. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Under the Small Business Administration (SBA) size standards for small fishing entities ($ 4.0 million in annual revenue), all permitted and participating vessels in the groundfish fishery are considered to be small entities and, therefore, there are no differential impacts between large and small entities. Gross sales by any one entity (vessel) do not exceed this threshold. The maximum number of small entities that could be affected by the proposed TACs is approximately 1,000 vessels, i.e., those with limited access NE multispecies days-at-sea (DAS) permits that have an allocation of Category A or B DAS. Realistically, however, the number of vessels that choose to fish in the U.S./Canada Management Area, and that therefore would be subject to the associated restrictions, including hard TACs, will be substantially less. The average number of vessels that fished in the U.S./Canada Management Area in a fishing year in the past was 169 (FY 2004 - 2006).

During FYs 2004 through 2006, the number of vessels fishing in the U.S./Canada Management Area ranged from 161 to 184. Because the regulatory regime in FY 2008 will be similar to that in place in the past, and based on data from FY 2007, it is likely that the number of vessels that choose to fish in the U.S./Canada Management Area during FY 2008 will be similar to the past. The economic impacts of the proposed TACs are difficult to predict due to numerous factors that affect the amount of catch, as well as the price of the fish. In general, the rate at which cod is caught in the Eastern U.S./Canada Area, and the rate at which yellowtail flounder is caught in the Eastern and Western U.S./Canada Area, will determine the length of time the Eastern U.S./Canada Area will remain open. The length of time the Eastern U.S./Canada Area is open will determine the amount of haddock that is caught. During FYs 2004, 2005, and 2006, the TACs were not fully utilized, and inseason changes to the regulations impacted the fishery. The delayed opening of the Eastern U.S./Canada Area in FY 2008 for vessels fishing with trawl gear could result in an increase in total fishing opportunity, and increased revenues.

The amount of GB cod, haddock, and yellowtail flounder landed and sold will not be equal to the sum of the TACs, but will be reduced as a result of discards (discards are counted against the hard TAC), and may be further reduced by limitations on access to stocks that may result from the associated rules. Reductions to the value of the fish may result from fishing derby behavior and the potential impact on markets. The overall economic impact of the proposed 2008 U.S./Canada TACs will also likely be more positive than the economic impacts of the 2007 TACs due to increased TACs for cod, haddock, and yellowtail flounder, that will likely result in increased revenue. For example, based on estimates in the EA, revenues from cod caught in the Eastern U.S./Canada Area could increase by approximately $786,000, and haddock revenue could increase by $1,069,000.

Revenue associated with cod, haddock, and yellowtail flounder represented about 2 percent, 4 percent, and 10 percent, respectively, of the total revenue from trips to the U.S./Canada Management Area in FY 2006. Examples of other valuable species caught are winter flounder, witch flounder, and monkfish. If the larger FY 2008 GB cod TAC and the delayed opening of the Eastern U.S./Canada Area to trawl vessels result in a longer period of time that the Eastern U.S./Canada Area is open, and therefore maximizes the catch of the available TACs, it may result in additional revenue from all species.

A downward adjustment to the TACs specified for FY 2008 could occur after the start of the fishing year, if it is determined that the U.S. catch of one or more of the shared stocks during the FY 2007 exceeded the relevant TACs specified for FY 2007. Based on information to date, it is possible that the catch of GB yellowtail flounder in FY 2007 may slightly exceed the FY 2007 TAC, due to discards, and an adjustment may be necessary. However, due to the increased size of all three TACs for the shared stocks for FY 2008, and the likelihood that any adjustment would be small, the economic effects of a downward TAC adjustment would be relatively small.

Three alternatives were considered for FY 2008: The proposed TACs, the status quo TACs, and the no action alternative. No additional set of TACs are proposed because the process involving the TMGC and the Council yields only one proposed set of TACs. Accordingly, NMFS chooses to either accept or reject the recommendation of the Council. The proposed TACs would have a more positive economic impact than the status quo TACs. Adoption of the status quo TACs would not be consistent with the FMP because the status quo TACs are not based on the best available scientific information from the most recent TRAC. Although the no action alternative (no TACs) would not constrain catch in the U.S./Canada Management Area, and therefore would likely provide some additional fishing opportunity, the no action alternative is not a reasonable alternative because it is inconsistent with the FMP in both the short and long term, and result in the reduced probability in timely stock rebuilding. The FMP requires specification of hard TACs in order to limit catch of shared stocks to the appropriate level (i.e., consistent with the Understanding and the FMP). As such, the no action alternative would likely provide less economic benefits to the industry in the long term than the proposed alternative.

The proposed TACs do not modify any collection of information, reporting, or recordkeeping requirements. The proposed TACs do not duplicate, overlap, or conflict with any other Federal rules.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office, and the guide, i.e., permit holder letter, will be sent to all holders of limited access DAS permits for the NE multispecies fishery. The guide and this final rule will be posted on the NMFS NE Regional Office web site at http://www.nero.noaa.gov and will also be available upon request.

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

Dated: March 24, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E8–6442 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 61
Friday, March 28, 2008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0361; Directorate Identifier 2007–NM–279–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

> A few hydraulic system tube clamps located inside the wing fuel tanks were found damaged. Further analysis has shown that damage to multiple clamps may cause sparks inside the tanks, which in turn may lead to ignition of flammable vapors inside the fuel tanks.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 28, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2008–0361; Directorate Identifier 2007–NM–279–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2007–04–01R1 and 2007–04–02R1 (including Erratum, effective December 21, 2007), both effective December 21, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> A few hydraulic system tube clamps located inside the wing fuel tanks were found damaged. Further analysis has shown that damage to multiple clamps may cause sparks inside the tanks, which in turn may lead to ignition of flammable vapors inside the fuel tanks.

Corrective action includes replacing tube attachment clamps having certain part numbers with new tube attachment clamps. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Embraer has issued Service Bulletins 170–29–0006 and 190–29–0003, both dated October 4, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 88 products of U.S. registry. We also estimate that it would take about 18 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $269 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be about $150,392, or about $1,709 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2008–0361; Directorate Identifier 2007–NM–279–AD.

Comments Due Date

(a) We must receive comments by April 28, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Embraer Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes; as identified in Embraer Service Bulletin 170–29–0006, dated October 4, 2006; and Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes; as identified in Embraer Service Bulletin 190–29–0003, dated October 4, 2006; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 29: Hydraulic Power.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

A few hydraulic system tube clamps located inside the wing fuel tanks were found damaged. Further analysis has shown that damage to multiple clamps may cause sparks inside the tanks, which in turn may lead to ignition of flammable vapors inside the fuel tanks.

Corrective action includes replacing tube attachment clamps having certain part numbers with new tube attachment clamps.

Actions and Compliance

(f) Within 8,000 flight hours after the effective date of this AD, unless already done, replace the clamps which attach the hydraulic tubes inside the wing fuel tanks with new clamps, as specified in paragraph (f)(1) or (f)(2) of this AD, as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 170–29–0006 or 190–29–0003; both dated October 4, 2006; as applicable.

(1) For Model ERJ 170 airplanes: Replace any clamp having part number (P/N) PE27019RF4E with a new clamp having P/N PE27019FS4E; and any clamp having P/N PE27019RF8E with a new clamp having P/N PE27019FS8E.

(2) For Model ERJ 190 airplanes: Replace any clamp having P/N PE27019RF4E with a new clamp having P/N PE27019FS4E; and any clamp having P/N PE27019RF6E with a new clamp having P/N PE27019FS6E.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows. No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2007–04–01R1 and 2007–04–02R1 (including Erratum, effective December 21, 2007), both effective December 21, 2007; and Embraer Service Bulletins 170–29–0006 and 190–29–0003; both dated October 4, 2006; for related information.

Issued in Renton, Washington, on March 3, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–6304 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0360; Directorate Identifier 2007–NM–368–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Several production aircraft have been found with the elevator overload bungees installed in reverse orientation: i.e., larger end outboard rather than inboard. This bungee reversal does not impact normal operation of the elevator, and would not increase the probability of an elevator disconnect. However, if a bungee became disconnected at the inboard side, the corresponding side of the elevator may not center, and this could adversely affect the pitch control of the aircraft.

Loss of elevator pitch control could result in reduced controllability of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 28, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Fabio Buttitta, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7303; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2008–0360; Directorate Identifier 2007–NM–368–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–30, dated November 28, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Several production aircraft have been found with the elevator overload bungees installed in reverse orientation: i.e., larger end outboard rather than inboard. This bungee reversal does not impact normal operation of the elevator, and would not increase the probability of an elevator disconnect. However, if a bungee became disconnected at the inboard side, the corresponding side of the elevator may not center, and this could adversely affect the pitch control of the aircraft.

Loss of elevator pitch control could result in reduced controllability of the airplane. Corrective action includes a visual inspection for correct installation of the elevator overload bungees, reinstallation if necessary, and installation of labels to the elevator overload bungees. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Service Bulletins 84–27–27, dated May 24, 2005; and 84–27–30, Revision 'C' dated October 31, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 38 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to

comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $36 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $4,408, or $116 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2008–0360; Directorate Identifier 2007–NM–368–AD.

Comments Due Date

(a) We must receive comments by April 28, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes; certificated in any category; having serial numbers 4003 and subsequent.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Several production aircraft have been found with the elevator overload bungees installed in reverse orientation: i.e., larger end outboard rather than inboard. This bungee reversal does not impact normal operation of the elevator, and would not increase the probability of an elevator disconnect. However, if a bungee became disconnected at the inboard side, the corresponding side of the elevator may not center, and this could adversely affect the pitch control of the aircraft.

Loss of elevator pitch control could result in reduced controllability of the airplane. Corrective action includes a visual inspection for correct installation of the elevator overload bungees, reinstallation if necessary, and installation of labels to the elevator overload bungees.

Actions and Compliance

(f) For airplanes having serial numbers 4003, 4004, 4006, and 4008 through 4159: unless already done, do the following actions.

(1) Within 5,000 flight hours after the effective date of this AD: Visually inspect both left and right elevator overload bungees, part number (P/N) FE289000000, to determine if they are correctly installed, in accordance with Bombardier Service Bulletin 84–27–30, Revision 'C,' dated October 31, 2007. If any bungee is found installed incorrectly, remove the bungee and re-install it correctly before the next flight in accordance with the service bulletin.

(2) Within 5,000 flight hours after the effective date of this AD: Attach label, P/N FE289006200, to both left and right elevator overload bungees to show the correct orientation of the outboard end in accordance with Bombardier Service Bulletin 84–27–30, Revision 'C,' dated October 31, 2007.

(3) Within 5,000 flight hours after the effective date of this AD: Re-identify the P/N to read "FE289000001" on the identification plate of both the left and right elevator overload bungees in accordance with Bombardier Service Bulletin 84–27–30, Revision 'C,' dated October 31, 2007.

(4) Actions accomplished before the effective date of this AD in accordance with Bombardier Service Bulletin 84–27–27, dated May 24, 2005, are acceptable for compliance with the corresponding actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD.

(5) Actions accomplished before the effective date of this AD in accordance with Bombardier Service Bulletin 84–27–30, dated February 8, 2007; Revision 'A,' dated March 2, 2007; or Revision 'B,' dated May 3, 2007; are acceptable for compliance with the corresponding actions specified in this AD.

Note 1: Paragraphs (f)(2) and (f)(3) of this AD constitute Modsum 4–113537.

(g) For all airplanes: As of the effective date of this AD, no replacement/spare elevator overload bungees, P/N FE289000000, are permitted to be installed on any airplane. Only elevator overload bungees identified with new P/N "FE289000001" on the identification plate are permitted to be installed.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Fabio Buttitta, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7303; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

to assure the product is airworthy before it is returned to service.

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

Related Information

(i) Refer to MCAI Canadian Airworthiness Directive CF–2007–30, dated November 28, 2007; and Bombardier Service Bulletin 84–27–30, Revision 'C,' dated October 31, 2007; for related information.

Issued in Renton, Washington, on March 20, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–6300 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0293; Airspace Docket No. 07–ANM–18]

Proposed Establishment of Class E Airspace; Salida, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Salida, CO. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Harriet Alexander Field. The FAA is proposing this action to enhance the safety and management of IFR (Instrument Flight Rules) operations at Harriet Alexander Field, Salida, CO.

DATES: Comments must be received on or before May 12, 2008.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366–9826. You must identify FAA Docket No. FAA–2007–0293; Airspace Docket No. 07–ANM–18, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, System Support Group, Western Service Area, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2007–0293 and Airspace Docket No. 07–ANM–18) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2007–0293 and Airspace Docket No. 07–ANM–18". The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Salida, CO. Controlled airspace extending upward from 700 feet above the surface is necessary to accommodate aircraft using the new RNAV (GPS) SIAP at Harriet Alexander Field. This action would enhance the safety and management of IFR operations at Harriet Alexander Field, Salida, CO.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9R, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority

described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Harriet Alexander Field, Salida, CO.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007 is amended as follows:

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

* * * * *

ANM CO E5 Salida, CO [New]

Harriet Alexander Field, CO
(Lat. 38°32′18″ N., long. 106°02′55″ W.)

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Harriet Alexander Field.

* * * * *

Issued in Seattle, Washington, on March 17, 2008.

Kevin Nolan,

Acting Manager, System Support Group, Western Service Area.

[FR Doc. E8–6317 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 080311420–8412–01]

RIN 0648–AT17

Revisions to Channel Islands National Marine Sanctuary Regulations

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) previously published a proposed rule (71 FR 29096, May 19, 2006) to adopt a revised set of regulations for the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). This currently pending proposed rule includes both new regulations and changes to existing regulations, including the discharge prohibition. After reviewing public comments, considering the California Coastal Commission's federal consistency review (per the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*), and further analyzing vessel discharge issues, NOAA has decided to revise the Sanctuary's proposed discharge regulation to: (1) Limit the exception for treated sewage discharges to vessels less than 300 gross registered tons (GRT); (2) limit the exception for graywater discharges to vessels less than 300 GRT, and oceangoing ships without sufficient holding tank capacity to hold graywater while within the Sanctuary; and (3) provide definitions for "oceangoing ship," "graywater," and "cruise ship".

DATES: Comments will be considered if received by May 30, 2008.

ADDRESSES: Copies of the Supplemental Draft Environmental Impact Statement (SDEIS) and this supplemental proposed rule are available at Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, California and on the web at *http://www.channelislands.noaa.gov.* Comments on the SDEIS and this supplemental proposed rule, identified by RIN 0648–AT17, may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal*: *http://www.regulations.gov.* Follow the instructions for submitting comments for docket NOAA–NOS–2007–0846.
- *E-mail: cinms.mgtplan@noaa.gov.*
- *Fax:* (805) 568–1582.
- *Mail:* Chris Mobley, Superintendent, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, California 93109.
- *Hand Delivery/Courier:* Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, California 93109.

FOR FURTHER INFORMATION CONTACT: Michael Murray, Sanctuary Management Plan Coordinator, at (805) 884–1464 or *michael.murray@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

Pursuant to section 304(e) of the National Marine Sanctuaries Act (NMSA, 16 U.S.C. 1434(e)), NOAA conducted a review of the management plan and regulations for CINMS, which is located off the coast of southern California. The review resulted in a proposed new CINMS management plan, some proposed changes to existing CINMS regulations, some proposed new CINMS regulations, and some proposed changes to the CINMS terms of designation. "Discharge and deposit" was one of the existing CINMS regulations subject to proposed changes. The May 2006 proposed rule clarified that:

- The discharge regulation's exception for discharges from marine sanitation devices is only applicable to discharges from Type I and Type II marine sanitation devices; and
- The discharge regulation's exception for water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary includes graywater as defined by section 312 of the Federal Water Pollution Control Act (Clean Water Act or CWA).

The Draft Environmental Impact Statement (DEIS) for the currently pending proposed rule included three alternatives consisting of NOAA's proposed action, alternative "1," and a no-action alternative. With regard to vessel discharges, NOAA's proposed action would clarify that a type I or II marine sanitation device (MSD) is required of all vessels for discharge of treated sewage within the Sanctuary, and proposes that graywater discharge from all vessels be excepted from the discharge prohibition. DEIS alternative 1 also proposes a graywater exception from the prohibition for all vessels, but would prohibit discharge into the Sanctuary of treated or untreated sewage from large vessels (300 gross registered tons or more). The DEIS no-action alternative would retain the status quo regulation on discharge, which is

ambiguous with regard to graywater and imprecise with regard to the type of MSD required for vessel sewage discharge within the Sanctuary.

After receiving comments on the DEIS and proposed rule, NOAA determined that this range of alternatives needed to be modified to better address potential impacts of sewage and graywater discharges from large vessels (300 GRT or greater). Thus, the SDEIS modifies the range of regulatory changes under consideration and discusses the potential environmental consequences of a revised discharge regulation. The revisions set forth in this supplemental proposed rule are now incorporated into the original proposed action and constitute NOAA's "revised proposed action." NOAA is not taking final action with the SDEIS and this supplemental proposed rule, but rather is analyzing and putting forth for public review and comment a revision to its discharge regulation proposed in the DEIS and the proposed rule (71 FR 29096). Final CINMS regulations will be issued after NOAA has released the Final Management Plan/Final EIS.

Background

NOAA released the Draft Management Plan (DMP)/DEIS and published the proposed rule on May 19, 2006. Comments were accepted through July 21, 2006. During the public review period NOAA received a wide range of comments, including substantial public and agency comments about changes proposed for Sanctuary regulation of sewage and graywater discharges from large vessels. (Herein "large vessel" refers to a vessel 300 GRT or more). Comments included a request that NOAA adopt the discharge regulation under alternative "1," which would prohibit any sewage discharges from large vessels, whether treated or untreated. Comments also included a request that NOAA prohibit cruise ship discharges in Sanctuary waters. In addition, there were suggestions that NOAA implement recommendations contained in the water quality needs assessment developed by a working group of the Sanctuary Advisory Council (Polgar *et al.* 2005; available online at *http://www.channelislands.noaa.gov/sac/pdf/10-17-5.pdf*), which provides a comprehensive evaluation of water quality threats and provides a broad range of management advice. This assessment includes a recommendation that NOAA prohibit cruise ship discharges in Sanctuary waters. In addition, comments from California state agencies and environmental non-governmental organizations indicated that NOAA's proposed exception for graywater discharges is inconsistent with the California Clean Coast Act (California Public Resources Code Sec 72420–72422), which prohibits graywater discharges from vessels 300 GRT or more within state waters. The comments received on this issue were submitted by the Channel Islands National Park, three state agencies (California Resources Agency, State Water Resources Control Board, and California Coastal Commission), three non-governmental organizations (Bluewater Network, Environmental Defense Center, and Santa Barbara Channelkeeper), and the Sanctuary Advisory Council and its Conservation Working Group. The types of comments described above were the only types of comments received on the issues of graywater and sewage discharge from large vessels.

In May 2006 NOAA submitted its Coastal Zone Management Act consistency determination to the California Coastal Commission (Commission), in compliance with federal consistency regulations (15 CFR part 930). In July 2006 the Commission conditionally concurred with NOAA's determination that the proposed revised Sanctuary management plan and regulations are consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program. The Commission voted to concur with the consistency determination on the condition that NOAA revise the proposed discharge and deposit regulation to prohibit vessels of 300 GRT or more from discharging sewage or graywater into the waters of the Sanctuary. Also, the California State Water Resources Control Board requested that NOAA prohibit graywater and sewage discharges, among others, from cruise ships and other oceangoing vessels in California national marine sanctuaries.

After reviewing the comments received, considering the Coastal Commission's action, and further analyzing the vessel discharge issues raised, NOAA decided to revise the Sanctuary's proposed discharge regulation. The revised proposed discharge regulation would: (1) Limit the exception for treated sewage discharges to vessels less than 300 GRT; (2) limit the exception for graywater discharges to vessels less than 300 GRT, and oceangoing ships without sufficient holding tank capacity to hold graywater while within the Sanctuary; and (3) propose definitions for "oceangoing ship," "graywater," and "cruise ship" (see next paragraph). These new definitions would, through their operation, result in the prohibition of discharge of graywater from cruise ships. The graywater discharge exception for oceangoing ships that do not have sufficient holding tank capacity to hold graywater while within the Sanctuary is proposed because many oceangoing ships were designed without the ability to retain graywater, particularly those constructed prior to the early 1990s (personal communication, S. Young, U.S. Coast Guard). While many of these older ships, particularly those calling on U.S. ports, have since been modified to allow graywater retention, some must still discharge graywater directly as it is produced (personal communication, S. Young, U.S. Coast Guard).

The proposed definition of "oceangoing ship" would read as follows: "Oceangoing ship means a private, commercial, government, or military vessel of 300 gross registered tons or more, not including cruise ships." The proposed definition of "graywater" would read as follows: "Graywater means galley, bath, or shower water." Section 312 of the CWA, as amended (33 U.S.C. 1321 *et seq.*), is the basis for NOAA's definition of graywater. Other discharges, such as those from laundry facilities, are not included in this definition of graywater. The proposed definition of "cruise ship" would read as follows: "Cruise ship means a vessel with 250 or more passenger berths for hire." These three definitions would be added to the other CINMS terms proposed to be defined at 15 CFR 922.71 in the currently pending proposed rule. NOAA is not proposing to define "sewage" in the CINMS regulations because the regulations do not use this term; however, herein sewage, also referred to as "blackwater," means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

The primary purpose of this revised regulation is to prevent potentially harmful effects of large-vessel sewage and graywater discharges on Sanctuary resources and qualities. To meet this purpose, the revised proposed regulation seeks to maximize protection of Sanctuary water quality from large-vessel sewage and graywater discharges. Furthermore, NOAA seeks to maintain the Sanctuary's nationally significant esthetic and recreational qualities, and to manage activities affecting the Sanctuary in a manner that complements existing regulatory authorities, as envisioned by the NMSA.

The California Clean Coast Act prohibits graywater discharges into

marine waters of the state from large passenger vessels and oceangoing ships with sufficient holding tank capacity. This act is also intended to prohibit releases of sewage and sewage sludge into marine waters of the state (including state waters within a national marine sanctuary) from both large passenger vessels and oceangoing ships with sufficient holding tank capacity. This revised proposed action would make the Sanctuary regulations consistent with the standards of the California Clean Coast Act.

The proposed revisions described herein affect two of the exceptions to the prohibition on discharging or depositing material or other matter into the Sanctuary: The exception for treated sewage and the exception for biodegradable matter including graywater. Proposed revisions would result in substantive changes regarding sewage and graywater, and would also result in minor, non-substantive changes in wording and organization regarding deck wash down and vessel engine cooling water.

In this supplemental proposed rule, NOAA is not proposing to revise any other section of the DEIS proposed action or currently pending proposed rule, including other clauses of the discharge prohibition. As noted above, NOAA will publish the final CINMS regulations after reviewing all comments on the currently pending proposed rule and this supplemental proposed rule.

Sanctuary Environment

The Channel Islands area is a national treasure with a rich cultural history and unique environment. The Sanctuary's cultural values stem largely from its rich array of maritime heritage resources (e.g., shipwrecks, aircraft wrecks, material associated with wharves, piers and landings, prehistoric archaeological sites and their associated artifacts, and paleontological remains). The Sanctuary also contains a wealth of Chumash Native American artifacts dating back 13,000 years. (The oldest human remains yet discovered in North America were found on Santa Rosa Island.)

Adjacent to the Channel Islands land mass is located a spectacular, unique, nationally significant marine environment, including kelp forests, surfgrass and eelgrass beds, intertidal, nearshore subtidal, deep-water benthic, and pelagic habitats. This marine environment supports rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and esthetic values.

Two bioregions come together in and around the Sanctuary resulting in a unique and highly diverse array of marine life. Hundreds of species of plants and fish, thousands of invertebrate species, more than 27 species of cetaceans (whales and dolphins), five species of pinnipeds (seals and sea lions), four sea turtle species, and more than 60 species of birds may be found in the Sanctuary. Included among these are several endangered species, including blue, humpback and sei whales, southern sea otters, white abalone, leatherback sea turtles, California brown pelicans, and California least terns.

The ecological and cultural values of the Channel Islands and surrounding waters are recognized by several special designations. In 1980, the United States not only designated the Sanctuary, but also designated Anacapa, San Miguel, Santa Barbara, Santa Cruz, and Santa Rosa islands (and the rocks, islets, submerged lands, and waters within one nautical mile of each island) as the Channel Islands National Park. In addition, the United Nations Educational, Scientific and Cultural Organization's (UNESCO) Man and the Biosphere Program designated the Sanctuary as a Biosphere Reserve in 1986. In 1991, in recognition of the need to protect Sanctuary resources and qualities from the potential damage from ship traffic, the International Maritime Organization designated an area to be avoided, or ATBA, around the Sanctuary for all cargo vessels, including tankers, bulk carriers, and barges, in order to avoid pollution risks within the CINMS. The State of California recognizes portions of the state waters surrounding the Channel Islands as "Areas of Special Biological Significance/State Water Quality Protection Areas."

The uniqueness of the Sanctuary region and its proximity to several major ports and harbors along the mainland coast make it a popular destination for numerous recreational and commercial activities. Sportfishing, diving, snorkeling, whale watching, pleasure boating, kayaking, surfing, and sightseeing are all popular pastimes within the Sanctuary, which is often referred to as "the Galapagos of North America." Other human uses that occur adjacent to and in the Sanctuary are oil and gas activities, shipping, Departments of Defense and Homeland Security activities, scientific research, and education.

Vessel Traffic and Discharges

The Santa Barbara Channel, in which part of the Sanctuary is located, is also a major thoroughfare for oceangoing ships traveling between domestic and international ports along the Pacific coast of North America, and for large vessels traveling between ports in North America and Asia. Vessels calling at California ports identify the following last ports of call prior to arriving in California: Nearly 40 percent identify a Far Eastern port such as Japan, China, or Korea; 20 percent identify a North American port such as Canada or Mexico; and 13 percent identify a South American port (California State Lands Commission 2001).

The Sanctuary is located about 70 miles northwest of the Port of Los Angeles/Long Beach (LA/Long Beach), which is the busiest container port in North America. The containerized trade at LA/Long Beach grew 150 percent from 1990 to 2002 (Port of Long Beach 2003), and the Santa Barbara Channel is a main thoroughfare for this trade. Approximately 75 percent of the departing vessel traffic from LA/Long Beach leaves northbound and 65 percent of arriving vessel traffic comes southbound, passing through the Santa Barbara Channel.

While transiting the Santa Barbara Channel large vessel traffic is encouraged to use the Santa Barbara Channel Traffic Separation Scheme (TSS), both lanes of which traverse a small portion (approximately 4%) of the Sanctuary. The Santa Barbara Channel TSS is described at 33 CFR 167.450–167.452, and includes northwest and southeast-bound lanes, with a separation zone between the lanes. The distance through Sanctuary waters that vessels transit when in the northwest-bound lane is approximately 18 nmi, while in the southeast-bound lane it is approximately 37 nmi. The average container ship that travels at 25 knots would spend less than one hour in Sanctuary waters when using the northwest-bound lane, and approximately one-and-a-half hours when using the southeast-bound lane.

For the year 2006, an estimated 6,980 vessels (including container ships and other large vessels) going to or coming from the ports of LA/Long Beach transited the Santa Barbara Channel and CINMS, with approximately 3,500 inbound to LA/Long Beach and 3,480 outbound (McKenna 2007). These "transit" numbers include multiple trips by the same vessel.

The expansion of the global economy has resulted in a substantial increase in oceangoing ship traffic in the Santa Barbara Channel, and consequently in the Sanctuary. The average growth rate in container traffic at the Port of LA/Long Beach was 9.9% per year over the

years 1990–2003. According to the Port of Long Beach Master Plan, the Los Angeles Port Authority plans to expand capacity of the harbor, which will increase both the number and size of the vessels that use the Santa Barbara Channel (Port of Long Beach 2003). The Los Angeles Port Authority plans to increase capacity by 100 percent by the year 2020. During the same time frame the size of the commercial vessels that use the Santa Barbara Channel is expected to increase with the 4,000 to 4,999 twenty-foot equivalent units (TEU; a measure of containerized cargo capacity equal to one standard 20 ft long x 8 ft wide x 8 ft 6 in high container) class, currently the most common size class, being supplemented by vessels as large as 10,000 to 12,000 TEU that are currently under construction (Mercator Transport Group 2005). The bulk of these larger vessels are expected to make their first port call at the Port of LA/Long Beach. This is because the Port of Oakland, the other large vessel port in California, will not be able to accommodate them due to the shallowness of San Francisco Bay. The expected tonnage carried by commercial vessels is also expected to increase from 75 million tons in 1980 to 202 million tons by the year 2020 (Temple et al. 1988; USACE 1984). With anticipated high import growth and expansion of the Panama Canal, the Port of LA/Long Beach forecasts that port calls by container vessels in 2020 could be nearly double that experienced in 2004, going from 3,224 to 6,292 (Mercator Transport Group 2005).

Port Hueneme, the deep-water international port closest to the Sanctuary, also generates vessel traffic. In 2006, 410 cargo vessels, typically carrying automobiles or bananas, docked at Port Hueneme (Oxnard Harbor District 2007). Approximately 158 supply vessel trips are made each year to regional oil and gas facilities (Oxnard Harbor District 2002).

NOAA's assessment of data collected by California in 2006, pursuant to California Senate Bill 771, indicates that on average oceangoing ships typically have crews of approximately twenty people, but may range from five to fifty people. Oceangoing ships are not passenger carrying vessels so crew sizes may be used to represent the total number of people on board. Based on the significantly lower number of people on board oceangoing ships compared with cruise ships, oceangoing ships are not likely to generate the large volume of sewage and graywater generated by cruise ships.

At this time, cruise ships occasionally transit through the waters of the Sanctuary using the TSS, but are not known to stop in the Sanctuary. The Sanctuary Aerial Monitoring and Spatial Analysis Program (SAMSAP) surveys (which are not conducted at night, in foul weather, or when a pilot or aircraft is not available) have observed only two cruise ships since such flights began in 1997, and those two vessels were traveling within the TSS. These observations demonstrate that cruise ships do use the TSS, but may not be representative of the total number of cruise ships using the TSS because of the limitations on flight time. Direct observation by staff with the Channel Islands National Park indicates that more than 12 years ago cruise ship operation within the Sanctuary (and outside the TSS) did occasionally take place (Channel Islands National Park 2006, personal communication with J. Fitzgerald), but such operation has not been noted since. Thus, while cruise ships have stopped in the Sanctuary in the past (and the cruise line industry could do so again in the future), they are not presently known to stop in the Sanctuary.

Given that cruise ships travel at between 15 to 20 knots, they should only be in Sanctuary waters for approximately one hour when transiting north in the TSS, and approximately two to two-and-a-half hours when transiting south in the TSS.

Cruise ships occasionally visit the City of Santa Barbara while transiting between destinations to the north and south of the city and in doing so are likely to spend time in the Santa Barbara Channel TSS. Between 2002 and May 7, 2007 Santa Barbara received eight cruise ship visits from six different cruise ships (Santa Barbara Waterfront Department 2007, personal communication with B. Slagle). According to data that these ships provided to the City's Waterfront Department, they ranged in size from 16,927 to 116,000 GRT, and carried between 296 and 3,700 people ("total passenger/crew") on board.

According to the Cruise Line Industry Association, Inc. (CLIA), the cruise industry is the fastest growing segment of the travel industry, with 2,100% growth since 1970 (CLIA 2007), and an average annual passenger growth rate of 8.2% per year since 1980 (CLIA 2006b). By the end of 2007 about 100 new cruise ships will have been introduced since 2000 (CLIA 2007). The worldwide cruise ship fleet includes more than 230 ships, with vessel capacities of 3,000 passengers and crew not uncommon (U.S. EPA 2006a). A consistent increase in the size of cruise ships has occurred over the past three decades. The largest vessel currently in service is Royal Caribbean's Freedom of the Seas (3,634 passengers). However, the same cruise line has ordered two 5,400 passenger-capacity cruise ships as part of its "Genesis Project," with vessel deliveries expected in 2009 and 2010 (Royal Caribbean Cruises 2007). Although most of the largest vessels are destined for operation in the Caribbean, the general trend in the industry is toward increased vessel size. The cruise industry is building its capacity based on its growth potential and untapped markets (CLIA 2007). This overall growth trend in the industry could yield increased cruise ship traffic through the Santa Barbara Channel, and consequently the Sanctuary.

Cruise ships can produce and discharge extensive sewage wastes on par with some small cities, yet they are not subject to the same environmental regulations and monitoring requirements that land based facilities are required to comply with, such as obtaining discharge permits, meeting numerous permit conditions, and monitoring effluent discharges (NOAA 2003c). Estimates of blackwater production from large cruise ships range from a low of 5–7 gallons per person per day to a high of 17 gallons per person per day (EPA 2006c, d, e, f). The volume of treated blackwater generated and discharged varies considerably from ship to ship and region to region. Much of the variation depends on the treatment process.

A typical 7–10 day cruise ship voyage produces more than one million gallons of graywater, making it by far the largest source of liquid waste on a cruise ship (Sweeting and Wayne 2003). The average large cruise ship with 2,500 passengers and crew onboard produces 211,200 gallons of wastewater per day, and 90–95% of this wastewater is graywater (Alaska Department of Environmental Conservation 2004a). The average small cruise ship with 100 passengers and crew onboard produces 2,500 gallons of wastewater per day (Alaska Department of Environmental Conservation 2004a).

Some vessels mix graywater with blackwater where it gets treated in the blackwater treatment system or advanced treatment system. If graywater is retained in an MSD and, consequently, mixed with any sewage, it is considered blackwater.

Summary of the Proposed Revised Regulatory Amendments

Regulation of Vessel Sewage

The revised regulation would amend the exception to the prohibition on

discharging or depositing sewage from within or into the Sanctuary. The revised exception would apply exclusively to small vessels (less than 300 GRT) that generate sewage effluent treated by an operable Type I or II marine sanitation device. Consequently, large vessels would not be allowed to discharge sewage whether treated or untreated.

The revised regulation would address NOAA's concerns about possible impacts from large volumes of sewage discharges in the Sanctuary, whether treated or not, from large vessels (such as cruise ships). Vessel sewage discharges are more concentrated than domestic land-based sewage. They may introduce disease-causing microorganisms (pathogens), such as bacteria, protozoans, and viruses, into the marine environment (EPA 2007). They may also contain high concentrations of nutrients that can lead to eutrophication (the process that can cause oxygen-depleted "dead zones" in aquatic environments), and may yield unpleasant esthetic impacts to the Sanctuary (diminishing Sanctuary resources and its ecological, conservation, esthetic, recreational and other qualities).

The revised regulation would also address additional concerns NOAA has about failure of conventional MSDs on large vessels to adequately treat sewage waste streams, and lack of monitoring of those waste streams. Type II MSDs, used in approximately 75% of the large oceangoing vessels that called on California ports in 2006, have been found to generate waste streams that exceed federal standards (40 CFR part 140). While these devices are designed to lower fecal coliform bacteria counts and reduce total suspended solids, studies in Alaska of cruise ship waste water discharges have shown high rates of failure in the ability of conventional MSDs to meet legal discharge standards (Alaska Department of Environmental Conservation 2004). Furthermore, monitoring and testing of MSD discharges (outside of Alaska) is not legally required of large vessel operators, so reductions in treatment effectiveness may go undetected. Consequently, NOAA has determined that it is appropriate to require large vessels to hold both treated and untreated sewage while within the Sanctuary.

At this time, NOAA is less concerned with treated sewage discharges from small vessels (less than 300 GRT). Although the exception for treated sewage discharge from Type I or II MSDs would be applicable to small vessels, most small vessels in the Sanctuary do not have Type I or II MSDs and as such remain prohibited from discharging their sewage in the Sanctuary. The U.S. Coast Guard's Marine Safety Detachment office in Santa Barbara has informed NOAA that most small vessels operating in the Sanctuary have Type III MSDs, discharges from which are prohibited throughout the Sanctuary, or no MSD at all. Additionally, single point sewage discharges from the few small vessels that have Type I or II MSDs are far less in quantity than those from cruise ships, thus discharging fewer nutrients, bacteria, and potential pathogens.

Regulation of Vessel Graywater

The revised regulation would amend the exception to the prohibition on discharging graywater from within or into the Sanctuary. The revised regulation would provide that the exception for graywater is only applicable to small vessels (less than 300 GRT), and to oceangoing ships without sufficient holding tank capacity to hold graywater while within the Sanctuary. Accordingly, the revised regulation would in effect prohibit the discharge of graywater by, for example, cruise ships when operating in the Sanctuary.

Per this supplemental proposed rule, the proposed CINMS definition of "graywater" to be added to the National Marine Sanctuary Program regulations at 15 CFR part 922.71 would read as follows: "Graywater means galley, bath, or shower water." Other discharges, such as those from laundry facilities, are not included in this definition, which is based on section 312 of the CWA. NOAA's May 2006 proposed rule (71 FR 29096) referred to the definition of graywater codified by the CWA; however, NOAA is proposing to provide the definition of graywater in the CINMS regulations so that Sanctuary users do not have to refer to the CWA for this definition.

The revised regulation would address NOAA's concerns about the potential impacts of graywater discharges from large vessels in the Sanctuary. Graywater can contain a variety of substances including (but not limited to) detergents, oil and grease, pesticides and food wastes (Eley 2000). Very little research has been done on the impacts of graywater on the marine environment, but many of the chemicals commonly found in graywater are known to be toxic (Casanova *et al.* 2001). These chemicals have been implicated in the occurrence of cancerous growths in bottom-dwelling fish (Mix 1986). Furthermore, studies of graywater discharges from large cruise ships in Alaska (prior to strict state effluent standards for cruise ship graywater discharges) found very high levels of fecal coliform in large cruise ship graywater (well exceeding the federal standards for fecal coliform from Type II MSDs). These same studies also found high mean total suspended solids in some graywater sources (exceeding the federal standards for total suspended solids from Type II MSDs).

Unlike cruise ships, many oceangoing ships were designed without the ability to retain graywater, particularly those constructed prior to the early 1990s (personal communication, S. Young, U.S. Coast Guard). While many of these older ships, particularly those calling on U.S. ports, have since been modified to allow graywater retention, some must still discharge graywater directly as it is produced (personal communication, S. Young, U.S. Coast Guard). Consequently, given that many older vessels are still in operation, NOAA proposes an exception for graywater discharge from oceangoing ships without sufficient holding tank capacity to retain graywater while in the Sanctuary. The California State Water Resources Control Board staff's preliminary review of 2006 survey data found that approximately 20% of oceangoing ships have sufficient holding tank capacity to hold graywater while within marine waters of the state (State Water Resources Control Board 2006, personal communication with R. Jauregui). This represents the best available data, and as such indicates that it is possible that the exception could apply to 80% of the oceangoing ships transiting the Sanctuary. However, given that the holding tank requirements for retaining graywater within all state marine waters are much greater than that which would be required for transiting the Sanctuary, NOAA believes the number of oceangoing vessels that would not have sufficient holding tank capacity to retain graywater within the Sanctuary would be much less than the possible 80% figure derived from state-collected data. Furthermore, the quantity of graywater generated by oceangoing ships, which typically have an average crew size of approximately twenty people, but may range from five to fifty people, is far less than the volume of graywater generated by cruise ships. As a general rule, large cruise ships generate 180 liters (50 gallons) of graywater per person per day. The average large cruise ship with 2,500 passengers and crew onboard produces 211,200 gallons of wastewater per day, and 90–95% of this wastewater is graywater (Alaska Department of

Environmental Conservation 2004a). The average small cruise ship with 100 passengers and crew onboard produces 2,500 gallons of wastewater per day (Alaska Department of Environmental Conservation 2004a). Due to the much lower number of people on board oceangoing ships (as noted above, on average oceangoing ships carry crews of approximately twenty people, but may range from five to fifty people), graywater from oceangoing ships is not expected to contain the larger volume of possible harmful chemicals that can be found in cruise ship graywater (NOAA 2003c).

To summarize, the revised proposed discharge regulation would in effect prohibit the following discharges from within or into the Sanctuary: (1) Sewage from vessels 300 GRT or more, including cruise ships and oceangoing ships; (2) graywater from cruise ships; and (3) graywater from oceangoing ships with sufficient holding tank capacity to hold graywater while within the Sanctuary.

For consistency purposes, NOAA is proposing to adopt, in part, the existing California Clean Coast Act definition of "oceangoing ship" (California Public Resources Code sec. 72410(j)). The proposed CINMS definition of "oceangoing ship" to be added to the National Marine Sanctuary Program regulations at 15 CFR part 922.71 would read as follows: "Oceangoing ship means a private, commercial, government, or military vessel of 300 gross registered tons or more, not including cruise ships."

The California Clean Coast Act definition is the same with one additional phrase at the end: "Calling on California ports or places." The Sanctuary definition excludes this phrase since ships of this general description may traverse the Santa Barbara Channel TSS, and thereby the Sanctuary, without stopping in California ports or places.

Also for consistency, NOAA is proposing application of the proposed Monterey Bay National Marine Sanctuary definition of "cruise ship" (71 FR 59050–59066). Therefore, the proposed CINMS definition of "cruise ship" to be added to the National Marine Sanctuary Program regulations at 15 CFR 922.71 would read as follows: "Cruise ship means a vessel with 250 or more passenger berths for hire."

Summary of Anticipated Impacts of This Rule

Revisions to the treated sewage discharge exception are expected to have beneficial impacts on the Sanctuary's physical, biological, and recreational resources. In addition, prohibiting large volumes of sewage (treated and untreated) from being discharged in the Sanctuary may have beneficial esthetic impacts on certain Sanctuary users. For example, boating, paddle sports, fishing, and diving may benefit from not encountering large volume sewage wastewater plumes in the Sanctuary.

The proposed revision to the treated sewage discharge exception is expected to create less than significant adverse socioeconomic impacts to operators of large vessels. Large vessels using the shipping lanes within the Santa Barbara Channel would only be required to hold sewage on board for a distance of 18 nmi (less than an hour at 25 knots) when transiting northwest across the CINMS, and for 37 nmi (approximately an hour and a half at 25 knots) when traveling southeast. Additionally, a portion of the southeast-bound shipping lane that transits through the Sanctuary also passes through state waters, where large vessel sewage discharge is already prohibited pursuant to the California Clean Coast Act.

Revisions to the graywater discharge exception are expected to have cumulative beneficial impacts on the Sanctuary's physical, biological, and recreational resources. In addition, prohibiting large volumes of graywater from being discharged in the Sanctuary may have beneficial esthetic impacts on certain Sanctuary users. For example, boating, paddle sports, fishing, and diving may benefit from not encountering large volume graywater discharges in the Sanctuary.

The proposed revision to the graywater discharge exception is expected to create less than significant adverse socioeconomic impacts on operators of large vessels. Potential socioeconomic impacts to large vessel operators are reduced given (1) the limited time these vessels spend in the Sanctuary, and (2) the proposed exception to the graywater discharge prohibition for oceangoing ships that do not have sufficient holding tank capacity to hold graywater while within the Sanctuary.

An analysis of environmental consequences of the regulatory changes proposed in this rule is provided in the associated SDEIS. For information on how to obtain a copy of the SDEIS please see the **ADDRESSES** section of this proposed rule.

Miscellaneous Rulemaking Requirements

National Environmental Policy Act

NOAA has prepared a SDEIS to evaluate the proposed revisions to the discharge/deposit regulation analyzed in the DEIS. Copies of the SDEIS are available at the address and Web site listed in the **ADDRESSES** section of this proposed rule. Responses to comments received on the SDEIS will be published in the Final Management Plan (FMP)/FEIS and preamble to the final rule.

Coastal Zone Management Act

Based upon discussions with staff for the California Coastal Commission, NOAA believes this proposed action meets the conditional concurrence issued by the Commission on July 18, 2006. NOAA will continue to consult with the Commission to ensure full compliance with all applicable requirements of the Coastal Zone Management Act.

Executive Order 12866: Regulatory Impact

This proposed rule has been determined to be not significant within the meaning of Executive Order 12866.

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. Sanctuary staff have consulted with members of the Sanctuary Advisory Council, California Coastal Commission staff, and California State Water Resources Control Board staff during the development of the revised proposed discharge regulation.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

Small business concerns operating within the Sanctuary include over 500 commercial fishermen, approximately 28 consumptive recreational charter businesses, approximately 27 non-consumptive recreational charter businesses, one motorized personal watercraft business, approximately 20 marine salvage companies, and one aviation business. The approximately 40 small organizations operating within the

Sanctuary include non-governmental organizations (NGO's) and/or non-profit organizations (NPO's) dedicated to environmental education, research, restoration, and conservation concerning marine and maritime heritage resources. There are no small governmental jurisdictions in the Sanctuary.

Limiting the sewage discharge exception to vessels less than 300 GRT would not have a significant adverse impact on small entities. No small entities operate vessels 300 GRT or more within the Sanctuary, including cruise ships and oceangoing ships.

The graywater discharge exception for vessels less than 300 GRT, and oceangoing ships 300 GRT or more without sufficient holding tank capacity to hold graywater while within the Sanctuary would not have a significant adverse impact on small entities. No small entities operate vessels 300 GRT or more within the Sanctuary, including cruise ships and oceangoing ships.

Because this action would not have a significant economic impact on a substantial number of small entities, no initial regulatory flexibility analysis was prepared.

Request for Comments

NOAA is requesting comments on the amendments concerning vessel discharges of sewage and graywater made by this proposed rule to its May 2006 currently pending proposed rule (71 FR 29096).

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Historic preservation, Intergovernmental relations, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

References

A complete list of all references cited herein is available upon request (see **ADDRESSES** section).

Dated: March 21, 2008.

Steve Kozak,

Chief of Staff for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, the proposed rule published at 71 FR 29096, May 19, 2006, is proposed to be further amended as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. Amend § 922.71 by adding the following paragraphs in alphabetical order:

§ 922.71 Definitions.

* * * * *

Cruise ship means a vessel with 250 or more passenger berths for hire.

Graywater means galley, bath, or shower water.

Oceangoing ship means a private, commercial, government, or military vessel of 300 gross registered tons or more, not including cruise ships.

3. In § 922.72, revise paragraphs (a)(3)(i)(B) and (C) to read as follows:

§ 922.72 Prohibited or otherwise regulated activities.

(a) * * *

(3)(i) * * *

(B) Biodegradable effluent incidental to vessel use and generated by an operable Type I or II marine sanitation device (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 *et seq.*, from a vessel less than 300 gross registered tons. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;

(C) Biodegradable matter from:

(1) Vessel deck wash down;

(2) Vessel engine cooling water;

(3) Graywater from a vessel less than 300 gross registered tons;

(4) Graywater from an oceangoing ship without sufficient holding tank capacity to hold graywater while within the Sanctuary;

* * * * *

[FR Doc. E8–6178 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08–3–000]

Mandatory Reliability Standard for Nuclear Plant Interface Coordination

March 20, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Commission proposes to approve the Nuclear Plant Interface Coordination Reliability Standard developed by the North American Electric Reliability Corporation (NERC). The proposed Reliability Standard requires a nuclear power plant operator and its suppliers of back-up power and related transmission and distribution services to coordinate concerning nuclear licensing requirements for safe nuclear plant operation and shutdown and system operating limits. The Commission also proposes to accept four related definitions for addition to the NERC Glossary of Terms and to direct various changes to proposed violation risk factors, which measure the potential impact of violations of the Reliability Standard on the reliability of the Bulk-Power System. The proposed rule would benefit the Reliable Operation of the Bulk-Power System by facilitating the provision of off-site power to ensure reliable and safe nuclear power plant operation and shutdown.

DATES: Comments are due April 28, 2008.

ADDRESSES: Interested persons may submit comments, identified by Docket No. RM08–3–000, by any of the following methods:

- *eFiling:* Comments may be filed electronically via the eFiling link on the Commission's Web site at: *http://www.ferc.gov*. Documents created electronically using word processing software should be filed in the native application or print-to-PDF format and not in a scanned format. This will enhance document retrieval for both the Commission and the public. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Attachments that exist only in paper form may be scanned. Commenters filing electronically should not make a paper filing. Service of rulemaking comments is not required.
- *Mail/Hand Delivery:* Commenters that are not able to file electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process,

see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT

Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8744.

Christy Walsh (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6523.

Robert Snow (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6716.

Kevin Thundiyil (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6490.

SUPPLEMENTARY INFORMATION:

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1. Pursuant to section 215 of the Federal Power Act (FPA), the Commission proposes to approve the Nuclear Plant Interface Coordination Reliability Standard (NUC–001–1) developed by the North American Electric Reliability Corporation (NERC). The proposed Reliability Standard requires a nuclear power plant operator and its suppliers of back-up power and transmission and distribution services [1] to coordinate concerning nuclear licensing requirements for safe nuclear plant operation and shutdown and system operating limits (SOLs). The Commission also proposes to accept four related definitions for addition to the NERC Glossary of Terms [2] and to direct various changes to proposed violation risk factors, which measure the potential impact of violations of the Reliability Standard on the reliability of the Bulk-Power System. The proposed rule would benefit the Reliable Operation of the Bulk-Power System by facilitating the provision of off-site power to ensure reliable and safe nuclear power plant operation and shutdown.[3]

I. Background

A. EPAct 2005 and Mandatory Reliability Standards

2. On August 8, 2005, the Electricity Modernization Act of 2005 was enacted as Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[4] EPAct 2005 added section 215 to the FPA, requiring the Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[5]

3. On February 3, 2006, the Commission issued Order No. 672, implementing section 215.[6] Pursuant to Order No. 672, the Commission certified NERC as the ERO.[7] The ERO is required to develop Reliability Standards, subject

[1] The Reliability Standard defines those suppliers who provide such generation, transmission and distribution services pursuant to agreements under the Nuclear Reliability Standard as "transmission entities," as discussed below.

[2] *See* the NERC Glossary of Terms Used in Reliability Standards (as revised) (Glossary), *originally filed in Mandatory Reliability Standards for the Bulk-Power System*, NERC Request for Approval of Reliability Standards, Docket No. RM06–16–000 (Apr. 4, 2006), *and affirmed by* Order No. 693, 72 FR 16416 (Apr. 4, 2007), FERC Stats. and Regs. ¶ 31,242 (2007), *order on reh'g*, Order No. 693–A, 72 FR 40717 (July 25, 2007), 120 FERC ¶ 61,053 (2007).

[3] The Commission is not proposing any new or modified text to its regulations. Rather, as set forth in 18 CFR part 40, a proposed Reliability Standard will not become effective until approved by the Commission, and the Electric Reliability Organization (ERO) must post on its Web site each effective Reliability Standard.

[4] Energy Policy Act of 2005, (Pub. L. 109–58), Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o (2000 & Supp. V 2005).

[5] 16 U.S.C. 824o(e)(3).

[6] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, 71 FR 8662 (Feb. 17, 2006), FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672–A, 71 FR 19814 (Apr. 18, 2006), FERC Stats. & Regs. ¶ 31,212 (2006).

[7] *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006).

to Commission review and approval, applicable to users, owners and operators of the Bulk-Power System, as set forth in each Reliability Standard.

1. NERC's Proposed Nuclear Reliability Standard

4. On November 19, 2007, NERC filed its petition for Commission approval of the Nuclear Plant Interface Coordination Reliability Standard, designated NUC–001–1 (November 19, 2007 Petition). NERC supplemented the filing on December 11, 2007 (December 11, 2007 Supplement) to propose four related NERC Glossary terms: "Nuclear Plant Generator Operator," "Nuclear Plant Off-site Power Supply (Off-site Power)," "Nuclear Plant Licensing Requirements (NPLRs)," and "Nuclear Plant Interface Requirements (NPIRs)." The November 19, 2007 Petition states that the proposed Reliability Standard addresses the coordination of interface requirements for two domains: (i) Bulk-Power System planning and operations; and (ii) nuclear power plant licensing requirements for off-site power necessary to enable safe nuclear plant operation and shutdown.

5. The Nuclear Reliability Standard applies to nuclear plant generator operators (generally nuclear power plant owners and operators, including licensees) and "transmission entities," defined in the Reliability Standard as including a nuclear plant's suppliers of off-site power and related transmission and distribution services. To account for the variations in nuclear plant design and grid interconnection characteristics, the Reliability Standard defines transmission entities as "all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs)," and lists eleven types of functional entities that could provide services related to NPIRs.[8]

6. According to NERC, nuclear plant generator operators and transmission entities operate according to separate, established reliability and safety procedures. NERC states that the proposed Reliability Standard requires a nuclear plant generator operator to coordinate operations and planning with its transmission entities by developing procedures that reflect nuclear plant licensing requirements and SOLs,[9] including interconnection reliability operating limits (IROLs), affecting nuclear plant operations.[10] The proposed Nuclear Reliability Standard requires nuclear plant generator operators and transmission entities, including off-site power suppliers, to develop expectations and procedures for coordinating operations to meet the nuclear plant licensing requirements, SOLs and IROLs and to execute agreements, called interface agreements, reflecting those expectations and procedures. The resulting operations and planning requirements developed in the agreements to address the nuclear plant licensing requirements, SOLs and IROLs are called NPIRs.[11] NERC states that Requirements R3 through R8, which state that the interface agreement parties will address the NPIRs in planning, operations and facility upgrade and outage coordination, provide additional specificity on these expectations.

7. NERC's November 19, 2007 Petition notes that nuclear plant generator operators must already fulfill nuclear licensing requirements for off-site power.[12] NERC states that, while various forms of agreements exist to meet the nuclear power plant general design criterion for off-site power, NUC–001–1 places a new, mandatory and enforceable obligation under section 215 of the FPA on both nuclear plant generator operators and transmission entities. NUC–001–1 requires these entities to inform one another of limits and requirements on their systems and to enter into agreements to coordinate and operate their systems to address nuclear plant licensing requirements and related system limits.

8. The nuclear plant licensing requirements addressed in the proposed Reliability Standard include requirements for off-site power to enable safe operation and shutdown during an electric system or plant event, and requirements for avoiding nuclear safety issues as a result of changes in electric system conditions during a disturbance, transient or normal conditions. NERC cites general design criterion 17 for nuclear power plants, which requires nuclear plant generator operators to obtain off-site electric power that will provide sufficient capacity to permit safety systems to function, assure that reactor coolant design limits are not exceeded, prevent core cooling, and maintain containment integrity and other vital functions.[13]

9. NERC states that NUC–001–1, in combination with the nuclear license general design criteria requirements, achieves the vital public interest of assuring safe nuclear power generation. According to NERC, the Reliability Standard is beneficial to nuclear plant generator operators because it will assist them in meeting nuclear plant licensing requirements to safely produce nuclear power. It is also beneficial to Bulk-Power System users, due to the significant support that nuclear plants provide to the Reliable Operation of the Bulk-Power System. This Reliability Standard was assigned to a new rulemaking proceeding, Docket No. RM08–3–000, and is the subject of the current Notice of Proposed Rulemaking (NOPR).[14]

2. Proposed NERC Glossary Definitions

10. NERC proposes in its December 11, 2007 Supplement to add the

[8] The list of functional entities consists of transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators. Additional applicability issues are discussed in a separate section below.

[9] The NERC glossary defines system operating limit or SOL as "the value * * * that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria * * *" 18 CFR part 40, *Facilities Design, Connections and Maintenance Mandatory Reliability Standards*, Notice of Proposed Rulemaking, 72 FR 46413 (Aug. 20, 2007), FERC Stats. and Regs. ¶ 32,622, at P 19 (2007) (Aug. 13, 2007).

[10] The NERC glossary defines IROL as a "system operating limit that, if violated, could lead to instability, uncontrolled separation, or Cascading Outages that adversely impact the reliability of the bulk electric system." 18 CFR part 40, *Facilities Design, Connections and Maintenance Mandatory Reliability Standards*, Order No. 705, 73 FR 1770 (Jan. 9, 2008), 121 FERC ¶ 61,296, at P 118 (2007) (Dec. 27, 2007).

[11] *See* NUC–001–1, Requirement R2 and the proposed NERC Glossary term, Nuclear Plant Interface Requirements.

[12] *See also* the U.S.-Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations, at 112 (April 2004) (Blackout Report), for a description of Nuclear Regulatory Commission (NRC) oversight; available at: *http://www.ferc.gov/industries/electric/indus-act/blackout.asp:*

The NRC, which regulates U.S. commercial nuclear power plants, has regulatory requirements for offsite power systems. These requirements address the number of offsite power sources and the ability to withstand certain transients. Offsite power is the normal source of alternating current (AC) power to the safety systems in the plants when the plant main generator is not in operation. The requirements also are designed to protect safety systems from potentially damaging variations (in voltage and frequency) in the supplied power. For loss of offsite power events, the NRC requires emergency generation (typically emergency diesel generators) to provide AC power to safety systems. In addition, the NRC provides oversight of the safety aspects of offsite power issues through its inspection program, by monitoring operating experience, and by performing technical studies.

[13] NERC November 19, 2007 Petition at 22–23, *citing the NRC regulations*, 10 CFR part 50, Appendix A—General Design Criteria for Nuclear Power Plants.

[14] The Nuclear Reliability Standard is attached in Appendix A to this NOPR and is available on the Commission's eLibrary document retrieval system in Docket No. RM08–3–000 and also on NERC's Web site, *http://www.nerc.com.*

following four terms to the NERC Glossary: [15]

Nuclear Plant Generator Operator: Any Generator Operator or Generator Owner that is a [n]uclear [p]lant [l]icensee responsible for operation of a nuclear facility licensed to produce commercial power.

Nuclear Plant Off-site Power Supply or Off-site Power: The electric power supply provided from the electric system to the nuclear power plant distribution system as required per the nuclear power plant license.

Nuclear Plant Licensing Requirements (NPLRs): Requirements included in the design basis of the nuclear plant and statutorily mandated for the operation of the plant, including nuclear power plant licensing requirements for: (1) Off-site power supply to enable safe shutdown of the plant during an electric system or plant event; and (2) Avoiding preventable challenges to nuclear safety as a result of an electric system disturbance, transient, or condition.[16]

Nuclear Plant Interface Requirements (NPIRs): The requirements, based on NPLRs and Bulk Electric System requirements, that have been mutually agreed to by the Nuclear Plant Generator Operator and the applicable [t]ransmission [e]ntities.

3. Nuclear Reliability Standard Requirements

11. NERC's November 19, 2007 Petition summarizes the Nuclear Reliability Standard's nine compliance Requirements. Requirement R1 states that a nuclear plant generator operator shall provide proposed NPIRs to its transmission entities. Requirement R2 states that a nuclear plant generator operator and its transmission entities shall execute one or more agreements "that include mutually agreed to NPIRs" and document how the nuclear plant generator operator and the applicable transmission entities shall address and implement these NPIRs as further described in Requirement R9.

12. Requirements R3 through R8 dictate various operating and planning obligations that the nuclear plant generator operator and transmission entities shall meet per the interface agreements. Requirement R3 states that the transmission entities shall incorporate NPIR information into planning analyses and communicate the study results to the nuclear plant generator operator. Requirement R4 directs transmission entities to incorporate the NPIRs into operating analyses and meet the resulting operating targets or inform the nuclear plant generator operator when the transmission entity loses the ability to assess its performance. Requirement R5 places an obligation on the nuclear plant generator operator to operate its facilities in accordance with the interface agreements. Requirement R6 provides that a nuclear plant generator operator and its transmission entities shall coordinate outages and maintenance activities that affect the NPIRs (additional details concerning operations and maintenance coordination are set forth in Requirement R9.3). Requirements R7 and R8 oblige a nuclear plant generator operator and its transmission entities, respectively, to inform each other under their interface agreement of actual or proposed facility changes affecting the NPIRs.

13. Requirement R9, including sub-Requirements R9.1.1 through R9.4.4, outline certain administrative, technical, operations and maintenance, and communications and training provisions that must be included in an interface agreement. Provisions concerning technical requirements and analysis direct the interface agreement parties to: (1) Identify limits, configurations and operating scenarios included in the NPIRs (Requirement R9.2.1); (2) identify essential facilities, components and configuration restrictions (Requirement R9.2.2); and (3) describe planning and operational analyses, including scope and timing, to support the NPIRs (Requirement R9.2.3).

14. The operations and maintenance coordination provisions mandate that the interface agreements provide for coordination of operations and maintenance of electrical facilities at the interface between the electrical system and the nuclear plant and power supply systems, including off-site power (Requirements R9.3.1–.3). Further, an interface agreement must coordinate responses to unusual conditions on the grid such as loss of ability to monitor grid performance, loss of off-site power, use of special protection systems, and underfrequency and undervoltage load shedding programs (Requirements R9.3.4, R9.3.5, and R9.3.7). Requirement R9.3.6 requires coordination of physical and cyber security systems. The interface agreements also must adopt terms and protocols for communications between the nuclear plant generator operator and transmission entities, coordination and communication during atypical operating conditions or emergency events, investigation and resolution of the causes of unplanned events, compliance with regulatory information requirements, and personnel training relating to NPIRs (Requirements R9.4.1–.5) and dispute resolution procedures (Requirement R9.1.3).

4. Nuclear Reliability Standard Development

15. NERC reports that in October 2004 it received a Standard Authorization Request (SAR) for NUC–001–1 from the Nuclear Energy Institute Grid Reliability Task Force. The NERC Standards Committee approved the SAR in May 2005 and authorized development of the Reliability Standard. After more than 50 stakeholders, including Nuclear Regulatory Commission (NRC) staff, provided comments on the draft, the NERC Nuclear Reliability Standard drafting team finalized the proposed Reliability Standard and set it for vote. NERC reports that, while the first ballot in March 2007 indicated approval by 77 percent of the weighted segment votes, negative ballots with comments triggered a recirculation ballot. NERC describes the negative comments as being largely concerned with two issues: (1) Whether the term "transmission entities" is too ambiguous to be enforceable; and (2) whether the proposed Reliability Standard makes SOL determinations and Bulk-Power System integrity procedures subservient to nuclear plant licensing requirements. NERC reports the drafting team's responses to these comments on "nsmission entities" and SOL coordination. The drafting team supported its proposal for identifying transmission entities by stating that the proposed generic treatment was appropriate because it reflected the variety of potential interactions between a given nuclear plant generator operator and grid operators with nuclear plant interconnections. According to NERC, the drafting team indicated that the specific entities covered by the proposed Reliability Standard would be determined through the NUC–001–1 implementation plan. NERC states that the drafting team responded to criticisms that SOL coordination was not adequately supported by pointing out that the nuclear plant generator operators and transmission entities will develop NPIRs under NUC–001–1 through a collaborative process that permits both groups to identify and address both nuclear requirements and Bulk-Power System limits in the resulting agreements.

16. With these responses, the proposed Reliability Standard passed in a recirculation ballot with an 80 percent weighted segment approval and a 96 percent quorum. The NERC Board of Trustees adopted the proposed Reliability Standard on May 2, 2007. To

[15] The Commission reviews and approves revisions to the NERC Glossary, directing modifications where necessary. *See, e.g.*, Order No. 693 at P 1893–98.

[16] The proposed Reliability Standard incorporates a regional difference that provides an alternative definition of nuclear plant licensing requirements that applies to units located in Canada.

provide time for nuclear plant generator operators and transmission entities to identify NPIRs and negotiate and execute interface agreements, NERC proposes that NUC–001–1 become effective in the United States on the first day of the calendar quarter falling 15 months after Commission approval.

II. Discussion

17. The Commission proposes to approve the Reliability Standard, NUC–001–1, effective as proposed by NERC, but seeks comment on several specific issues concerning the applicability of the Reliability Standard, coordination among transmission entities, and the scope of nuclear plant interface agreements. The Commission is not taking any action on the regional difference, because it applies outside of the United States and is not applicable to any facilities within the Commission's jurisdiction.[17] Further, the Commission proposes to order several modifications to the violation risk factors for the Reliability Standard and approve the proposed violation severity levels until they are superseded in an upcoming proceeding, as discussed below. The Commission also proposes to approve the proposed Glossary terms.

A. Applicability

18. Reliability Standard NUC–001–1 applies to nuclear plant generator operators and transmission entities, including off-site power suppliers and entities that provide distribution and transmission services that affect plant operations. NERC states that the Reliability Standard meets the criteria that it apply to users, owners and operators of the Bulk-Power System because NUC–001–1 will apply to transmission entities that are responsible for providing services relating to NPIRs. According to NERC, these transmission entities can affect the safety and reliability of the nuclear plant and Bulk-Power System, for instance in the case of a distribution service provider that supplies off-site power from a low-voltage, local distribution system. Therefore, these entities are subject to the Reliability Standard Requirements and may be registered under the NERC compliance registry process.

19. While the Commission does not at this time propose to modify the Reliability Standard, this NOPR seeks comment on several issues concerning: (1) A nuclear plant generator operator's role in notifying applicable transmission entities that they may be responsible for NPIRs, (2) when NUC–001–1 becomes applicable to transmission entities; and (3) the applicability of NERC's compliance procedures when potential parties to interface agreements fail to reach agreement. The Commission presents its understanding of these applicability issues and seeks comment as discussed below.

1. Notification of Parties to Interface Agreements

20. Requirement R1 provides: "The Nuclear Plant Generator Operator shall provide the proposed NPIRs in writing to the applicable transmission entities and shall verify receipt." Thus, it is the responsibility of a nuclear plant generator operator to notify its appropriate transmission entities that they are responsible for meeting the provisions of NUC–001–1. In response, a nuclear plant generator operator and its transmission entities are expected to negotiate and execute interface agreements "that include mutually agreed to NPIRs."

Commission Proposal

21. The Commission understands Requirement R1 to provide that, if a nuclear plant generator operator fails to provide all appropriate NPIRs to an applicable transmission entity, the nuclear plant generator operator will not be in compliance with the Reliability Standard. However, the Commission also understands that the impact of such an implication is limited, because a nuclear plant generator operator will know, as a result of the NRC licensing approval and review processes, which applicable entities to contact and what services are needed to meet NRC licensing requirements. Thus, it is unlikely that a nuclear plant generator operator would fail to obtain appropriate services and contact the necessary off-site power suppliers and transmission entities. With this understanding, the Commission preliminarily finds that the Requirement R1 obligation on a nuclear plant generator operator to contact transmission entities that will be subject to NUC–001–1 is appropriate.

2. Transmission Entities

22. The proposed Reliability Standard includes the term "transmission entities," defined in the Applicability section of NUC–001–1 as "all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs)." NERC explains that each of the functional entities listed as transmission entities is defined as a user, owner, or operator of the Bulk-Power System. NERC notes that entities defined as transmission entities, such as distribution providers, are transmission entities by virtue of their involvement with a nuclear plant, by agreeing to meet an NPIR.[18] NERC states that a distribution provider that supplies backup power to a nuclear plant from a local, lower voltage distribution system to meet the plant's licensing requirements for offsite power will be considered a transmission entity, because the distribution provider can impact the safety and reliability of the nuclear plant and the Bulk-Power System.[19] In particular, the November 19, 2007 Petition states:

> Because the relationship of each nuclear plant generator operator with its provider of transmission-related services is unique, it will be important and necessary for the registration process to identify on a plant-by-plant basis the specific transmission entities required to identify NPIRs and develop the requisite agreement. Once the agreement becomes final, all applicable nuclear plant generator operator and transmission entities for each agreement will be identified by name and specific function. The respective Regional Entity will then be responsible for ensuring that each nuclear plant generator operator and transmission entities identified in the agreement(s) is registered on the NERC Compliance Registry for the applicable function(s). NERC will work with the Regional Entities to ensure that all nuclear plant generator operators and transmission entities included in the agreements that result from the NPIRs are listed in the Compliance Registry for this specific reliability standard.[20]

23. NERC explains that the term "transmission entities" is used to refer to all the entities that may provide services to meet NPIRs for the 104 various nuclear plants subject to NUC–001–1 Requirements. NERC adopted this approach to applicability because, due to the unique characteristics of the interconnection of each nuclear facility with its transmission grid, it is not possible to specify in advance and on a generic basis which functional entities operating near a given nuclear plant would be responsible for meeting the Requirements of NUC–001–1.

24. NERC indicates that the particular transmission entities subject to the Reliability Standard will be determined as they are identified by the nuclear plant generator operator as providing services related to NPIRs, pursuant to Requirement R1. According to NERC,

[17] NERC proposes to adopt as a regional difference for Canada a separate definition of Nuclear Plant Licensing Requirements that does not reference regulatory requirements for off-site power supply for safe plant shutdown because Canada does not have regulatory standards for off-site power comparable to those established by the NRC.

[18] *See* NERC November 19, 2007 Petition at 12.

[19] *Id.*

[20] NERC November 19, 2007 Petition at 12–13.

once a nuclear plant generator operator and its applicable transmission entities execute one or more interface agreements, a Regional Entity shall ensure that the transmission entities that are parties to the interface agreement are listed in the compliance registry and add to it any interface agreement parties that are subject to NUC–001–1 but that were not previously identified in the NERC compliance registry process.[21]

Commission Proposal

25. The Commission proposes to accept the identification and registration process set forth in the November 19, 2007 Petition to determine applicability for NUC–001–1. This proposed acceptance comes with the Commission's understanding that NERC will use its authority under the compliance registry process to register all users, owners and operators of the Bulk-Power System that provide transmission or generating services relating to off-site power supply or delivery.[22]

26. Certain auxiliary power suppliers and transmission service providers may serve nuclear power plants through facilities that fall outside of the current Regional Entity definitions of bulk electric system that NERC uses to establish the applicability of the Reliability Standards. For instance, some nuclear power plants may obtain auxiliary power through lower voltage facilities that are not included in the Regional Entity's definition of bulk electric system. Other nuclear power plants may retain alternate sources of auxiliary power provided through lower voltage facilities operated by a small utility or cooperative that is not included in a Regional Entity's definition of bulk electric system. The Commission understands that NERC and the Regional Entities will register these and other service providers that provide interconnection and/or auxiliary power facilities vital to nuclear plant operation through NERC's authority to register an owner or operator of an otherwise exempt facility that is needed for Bulk-Power System reliability, on a facility-by-facility basis.[23] Once registered, the transmission entity providing such services to a nuclear generating plant may be subject to other Reliability Standards applicable to the functional class within the NERC functional model for which the transmission entity has been registered, as deemed appropriate through the registration process. With this understanding, the Commission proposes to accept the scope of the definition of transmission entities as appropriate.

27. In addition, the Commission seeks clarification from the ERO, and public comment, on several concerns regarding the implementation of the Reliability Standard and the registration of transmission entities.

28. First, the Commission asks NERC to clarify its statement in the November 19, 2007 Petition that the registry process will identify on a plant-by-plant basis the specific transmission entities that provide services relating to NPIRs. Specifically, does NERC intend, for entities that are not otherwise registered, to limit registration to those facilities that provide such services? How does this relate to the definition of bulk electric system? For example, when identifying "on a plant-by-plant basis the specific transmission entities required to identify NPIRs and develop the requisite agreement,"[24] would the "plant" be identified as a critical facility that is included in the bulk electric system?[25]

29. Second, the Commission understands the Nuclear Reliability Standard is not enforceable against an entity, other than a nuclear plant generator operator, until it executes an interface agreement. Upon execution, such an entity becomes a "transmission entity" subject to the Nuclear Reliability Standard and other Reliability Standards as noted above. The Commission requests comment on this understanding.

30. Third, the Commission has concerns regarding the implementation of NUC–001–1 in the context of a single entity that both operates a nuclear plant and is responsible to provide services related to NPIRs, as may be the case with an integrated utility. In that situation, a single entity would be both the nuclear plant generator operator and the transmission entity. The Commission seeks clarification from the ERO, and public comment, on whether an agreement or arrangement would be required in a situation where one entity both operates the nuclear plant and provide services related to NPIRs. If an agreement or arrangement is required, who would execute it, *e.g.*, different functional units or divisions within the same entity? Would such an agreement or arrangement be accessible during a compliance audit? If an agreement is not required in this situation, will there be reasonable assurance of adequate coordination between the nuclear plant operator and other units within the entity that are responsible to provide services related NPIRs?

3. Agreement on NPIRs

31. Other than Requirement R1, NUC–001–1 utilizes a consensus approach, in that the NPIRs contained in an interface agreement must be "mutually agreed to." The proposed NERC Glossary term NPIR is defined, "The requirements, based on NPLRs [nuclear plant licensing requirements] and Bulk-Electric System requirements, *that have been mutually agreed to* by the nuclear plant generator operator and the applicable Transmission Entities" [emphasis added]. This emphasis on agreement is reflected in Requirement R2, which states that the interface agreements shall include "mutually agreed to NPIRs." Requirement R2 also provides that the interface agreements shall document how the interface agreement parties will address and implement the NPIRs, and states that the resulting interface agreement "may include mutually agreed upon procedures or protocols."

32. According to NERC, the proposed Reliability Standard was initially drafted such that the nuclear power generator operators might unilaterally identify or change the NPIRs as then defined without mutual collaboration and agreement with the transmission entity. NERC states that this approach could have created limitations on the Bulk-Power System solely as a result of the NPIR declaration and resultant obligation of the transmission entity to operate the Bulk-Power System in accordance with these modified NPIRs. The standard drafting team responded to these initial comments and created the term "Nuclear Plant Licensing Requirements" for subsequent drafts. The term NPIR was also modified to reflect the requirements based on Nuclear Plant Licensing Requirements and Bulk-Power System requirements that have been mutually agreed to by the nuclear plant generator operator and the

[21] *See* Order No. 693 at P 92–96 (approving NERC compliance registry process) *and* NERC, "Statement of Compliance Registry Criteria (Revision 3)," filed with its Supplemental Information Filing, Docket No. RM06–16–000 (Feb. 6, 2007) (describing NERC procedures to identify and register owners, operators and users of the Bulk-Power System, including organizations performing functions listed in the definition of transmission entities, generators that are material to the Reliable Operation of the Bulk-Power System, and organizations that "should be subject to the Reliability Standards").

[22] *See* NERC November 19, 2007 Petition at 12.

[23] *See* Order No. 693 at P 101; NERC Statement of Compliance Registry, Revision 3.1 at 8.

[24] November 19, 2007 Petition at 12.

[25] *See* Order No. 693 at P 101 (holding generally, in the context of a specific Reliability Standard that identifies a threshold, that "despite the existence of a voltage or demand threshold for a particular Reliability Standard, the ERO or Regional Entity should be permitted to include an otherwise exempt facility on a facility-by-facility basis if it determines that the facility is needed for Bulk-Power System reliability").

applicable transmission entity. According to NERC, these changes ensured that the transmission entities actively participated in the establishment of NPIRs and mitigated the potential for transmission limitations caused by unilateral decisions by the nuclear plant generator operators.[26] Additionally, in defining NPIRs and documenting them in the required agreements per Requirement R2, the transmission entities can safeguard against the acceptance of NPIRs not expressly tied to licensing requirements that could impose a constraint to grid operation and limit available transmission capability.

33. Also, NERC reports that the drafting team replied to comments that the proposed Reliability Standard subordinates SOLs and Bulk-Power System integrity to nuclear licensing requirements by noting that the NPIRs are to be developed through mutual collaboration. Therefore, the consensus approach provides parties to an interface agreement with the obligation and expectation to identify NPIRs and develop responses.

Commission Proposal

34. The Commission proposes to find this consensus approach an acceptable and appropriate means to resolve concerns with the differing operational requirements faced by nuclear plant generator operators and transmission entities, as well as the variety of issues that could arise among them. However, the Commission seeks clarification of what compliance options are available under the Reliability Standard when nuclear plant generator operators and transmission entities fail to reach agreement.

35. The Commission notes that NPIRs are comprised of two distinct types of operational limits: (1) Nuclear plant licensing requirements representing nuclear plant system limits, and (2) SOLs and IROLs representing transmission system limits. Each of these types of operational limits is determined through processes outside of NUC–001–1. Nuclear plant licensing requirements are developed through the NRC licensing procedures, and SOLs and IROLs are determined in accordance with methodologies required by the Facilities Design, Connection and Maintenance Reliability Standards.[27]

36. The Commission is concerned with the possibility that nuclear plant generator operators and transmission entities may fail to come to agreement while attempting to draft an interface agreement. The Commission therefore asks NERC to clarify what compliance options are available when a nuclear plant generator operator and a designated transmission entity fail to come to agreement over a proposed NPIR or a suitable approach to resolve any failure to agree.[28]

37. It appears that, prior to executing an interface agreement, no compliance registry process would be triggered and no agreed-to NPIRs would exist to support the remaining Requirements of the Reliability Standard. The Commission seeks clarification from NERC, and public comment, on a circumstance involving an off-site power supplier or other potential transmission entity that disagrees with the nuclear plant generator operator that it should execute an interface agreement. In such circumstance, how would NERC resolve the impasse? Also, would NERC proceed to register such an entity (if not previously registered) without an executed interface agreement?

B. Scope of Agreements

38. Although the Requirements of NUC–001–1 dictate that interface agreements contain various contractual terms and provide for various studies and procedures, the Reliability Standard does not describe specific substantive terms to be included in the agreements. NERC states that the Nuclear Reliability Standard drafting team adopted this consensus approach to coordinating nuclear plant and transmission grid operations to provide a platform for coordination at the interface that allows both nuclear plant generator operators and transmission entities to respect their main system drivers. NERC explains that the time and effort needed to coordinate nuclear and transmission system requirements in advance and on a generic basis was deemed to be prohibitive and the results of such an exercise deemed questionable. Therefore, according to NERC, the Nuclear Reliability Standard drafting team decided to focus on the interface agreement as the historical model for coordination. The interface agreement model, by its nature, places the obligation on nuclear plant generator operators and transmission entities to coordinate differing operational requirements by consensus.

1. Generally

39. Based on the existence of workable interface agreements that are already in place to meet existing nuclear licensing requirements, the Commission understands that the studies, analysis and plant requirements are developed in the licensing process, prior to the NRC's grant of a license or authority for continued operations. Thus, the required studies and licensing requirements to be addressed are typically established prior to the development of the interface agreements. In light of this process, the Commission proposes to find that the level of detail provided in the proposed Reliability Standard Requirements to define substantive provisions of the interface agreements is appropriate. However, the Commission has concerns about the interpretation of particular Requirements of NUC–001–1 on the development of the interface agreements, as described below.

2. Revisions to Interface Agreements To Reflect Interim Changes

40. Several of the Requirements direct the parties to interface agreements to include provisions to address changes to the nuclear plant or transmission grid characteristics. For example, Requirements R8 and R9 require nuclear plant generator operators and transmission entities to incorporate provisions in the interface agreements to inform one another of actual and proposed changes to their facilities that may impact their ability to meet the NPIRs. Furthermore, the Reliability Standard obligates the parties to interface agreements to incorporate provisions to review and update the agreement "at least every three years" under Requirement R9.1.3 and to address mitigation actions needed to avoid violating NPIRs under Requirement R9.3.4.

Commission Proposal

41. The Commission is concerned that an interface agreement may not be updated for significant system changes outside of the three-year review process. However, the Commission does not at this time expect revisions to the Reliability Standard to be necessary to address its concern. The Commission, therefore, proposes to find acceptable the provisions for revision to interface agreements, but seeks comment on whether NUC–001–1 adequately provides for revisions to reflect interim changes.

[26] November 19, 2007 Petition at 27.

[27] Consequently, although the NPIRs are "mutually agreed to," the Commission understands that the parties to the interface agreement may not alter by agreement the specific determinations of the limits contained in the nuclear plant licensing requirements, SOLs and IROLs that are established elsewhere.

[28] Requirement R9.1.4 states that an interface agreement must include a dispute resolution mechanism, which would apply to disagreements *after* the agreement is signed.

42. The Commission notes that the Requirements of NUC–001–1 describe a minimum set of elements that must be included in an interface agreement. The Commission understands that the NRC requires a nuclear plant generator operator to have operationally feasible solutions in place prior to authorizing plant start up or continued operation following licensing review procedures. As operating solutions are worked out in advance, the Commission would prefer that the updated operational procedures be reflected in the interface agreements prior to being implemented upon plant start up or reauthorization, or shortly thereafter. The Commission therefore seeks comment whether it is feasible for the nuclear plant interface agreements to provide for negotiation and amendments to address emerging transmission and generating system limits and revised nuclear plant licensing requirements prior to, or contemporaneously with, implementing operations solutions. At this time, the Commission anticipates that such an approach would not require revision to the Reliability Standard itself, and that such provision could be made to implement the standard contractual practice requiring negotiation and revision whenever external circumstances represent a material change to the original assumptions that forms the basis of the agreement. The Commission views such a provision as being consistent with Requirement R9.1.3, providing for review and update of an agreement "at least every three years," and Requirement R9.3.4, providing for review and updates to address mitigation actions needed to avoid violating NPIRs.

C. Coordination

43. Requirements R7 and R8 require communication between nuclear plant generator operators and transmission entities regarding significant changes in design, configuration, operation or limits of their facilities:

Requirement R7: Per the Agreements developed in accordance with this standard, the Nuclear Plant Generator Operator shall inform the applicable Transmission Entities of actual or proposed changes to nuclear plant design, configuration, operations, limits, protection systems, or capabilities that may impact the ability of the electric system to meet the NPIRs.

Requirement R8: Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall inform the Nuclear Plant Generator Operator of actual or proposed changes to electric system design, configuration, operations, limits, protection systems, or capabilities that may impact the ability of the electric system to meet the NPIRs.

44. Furthermore, Requirement R6 obligates interface agreement parties to coordinate outages and maintenance activities; Requirement R9.3.6 requires coordination of physical and cyber-security protections; and Requirement R9.3.7 requires coordination of special protection systems and load shedding. Thus, these Requirements provide for communication between a nuclear plant generator operator and its individual transmission entities, as well as the reverse for communication from the transmission entities to the nuclear plant generator operator. However, these Requirements do not explicitly provide for communication and coordination among the various transmission entities that is necessary to facilitate the provision of generation and transmission services to support the nuclear power plant operations.

Commission Proposal

45. The NUC–001–1 Requirements cited above explicitly provide for bilateral coordination between the nuclear plant generator operator and each individual transmission entity. However, the Reliability Standard does not explicitly require communication and coordination among the transmission entities necessary to meet the NPIRs. The Commission understands that the historical practice is for the interface agreement to provide for all necessary coordination, typically by obligating control area operators to communicate with neighboring entities, including Regional Transmission Organization-type grid operators and other interconnected utilities and load serving entities, when necessary. The Commission anticipates that, pursuant to the Requirements of the proposed Reliability Standard, the parties to nuclear plant interface agreements will continue to provide for coordination among transmission entities, in order to comply with NUC–001–1 Requirement R9.3.1 obligations to provide for coordination of interface facilities. Interface agreement parties may continue to designate former integrated control area operators when appropriate or may revise their approach, reflecting changes under restructuring to grid operations when necessary, consistent with coordination responsibilities provided for in existing Reliability Standards. Consistent with this understanding, the Commission proposes to accept the coordination provisions as requiring all appropriate coordination among transmission entities.

D. Proposed Terms for Addition to the NERC Glossary

46. In its November 19, 2007 Petition, NERC submitted and requested approval of additional terms that relate to the Nuclear Reliability Standard to be added to the NERC Glossary. The NERC Glossary initially became effective on April 1, 2005 and is updated whenever a new or revised Reliability Standard is approved that includes a new term or definition.

Commission Proposal

47. Earlier in this NOPR,[29] the Commission sought comment on implications of the phrase "mutually agreed to" in the NPIR definition. The Commission does not propose any revisions to the Glossary terms at this time, however, it is possible that comments received in response to this NOPR may raise unforeseen issues. With this understanding, the Commission proposes to approve the additional terms for the NERC Glossary.

E. Violation Risk Factors

48. As part of its compliance and enforcement program, NERC plans to assign a lower, medium or high violation risk factor to each Requirement of each mandatory Reliability Standard to associate a violation of the Requirement with its potential impact on the reliability of the Bulk-Power System. Violation risk factors are defined as follows:

High Risk Requirement: (a) Is a requirement that, if violated, could directly cause or contribute to Bulk-Power System instability, separation, or a cascading sequence of failures, or could place the Bulk-Power System at an unacceptable risk of instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly cause or contribute to Bulk-Power System instability, separation, or a cascading sequence of failures, or could place the Bulk-Power System at an unacceptable risk of instability, separation, or cascading failures, or could hinder restoration to a normal condition.

Medium Risk Requirement: (a) Is a requirement that, if violated, could directly affect the electrical state or the capability of the Bulk-Power System, or the ability to effectively monitor and control the Bulk-Power System, but is unlikely to lead to Bulk-Power System instability, separation, or cascading failures; or (b) is a requirement in a planning time frame that, if violated, could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability

[29] *See* section II(A)(3), above, discussing "Agreement on NPIRs."

of the Bulk-Power System, or the ability to effectively monitor, control, or restore the Bulk-Power System, but is unlikely, under emergency, abnormal, or restoration conditions anticipated by the preparations, to lead to Bulk-Power System instability, separation, or cascading failures, nor to hinder restoration to a normal condition.

Lower Risk Requirement: Is administrative in nature and (a) is a requirement that, if violated, would not be expected to affect the electrical state or capability of the Bulk-Power System, or the ability to effectively monitor and control the Bulk-Power System; or (b) is a requirement in a planning time frame that, if violated, would not, under the emergency, abnormal, or restorative conditions anticipated by the preparations, be expected to affect the electrical state or capability of the Bulk-Power System, or the ability to effectively monitor, control, or restore the Bulk-Power System.[30]

49. In its November 19, 2007 Petition, NERC identifies violation risk factors for each Requirement of proposed Reliability Standard NUC–001–1. NERC proposes either a lower or medium violation risk factor for each Requirement of NUC–001–1.[31] NERC requests that the Commission approve the violation risk factors when it takes action on the Nuclear Reliability Standard.

50. In the *Violation Risk Factor Order*, the Commission addressed violation risk factors filed by NERC for Version 0 and Version 1 Reliability Standards. In that order, the Commission used five guidelines for evaluating the validity of each violation risk factor assignment: (1) Consistency with the conclusions of the Blackout Report, (2) consistency within a Reliability Standard, (3) consistency among Reliability Standards with similar Requirements, (4) consistency with NERC's proposed definition of the violation risk factor level, and (5) assignment of violation risk factor levels to those Requirements in certain Reliability Standards that co-mingle a higher risk reliability objective and a lower risk reliability objective.[32]

Commission Proposal

51. The Commission proposes to direct NERC to raise violation risk factors for several Requirements, as discussed below. The Commission generally views a Reliability Standard that ensures safe and reliable nuclear power plant operation and shutdown as meriting violation risk factors of medium or high, rather than lower, due to the reliability benefits of nuclear power and the impact of separating a plant from the grid. While it is true that many of the Requirements are administrative in nature, these same Requirements provide for the development of procedures to ensure the safe and reliable operation of the grid, and responses to potential emergency conditions. If the Requirements are not met, the procedures will not be in place to address changing or emergency conditions or provide for safe operation and shutdown of a nuclear power plant. In short, the Requirements co-mingle the administrative tasks with the more critical reliability objective of ensuring safe nuclear power plant operation and shutdown. The Commission understands that NERC will apply the violation risk factor for the main Requirement to any violation of a sub-Requirement, unless separate violation risk factors are assigned to the Requirement and the sub-Requirement. The Commission discusses individual Requirements of NUC–001–1 and proposes changes, below.

a. Requirement R2

52. The Commission proposes to direct NERC to raise the violation risk factor for Requirement R2 from lower to medium and seeks comment on this proposal. Requirement R2 places an obligation on a nuclear plant generator operator and transmission entities that agree to provide services relating to NPIRs to have an interface agreement in place to document how nuclear licensing requirements and transmission system limits will be addressed. Thus, the Requirement co-mingles the administrative element of having an executed agreement in place with the operational element of determining how the parties to the interface agreement will address nuclear plant licensing requirements and SOLs in order to provide for safe nuclear plant operation and shutdown. The operational requirements established in the interface agreements include requirements for off-site power to enable safe operation and shutdown during an electric system or plant event and requirements for avoiding nuclear safety issues as a result of changes in electric system conditions during a disturbance, transient or normal conditions. Therefore, because a violation of Requirement R2 "could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the Bulk-Power System," a medium violation risk factor is appropriate for this Requirement.

b. Requirement R4

53. The Commission proposes to direct NERC to raise the violation risk factors for sub-Requirements R4.2 and R4.3 to high, and seeks comment on its proposal. NERC proposes a medium violation risk factor for sub-Requirement R4.1, R4.2, and R4.3, which state that transmission entities shall incorporate the NPIRs into operating analyses, operate to meet the NPIRs and inform the nuclear plant generator operator when it loses the ability to assess its performance to meet the NPIRs.

54. Requirement R4.2 states that transmission entities shall operate their electric systems to meet the NPIRs established in the interface agreements. According to NERC, the NPIRs form the basis under which nuclear plant generator operators and transmission entities will "coordinate planning, assessment, analysis, and operation of the bulk power system to ensure safe nuclear plant operations and shutdowns." Therefore, under emergency, abnormal, or restorative conditions a violation of Requirement R4.2 could directly cause or contribute to Bulk-Power System instability, separation, or a cascading sequence of failures, or could place the Bulk-Power System at an unacceptable risk of instability, separation, or cascading failures.[33] For these reasons, the Commission believes that a high violation risk factor is appropriate for Requirement R4.2.

55. Under Requirement R4.3, when the transmission entities have lost the ability to monitor the system to ensure that NPIRs are met, they must inform the nuclear plant generator operators. The Commission believes that, if a nuclear plant generator operator is unaware of the fact that a transmission entity can no longer guarantee that NPIRs are met, the nuclear plant generator operator's ability to respond to, or anticipate, emergencies and changing system conditions will be impaired. Such an event could increase the likelihood that the plant is separated from the transmission system, causing significant degradation in Bulk-Power System reliability, characterized by instability, uncontrolled islanding and

[30] *North American Electric Reliability Corp.*, 119 FERC ¶ 61,145, at P 9 (2007) (*Violation Risk Factor Order*).

[31] NERC proposes a lower violation risk factor for Requirements R1, R2, and R9 and a medium violation risk factor for Requirements R3 through R8.

[32] For a complete discussion of each factor, *see* the *Violation Risk Factor Order* at: P 19–36.

[33] *See also* the NERC November 19, 2007 Petition at 20: "The proposed reliability standard also acknowledges that the obligation to public safety relative to nuclear plant operation establishes a unique set of requirements that other generating facilities are not subjected to. In order to protect the common good, the applicable transmission entities must respect these unique requirements that maintain and/or restore offsite power adequate to supply minimum nuclear safety requirements."

cascading. Therefore, the Commission proposes to direct NERC to raise the violation risk factor for Requirements R4.2 and R4.3 from medium to high, and requests comment on this proposal.

c. Requirement R5

56. The Commission proposes to direct NERC to raise the violation risk factor for Requirement R5 from medium to high, and seeks comment on its proposal. Requirement R5 states that a nuclear plant generator operator shall operate its system consistent with the interface agreement developed under NUC–001–1. Due to the size of nuclear power plants, the separation of a nuclear power plant from the grid may significantly affect grid operations. Not all nuclear power plant service interruptions are initiated by incidents occurring off the nuclear power plant system. For instance, if a nuclear power plant breaker opens, separating a turbine from the grid, the resulting lack of power could cause degraded voltage near the plant. As a result, the transmission system may be unable to deliver off-site power to the plant, causing the entire plant to separate from the grid.[34] Due to the possibility for a violation of Requirement R5 to directly affect the reliability of the system, the Commission proposes to direct NERC to raise the violation risk factor for this Requirement from medium to high.

d. Requirements R7 and R8

57. The Commission proposes to direct NERC to raise the violation risk factors for Requirements R7 and R8 from medium to high, and seeks comment on its proposal. Requirements R7 and R8 state that a nuclear plant generator operator and its transmission entities must inform each other of actual or proposed changes to their facilities that affect their ability to meet NPIRs. The information to be exchanged, such as "limits" and "protection systems," is relevant for a transmission entity to determine its system capability and configuration, which affect the ability of a plant to remain connected to the Bulk-Power System. Due to the safety implications of nuclear generation, a transmission entity must plan and operate to meet a nuclear power plant's operating requirements, which are more stringent than for other generators. To permit the necessary planning and system operations, a nuclear plant generator operator and its applicable transmission entities must exchange information relating to proposed and actual system changes. If transmission entities and nuclear plant generator operators do not provide information concerning system changes to each other, their planning and operating analyses may not be based on accurate data. As a result, unanticipated events could result in the nuclear plant disconnecting from the Bulk-Power System, placing the Bulk-Power System at risk for cascading outages.

58. The Blackout Report highlighted the importance of coordinated planning and operations between the Bulk-Power System and nuclear power plants, stating "[a]s the design and operation of the electricity grid is taken into account when evaluating the safety analysis of nuclear power plants, changes to the electricity grid must be evaluated for the impact on plant safety."[35] To account for the potential impact on safety and the integrity of the transmission system, the Commission proposes to direct NERC to raise the violation risk factors for Requirements R7 and R8 from medium to high.

e. Requirement R9

59. The Commission proposes to direct NERC to raise the violation risk factor for Requirement R9 from lower to medium, and seeks comment on its proposal. According to NERC, Requirement R9 sets forth the specific administrative, technical, operations, maintenance, coordination, communications, and training elements that a nuclear plant generator operator and its transmission entities must include in their interface agreement. Thus, similar to Requirement R2, Requirement R9 co-mingles the administrative element of incorporating the various elements into the interface agreement with the operational element of determining how the parties to the interface agreement will address the administrative, technical, operations, maintenance, coordination, communications, and training issues in order to provide for safe nuclear plant operation and shutdown. A violation of Requirement R9 may mean that the necessary operational or emergency planning elements are not in place, resulting in an inability to resolve system conditions in an emergency. Therefore, a violation of Requirement R9 "could, under emergency, abnormal, or restorative conditions anticipated by the preparations, directly affect the electrical state or capability of the Bulk-Power System." Consequently, the Commission proposes to find that a medium violation risk factor is appropriate for Requirement R9. Should NERC wish to assign a lower violation risk factor to any of the purely administrative sub-Requirements of Requirement R9, it may propose appropriate differentiation in its comments.

F. Violation Severity Levels

60. For each Requirement of a Reliability Standard, NERC states that it will also define up to four violation severity levels—lower, moderate, high and severe—as measurements of the degree to which the Requirement was violated. For a specific violation of a particular Requirement, NERC or the Regional Entity will establish the initial value range for the base penalty amount by finding the intersection of the applicable violation risk factor and violation severity level in the Base Penalty Amount Table in Appendix A of the Sanction Guidelines.[36]

61. In its November 19, 2007 Petition, NERC proposes violation severity levels that apply generally to all violations of the Requirements of NUC–001–1, rather than to specific Requirements and sub-Requirements. However, NERC submitted proposed violation severity levels for each Requirement and sub-Requirement of NUC–001–1 that supersede those from the November 19, 2007 Petition pursuant to its March 3, 2008 compliance filing in Docket No. RR08–4–000.[37]

Commission Proposal

62. Because NERC has recently filed new Requirement and sub-Requirement-specific violation severity levels in Docket No. RR08–4–000, the Commission intends to address all issues relating to NUC–001–1 violation severity levels in that proceeding. In the interim, should the review process in Docket No. RR08–4–000 not approve revised violation risk factors before the NUC–001–1 effective date, the Commission proposes to approve the interim violation severity levels proposed in this proceeding, until acceptance of the superseding violation severity levels. The Commission notes that the proposed violation severity levels for NUC–001–1 resemble the levels of non-compliance that will also be replaced by NERC's compliance

[34] Nuclear power plants are large, typically consisting of two large turbines on the order of 1,000 MW or more, so disruptions within the nuclear plant system can have significant reciprocal impacts on the interconnected system.

[35] Blackout Report at 129.

[36] *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,248, at P 74 (2007) (directing NERC to develop up to four violation severity levels (lower, moderate, high, and severe) as measurements of the degree of a violation for each requirement and sub-requirement of a Reliability Standard and submit a compliance filing by March 1, 2008).

[37] The updated NUC–001–1 violation severity levels are provided in NERC's March 4, 2008 filing of revised Exhibit A in Docket No. RR08–4–000.

filing in Docket No. RR08–4–000 because they describe violation severity levels for groups of Requirements in the Reliability Standard rather than on a per-Requirement and sub-Requirement basis. Because NERC's proposed violation severity levels do not specifically refer to each Requirement and sub-Requirement in NUC–001–1, the Commission is concerned that, if the new violation risk factors are not approved by the time NUC–001–1 takes effect, Regional Entities may have difficulty using NERC's Base Penalty Amount Table to compute penalties for violations of all Requirements and sub-Requirements.[38] While the Commission believes that the proposed effective date for NUC–001–1 provides ample time to address the violation severity levels filed in Docket No. RR08–4–000, the Commission proposes to treat the proposed, undifferentiated violation severity levels for NUC–001–1 consistent with the treatment adopted for levels of non-compliance, until Requirement and sub-Requirement-specific violation severity levels are in place.[39]

III. Information Collection Statement

63. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[40] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA)[41] requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons, or continuing a collection for which OMB approval and validity of the control number are about to expire.[42] The PRA defines the phrase "collection of information" to be the "obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

(i) Answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on ten or more persons, other than agencies, instrumentalities, or employees of the United States; or (ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes."[43]

64. This NOPR proposes to approve the new Reliability Standard developed by NERC as the ERO. Section 215 of the FPA authorizes the ERO to develop and enforce Reliability Standards that provide for an adequate level of reliability of the Bulk-Power System. Pursuant to the statute, the ERO must submit each Reliability Standard that it proposes to be made effective to the Commission for approval.[44]

65. Proposed Reliability Standard NUC–001–1 does not require responsible entities to file information with the Commission. Nor, with the exception of a three year self-certification of compliance, does the Reliability Standard require responsible entities to file information with the ERO or Regional Entities. However, the Reliability Standard does require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities.

66. Reliability Standard NUC–001–1 requires nuclear plant generator operators and entities that provide generation, transmission and distribution services relating to off-site power (these entities are defined as "transmission entities") to enter into interface agreements with nuclear plant generator operators that will govern certain communication, training, operational and planning elements for use in addressing generation and transmission system limits and nuclear licensing requirements. The Commission understands that most entities subject to this Reliability Standard already have such agreements in place. The responsible entities are also required to retain evidence that they executed such an agreement and incorporated its terms into systems planning and operations. Further, each nuclear plant generator operator and transmission entity must self-certify its compliance to the compliance monitor once every three years.

67. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

68. Our estimate below regarding the number of respondents is based on the NERC compliance registry as of April 2007 and NERC's November 19, 2007 Petition that is the subject of this proceeding. In its Petition, NERC states that 104 nuclear power plants are subject to the proposed Reliability Standard. These plants are run by approximately 30 different utilities and are located on 65 different sites. Each plant must contract with transmission entities to obtain off-site power, and coordinate distribution and transmission services for such power.

69. The proposed Reliability Standard identifies eleven categories of functional entities that could be a transmission entity when providing covered services, including transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators. NERC's compliance registry indicates that there is a significant amount of overlap among the entities that perform these functions. Therefore, in some instances, a single entity may be registered under several of these functions. The November 19, 2007 Petition includes NERC drafting team comments which report, "In many cases, agreements are not two-party [agreements]—they are often multi-party agreements involving RTO/ISO Protocols, transmission and generation owners and others."[45] Therefore, this analysis attempts to account for the overlap of services to be provided by entities responsible for the various roles identified in the Reliability Standard, as well as the fact that certain plants may need to coordinate with multiple entities.

70. Under NUC–001–1, the 104 nuclear power plants must coordinate with off-site power suppliers and related transmission and/or distribution service providers. The Nuclear Reliability Standard drafting team reports in its responses to SAR comments, "Nuclear plant generators and most nuclear offsite power supplies

[38] *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,248 at P 78–80.

[39] *See id.* P 79.

[40] 5 CFR 1320.11.

[41] 44 U.S.C. 3501–20.

[42] 44 U.S.C. 3502(3)(A)(i), 44 U.S.C. 3507(a)(3).

[43] 44 U.S.C. 3502(3)(A).

[44] *See* 16 U.S.C. 824o(d).

[45] NERC Nuclear Reliability Standard drafting team, "Consideration of Comments, Draft 2—SAR on Nuclear Plant Offsite Power Reliability," p. 2 of 25 (May 23, 2005), filed in November 19, 2007 Petition, Exhibit B, Record of Development of Proposed Reliability Standard.

interconnect with the bulk electric system at transmission system voltage levels. While backup station service for some plants may be provided via distribution lines, these cases are the exception, not the rule."[46] Assuming conservatively, that not more than half of the nuclear power plants call for multi-party coordination and those that do involve all the types of parties listed by the drafting team, the Commission estimates that 52 nuclear plants will execute bi-lateral interface agreements and 52 nuclear plants will execute multi-lateral interface agreements with approximately four other parties. Thus, the Commission estimates that the 104 nuclear plants will enter into agreements with an additional 260 parties to bilateral and multi-party agreements, providing 364 as the total number of entities required to comply with the information "reporting" or development requirements of the proposed Reliability Standard.[47]

71. *Burden Estimate:* The Public Reporting burden for the requirements contained in the NOPR is as follows:

Data collection	Number of respondents	Number of responses	Hours per respondent	Total annual hours
FERC–725F:				
Nuclear Plant Owners or Operators.	104	1	Reporting: 80	Reporting: 8,320.
			Recordkeeping: 40	Recordkeeping: 4,160.
Investor-Owned Utilities	130	1	Reporting: 80	Reporting: 10,400.
			Recordkeeping: 40	Recordkeeping: 5,200.
Large Municipals, Cooperatives and other agencies.	130	1	Reporting: 80	Reporting: 10,400.
			Recordkeeping: 40	Recordkeeping: 5,200.
Total	364			43,680.

Total Hours: (Reporting 29,120 hours + Recordkeeping 14,560 hours) = 43,680 hours. (*FTE=Full Time Equivalent or 2,080 hours*).

Total Annual hours for Collection: Reporting + Recordkeeping = 43,680 hours.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost to be the total annual hours (Reporting) 29,120 times $120 = $3,494,400.

Recordkeeping = @ $40/hour = $582,400, with labor calculated as file/record clerk @ $17 an hour + supervisory @ $23 an hour.

Total costs = $4,076,800.

The Commission believes that this estimate may be conservative because most if not all of the applicable entities currently have agreements in place to provide for coordination between a nuclear plant generator operator and its local transmission, distribution and off-site power suppliers. Furthermore, multiple plants are located on certain sites, and one entity may operate multiple plants, providing for potential economies in updating, drafting and executing the interface agreements.

Title: FERC–725F, Mandatory Reliability Standard for Nuclear Plant Interface Coordination.

Action: Proposed Collection of Information.

OMB Control No: [To be determined].

Respondents: Business or other for profit, and/or not for profit institutions.

Frequency of Responses: One time to initially comply with the rule, and then on occasion as needed to revise or modify. In addition, annual and three-year self-certification requirements will apply.

Necessity of the Information: The Nuclear Reliability Standard, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the proposed Reliability Standard would ensure that system operating limits or SOLs used in the reliability planning and operation of the Bulk-Power System are coordinated with nuclear licensing requirements in order to ensure the safe operation and shut down of nuclear power plants.

Internal review: The Commission has reviewed the requirements pertaining to the proposed Reliability Standard for the Bulk-Power System and determined that the proposed requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

72. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Executive Director, Phone: (202) 502–8415, fax: (202) 273–0873, e-mail: *michael.miller@ferc.gov*]. Comments on the requirements of the proposed rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission], e-mail: *oira_submission@omb.eop.gov*.

[46] NERC Nuclear Reliability Standard drafting team, "Consideration of Comments on 2nd Draft of Nuclear Off-site Power Supply Standard," p. 54 of 60 (Feb. 7, 2007), filed in November 19, 2007 Petition, Exhibit B, Record of Development of Proposed Reliability Standard.

[47] Because it is assumed that each plant operator must ensure that appropriate agreements are in place for each plant, this analysis assesses the workload by measuring the work for 104 plants, rather than for the 30 nuclear plant operators.

IV. Environmental Analysis

73. 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 human environment.[48] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. The actions proposed here fall within the categorical exclusion in the Commission's regulations for rules that are clarifying, corrective or procedural, for information gathering, analysis, and dissemination.[49] Accordingly, neither an environmental impact statement nor environmental assessment is required.

V. Regulatory Flexibility Act Analysis

74. The Regulatory Flexibility Act of 1980 (RFA)[50] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Most of the entities, *i.e.*, planning authorities, reliability coordinators, transmission planners and transmission operators, to which the requirements of this rule would apply do not fall within the definition of small entities.[51]

75. As indicated above, based on available information regarding NERC's compliance registry, approximately 364 entities, including owners and operators of 104 nuclear power plants, will be responsible for compliance with the new Reliability Standard. It is estimated that one-third of the responsible entities, about 130 entities, would be municipal and cooperative organizations. In addition to generator owners and operators and distribution service providers, the proposed Reliability Standard would apply to planning authorities, transmission planners, transmission operators and reliability coordinators, which tend to be larger entities. Thus, the Commission believes that only a portion, approximately 30 to 40 of the municipal and cooperative organizations to which the proposed Reliability Standard would apply, qualify as small entities.[52] The Commission does not consider this a substantial number of all municipal and cooperative organizations. Moreover, as discussed above, the proposed Reliability Standard will not be a burden on the industry since most if not all of the applicable entities currently coordinate operations and planning with nuclear plant generator operators and the proposed Reliability Standard will simply provide a common framework for agreements governing such coordination and many of the entities already have agreements in place to meet prior NRC requirements. Accordingly, the Commission certifies that the proposed Reliability Standard will not have a significant adverse impact on a substantial number of small entities.

76. Based on this understanding, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Comment Procedures

77. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due April 28, 2008. Comments must refer to Docket No. RM08–3–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

78. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at: *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

79. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

80. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

81. 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 FERC's Home Page (*http://www.ferc.gov*) and in FERC'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.

82. From FERC'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.

83. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at (866) 208–3676) or email 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.*

List of Subjects in 18 CFR Part 40

Electric power, Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

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

[49] 18 CFR 380.4(a)(5).

[50] 5 U.S.C. 601–12.

[51] The RFA definition of "small entity" refers to the definition provided in the Small Business Act, which defines a "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632 (2000). According to the SBA, a small electric utility is defined as one that has a total electric output of less than four million MWh in the preceding year.

[52] According to the DOE's Energy Information Administration (EIA), there were 3,284 electric utility companies in the United States in 2005, and 3,029 of these electric utilities qualify as small entities under the SBA definition. Among these 3,284 electric utility companies are: (1) 883 cooperatives of which 852 are small entity cooperatives; (2) 1,862 municipal utilities, of which 1842 are small entity municipal utilities; (3) 127 political subdivisions, of which 114 are small entity political subdivisions; and (4) 219 privately owned utilities, of which 104 could be considered small entity private utilities. *See* Energy Information Administration Database, Form EIA–861, Dept. of Energy (2005), *available at http://www.eia.doe.gov/cneaf/electricity/page/eia861.html.*

Appendix A: RM08-3-000, Nuclear Reliability Standard

Standard NUC-001-1 — Nuclear Plant Interface Coordination

A. Introduction

1. **Title:** **Nuclear Plant Interface Coordination**
2. **Number:** NUC-001-1
3. **Purpose:** This standard requires coordination between Nuclear Plant Generator Operators and Transmission Entities for the purpose of ensuring nuclear plant safe operation and shutdown.
4. **Applicability:**
   - **4.1.** Nuclear Plant Generator Operator.
   - **4.2.** Transmission Entities shall mean all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs). Such entities may include one or more of the following:
     - **4.2.1** Transmission Operators.
     - **4.2.2** Transmission Owners.
     - **4.2.3** Transmission Planners.
     - **4.2.4** Transmission Service Providers.
     - **4.2.5** Balancing Authorities.
     - **4.2.6** Reliability Coordinators.
     - **4.2.7** Planning Authorities.
     - **4.2.8** Distribution Providers.
     - **4.2.9** Load-serving Entities.
     - **4.2.10** Generator Owners.
     - **4.2.11** Generator Operators.
5. **Effective Date:** First day of first quarter 15 months after applicable regulatory approvals.

B. Requirements

R1. The Nuclear Plant Generator Operator shall provide the proposed NPIRs in writing to the applicable Transmission Entities and shall verify receipt [*Risk Factor: Lower*]

R2. The Nuclear Plant Generator Operator and the applicable Transmission Entities shall have in effect one or more Agreements[1] that include mutually agreed to NPIRs and document how the Nuclear Plant Generator Operator and the applicable Transmission Entities shall address and implement these NPIRs. [*Risk Factor: Lower*]

R3. Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall incorporate the NPIRs into their planning analyses of the

1. Agreements may include mutually agreed upon procedures or protocols.

electric system and shall communicate the results of these analyses to the Nuclear Plant Generator Operator. [*Risk Factor: Medium*]

R4. Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall: [*Risk Factor: Medium*]

R4.1. Incorporate the NPIRs into their operating analyses of the electric system.

R4.2. Operate the electric system to meet the NPIRs.

R4.3. Inform the Nuclear Plant Generator Operator when the ability to assess the operation of the electric system affecting NPIRs is lost.

R5. The Nuclear Plant Generator Operator shall operate per the Agreements developed in accordance with this standard. [*Risk Factor: Medium*]

R6. Per the Agreements developed in accordance with this standard, the applicable Transmission Entities and the Nuclear Plant Generator Operator shall coordinate outages and maintenance activities which affect the NPIRs. [*Risk Factor: Medium*]

R7. Per the Agreements developed in accordance with this standard, the Nuclear Plant Generator Operator shall inform the applicable Transmission Entities of actual or proposed changes to nuclear plant design, configuration, operations, limits, protection systems, or capabilities that may impact the ability of the electric system to meet the NPIRs. [*Risk Factor: Medium*]

R8. Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall inform the Nuclear Plant Generator Operator of actual or proposed changes to electric system design, configuration, operations, limits, protection systems, or capabilities that may impact the ability of the electric system to meet the NPIRs. [*Risk Factor: Medium*]

R9. The Nuclear Plant Generator Operator and the applicable Transmission Entities shall include, as a minimum, the following elements within the agreement(s) identified in R2: [*Risk Factor: Lower*]

R9.1. Administrative elements:

R9.1.1. Definitions of key terms used in the agreement.

R9.1.2. Names of the responsible entities, organizational relationships, and responsibilities related to the NPIRs.

R9.1.3. A requirement to review the agreement(s) at least every three years.

R9.1.4. A dispute resolution mechanism.

R9.2. Technical requirements and analysis:

R9.2.1. Identification of parameters, limits, configurations, and operating scenarios included in the NPIRs and, as applicable, procedures for providing any specific data not provided within the agreement.

R9.2.2. Identification of facilities, components, and configuration restrictions that are essential for meeting the NPIRs.

R9.2.3. Types of planning and operational analyses performed specifically to support the NPIRs, including the frequency of studies and types of Contingencies and scenarios required.

R9.3. Operations and maintenance coordination:

R9.3.1. Designation of ownership of electrical facilities at the interface between the electric system and the nuclear plant and responsibilities for operational control coordination and maintenance of these facilities.

R9.3.2. Identification of any maintenance requirements for equipment not owned or controlled by the Nuclear Plant Generator Operator that are necessary to meet the NPIRs.

R9.3.3. Coordination of testing, calibration and maintenance of on-site and off-site power supply systems and related components.

R9.3.4. Provisions to address mitigating actions needed to avoid violating NPIRs and to address periods when responsible Transmission Entity loses the ability to assess the capability of the electric system to meet the NPIRs. These provisions shall include responsibility to notify the Nuclear Plant Generator Operator within a specified time frame.

R9.3.5. Provision to consider nuclear plant coping times required by the NPLRs and their relation to the coordination of grid and nuclear plant restoration following a nuclear plant loss of Off-site Power.

R9.3.6. Coordination of physical and cyber security protection of the Bulk Electric System at the nuclear plant interface to ensure each asset is covered under at least one entity's plan.

R9.3.7. Coordination of the NPIRs with transmission system Special Protection Systems and underfrequency and undervoltage load shedding programs.

R9.4. Communications and training:

R9.4.1. Provisions for communications between the Nuclear Plant Generator Operator and Transmission Entities, including communications protocols, notification time requirements, and definitions of terms.

R9.4.2. Provisions for coordination during an off-normal or emergency event affecting the NPIRs, including the need to provide timely information explaining the event, an estimate of when the system will be returned to a normal state, and the actual time the system is returned to normal.

R9.4.3. Provisions for coordinating investigations of causes of unplanned events affecting the NPIRs and developing solutions to minimize future risk of such events.

R9.4.4. Provisions for supplying information necessary to report to government agencies, as related to NPIRs.

R9.4.5. Provisions for personnel training, as related to NPIRs.

C. Measures

M1. The Nuclear Plant Generator Operator shall, upon request of the Compliance Monitor, provide a copy of the transmittal and receipt of transmittal of the proposed NPIRs to the responsible Transmission Entities. (Requirement 1)

M2. The Nuclear Plant Generator Operator and each Transmission Entity shall each have a copy of the Agreement(s) addressing the elements in Requirement 9 available for inspection upon request of the Compliance Monitor. (Requirement 2 and 9)

M3. Each Transmission Entity responsible for planning analyses in accordance with the Agreement shall, upon request of the Compliance Monitor, provide a copy of the planning analyses results transmitted to the Nuclear Plant Generator Operator, showing incorporation of the NPIRs. The Compliance Monitor shall refer to the Agreements developed in accordance with this standard for specific requirements. (Requirement 3)

M4. Each Transmission Entity responsible for operating the electric system in accordance with the Agreement shall demonstrate or provide evidence of the following, upon request of the Compliance Monitor:

M4.1 The NPIRs have been incorporated into the current operating analysis of the electric system. (Requirement 4.1)

M4.2 The electric system was operated to meet the NPIRs. (Requirement 4.2)

M4.3 The Transmission Entity informed the Nuclear Plant Generator Operator when it became aware it lost the capability to assess the operation of the electric system affecting the NPIRs. (Requirement 4.3)

M5. The Nuclear Plant Generator Operator shall, upon request of the Compliance Monitor, demonstrate or provide evidence that the Nuclear Power Plant is being operated consistent with the Agreements developed in accordance with this standard. (Requirement 5)

M6. The Transmission Entities and Nuclear Plant Generator Operator shall, upon request of the Compliance Monitor, provide evidence of the coordination between the Transmission Entities and the Nuclear Plant Generator Operator regarding outages and maintenance activities which affect the NPIRs. (Requirement 6)

M7. The Nuclear Plant Generator Operator shall provide evidence that it informed the applicable Transmission Entities of changes to nuclear plant design, configuration, operations, limits, protection systems, or capabilities that would impact the ability of the Transmission Entities to meet the NPIRs. (Requirement 7)

M8. The Transmission Entities shall each provide evidence that it informed the Nuclear Plant Generator Operator of changes to electric system design, configuration, operations, limits, protection systems, or capabilities that would impact the ability of the Nuclear Plant Generator Operator to meet the NPIRs. (Requirement 8)

D. Compliance

1. Compliance Monitoring Process

1.1. Compliance Monitoring Responsibility

Regional Reliability Organization.

1.2. Compliance Monitoring Period and Reset Time Frame

One calendar year.

1.3. Data Retention

For Measure 1, the Nuclear Plant Generator Operator shall keep its latest transmittals and receipts.

For Measure 2, the Nuclear Plant Generator Operator and each Transmission Entity shall have its current, in-force agreement.

For Measure 3, the Transmission Entity shall have the latest planning analysis results.

For Measures 4.3, 6 and 8, the Transmission Entity shall keep evidence for two years plus current.

For Measures 5, 6 and 7, the Nuclear Plant Generator Operator shall keep evidence for two years plus current.

If an entity is found non-compliant the entity shall keep information related to the noncompliance until found compliant or for two years plus the current year, whichever is longer.

Evidence used as part of a triggered investigation shall be retained by the entity being investigated for one year from the date that the investigation is closed, as determined by the Compliance Monitor.

The Compliance Monitor shall keep the last periodic audit report and all requested and submitted subsequent compliance records.

1.4. Additional Compliance Information

The Nuclear Plant Generator Operator and Transmission Entities shall each demonstrate compliance through self-certification or audit (periodic, as part of targeted monitoring or initiated by complaint or event), as determined by the Compliance Monitor.

2. Violation Severity Levels

2.1. Lower: Agreement(s) exist per this standard and NPIRs were identified and implemented, but documentation described in M1-M8 was not provided.

2.2. Moderate: Agreement(s) exist per R2 and NPIRs were identified and implemented, but one or more elements of the Agreement in R9 were not met.

2.3. High: One or more requirements of R3 through R8 were not met.

2.4. Severe: No proposed NPIRs were submitted per R1, no Agreement exists per this standard, or the Agreements were not implemented.

E. Regional Differences

The design basis for Canadian (CANDU) NPPs does not result in the same licensing requirements as U.S. NPPs. NRC design criteria specifies that in addition to emergency on-site electrical power, electrical power from the electric network also be provided to permit safe shutdown. This requirement is specified in such NRC Regulations as 10 CFR 50 Appendix A — General Design Criterion 17 and 10 CFR 50.63 Loss of all alternating current power. There are no equivalent Canadian Regulatory requirements for Station Blackout (SBO) or coping times as they do not form part of the licensing basis for CANDU NPPs. Therefore the definition of NPLR for Canadian CANDU units will be as follows:

Nuclear Plant Licensing Requirements (NPLR) are requirements included in the design basis of the nuclear plant and are statutorily mandated for the operation of the plant; when used in this standard, NPLR shall mean nuclear power plant licensing requirements for avoiding preventable challenges to nuclear safety as a result of an electric system disturbance, transient, or condition.

F. Associated Documents

Version History

Version	Date	Action	Change Tracking
1	May 2, 2007	Approved by Board of Trustees	New

[FR Doc. E8–6320 Filed 3–27–08; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 25

[Docket No. FR–5082–P–01]

RIN 2510–AA01

Mortgagee Review Board

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make changes to the Department's Mortgagee Review Board (Board) regulations to clarify and better reflect statutory directives and amend current practice. This proposed rule would modify the Board's procedures governing hearings. Additional revisions proposed by this rule would remove provisions that unnecessarily duplicate the authorizing statute and would clarify the authority and duties of the Board in taking administrative action against mortgagees approved by the Federal Housing Administration. This proposed rule would separate and clarify the grounds for administrative action and the factors considered by the Board in evaluating whether to take administrative action, as well as require the mortgagee to address these factors in its response to the Board's notice of violation. Finally, other organizational changes would be made to improve overall clarity.

DATES: *Comment Due Date:* May 27, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dane Narode, Acting Associate General Counsel for Program Enforcement, Department of Housing and Urban Development, 1250 Maryland Avenue, Suite 200, Washington, DC 20024–0500; telephone number (202) 708–2350 (this is not a toll-free number); e-mail: *Dane_M._Narode@hud.gov*. Hearing- and speech-impaired persons may access the voice telephone number listed above by calling the toll-free Federal Information Relay Service at 1–(800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Mortgagee Review Board (Board) oversees the performance of lenders participating in the Federal Housing Administration (FHA) mortgage insurance programs. Section 1708(c) of the National Housing Act (12 U.S.C. 1708(c)) empowers the Board to initiate the issuance of a letter of reprimand, probation, suspension, or withdrawal of any mortgagee found to be engaging in activities in violation of FHA requirements or the nondiscrimination requirements of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), the Fair Housing Act (42 U.S.C. 3601 *et seq.*), or Executive Order 11063, entitled "Equal opportunity in housing." HUD's regulations implementing section 1708(c) are located in 24 CFR part 25. The regulations governing the Board set forth the authority of the Board; administrative actions available and factors to be considered by the Board in taking such action; violations that give rise to administrative actions; the procedures involved in notifying mortgagees of a violation and administrative action, as well as any hearing that results; and provide for the publication and dissemination of information regarding actions.

II. This Proposed Rule

This proposed rule would amend the regulations governing the Board at 24 CFR part 25. This section of the preamble describes the proposed regulatory changes.

A. Hearings To Be Conducted by Administrative Law Judges

This proposed rule would permit hearings to be conducted by an Administrative Law Judge (ALJ). As proposed, hearings would be conducted in accordance with the applicable provisions of 24 CFR part 26, with two modifications identified in the regulatory text. (The regulations codified in 24 CFR part 26 governing hearings that HUD is required to conduct pursuant to the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) will apply to these matters.) This change would eliminate the procedural delay whereby a matter is referred to a hearing official, who then perfunctorily refers the matter to a hearing officer. HUD is also proposing the removal of the definitions of "Hearing Official" and "Hearing Officer" from § 25.3, as a conforming change.

B. Inclusion of References To Authorizing Statute

Additional revisions proposed by this rule would remove provisions that unnecessarily duplicate the authorizing statute (i.e., 12 U.S.C. 1708), and are designed to clarify the authority and duties of the Board in taking administrative action against FHA-approved mortgagees. For example, § 25.5, entitled "Administrative Actions," addresses administrative actions available to the Board against

those mortgagees that fail to comply with either a directive of a letter of reprimand or a term of probation. Paragraphs (b) and (c) of § 25.5 would be revised by referencing the statute as the source of actions available to the Board rather than the current reference of part 25.

C. Clarifying and Organizational Changes

Section 25.2 would be revised to incorporate § 25.12, as currently designated.

The proposed rule would revise § 25.2, which describes the authority for the establishment of the Board, to incorporate the provisions of current § 25.12, regarding the authority of the Board to impose civil money penalties. Section 25.12 would be removed.

Additionally, the proposed rule would remove the authority to delegate the power to impose administrative sanctions on the grounds specified in paragraphs (e), (h), and (u) of § 25.6 or to take administrative actions for failure to remain in compliance with the requirements for approval in 24 CFR 202.5(i), 202.5(n), 202.7(b)(4), 202.8(b)(1), and 202.8(b)(3). The Department has decided to return this action to the Board, conforming it to the Board's practice regarding sanctions for other violations.

Finally, this proposed rule would remove reference to the delegation of the Board's authority to hold hearings under this part. This part now specifies that hearings are to be conducted by an Administrative Law Judge in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq*. Therefore, the provision authorizing delegation of this authority is no longer necessary.

Section 25.4 would be revised to cite directly to the statute and clarify the title of an advisor.

Section 25.4(a) would be revised to cite to the statute for the identity of the members of the Board. Section 25.4(b) would be revised based on the change in title of one advisor to Director of the Office of Lender Activities and Program Compliance.

Current § 25.9 would be redesignated as new § 25.6.

Section 25.9, entitled "Violations creating grounds for administrative action," would be redesignated as § 25.6 so that the regulations reflect the progression of the administrative process. In addition to the redesignation, this section would also be revised. The language of the introductory paragraph has been moved to create a new § 25.8. Redesignated § 25.6(g) would be revised to provide that grounds for administrative action exist if a mortgagee fails to comply with any agreement, certification, undertaking, or condition of approval listed on, or applicable to, either a mortgagee's application for approval or an approved mortgagee's branch office notification. Redesignated § 25.6(i) would be revised to change the reference from hearing official or officers to Administrative Law Judge to reflect the change in hearing procedures proposed by this rule. Redesignated § 25.6(j) would be revised to include the violation of an agreement with HUD as creating grounds for administrative action. Redesignated § 25.6(ff) would be revised to include a catchall provision whereby a violation of FHA requirements that the Board or the Secretary determines to be so serious creates grounds for administrative action.

Current § 25.6 would be redesignated as new § 25.7.

Section 25.6, entitled "Notice of violation," would be redesignated as § 25.7. This section would also be revised to clarify that proof of delivery of the notice of violation to the mortgagee's address of record establishes that the mortgagee has received the notice. New § 25.7 also would provide that in responding to the notice, mortgagees must address the factors listed in new § 25.8. HUD also proposes to add a provision to this section that would create an exception to the written notice of violation requirement before issuing a letter of reprimand, provided that the Board has received information that discloses a basis for the issuance of a letter of reprimand.

Addition of a new § 25.8.

This proposed rule would separate and clarify the grounds for administrative action and the factors considered by the Board in evaluating whether to take administrative action under 12 U.S.C. 1708(c). Further, this proposed rule would also require the mortgagee to address these factors in its response to the Board's notice of violation, which would assist in the Board's informed consideration of the factors. This proposed rule would eliminate the existing exception from consideration of the enumerated factors for those cases that are based on a mortgagee's failure to maintain basic threshold eligibility for FHA approval, as set forth in paragraphs (e), (h), and (u) of § 25 (i.e., (e) failure of a nonsupervised mortgagee to submit the required annual audit report of its financial condition prepared in accordance with instructions issued by the Secretary within 90 days of the close of its fiscal year, or such longer period as the Assistant Secretary of Housing—Federal Housing Commissioner may authorize in writing prior to the expiration of 90 days; (h) failure of an approved mortgagee to meet or maintain the applicable net worth, liquidity, or warehouse line of credit requirements of 24 CFR part 202 pertaining to net worth, liquid assets, and warehouse line of credit or other acceptable funding plan; and (u) failure to pay the application and annual fees required by 24 CFR part 202.) With the removal of the delegation from § 25.2 for these cases, the Board will now consider the mortgagee's response to the Notice of Violation in the same manner as all other cases it considers.

Current § 25.7 is redesignated as new § 25.9.

Section 25.7, entitled "Notice of administrative action," would be redesignated as § 25.9. This section would also be revised to clarify that proof of delivery of a notice of administrative action to the mortgagee's address of record establishes that the mortgagee has received the notice. The section would also be amended to require that in actions for probation, suspension, or withdrawal, the notice must describe the nature and duration of the administrative action, specify the reasons for the action, inform the mortgagee of its right to a hearing, and inform the mortgagee of the time and manner in which to request a hearing.

Current § 25.8 is being redesignated as new § 25.10.

Section 25.8, entitled "Hearings and hearing request," would be redesignated as § 25.10. This section would also be revised to clarify that mortgagees that may be subject to probation, suspension, or withdrawal are entitled to a hearing, but a hearing must be requested. This section would also be revised to reflect the authority of an ALJ to conduct the hearing. As such, former § 25.8(d)(2), entitled "Referral to a hearing officer or other independent official," has been removed. Additionally, the proposed rule would revise the procedural rules governing a hearing. Hearings would be conducted in accordance with the provisions of 24 CFR part 26 governing hearings that are conducted in accordance with the Administrative Procedure Act, as those provisions are modified by this section.

Current § 25.14 is being redesignated as new § 25.11.

Section 25.14, entitled "Prohibition against modification of Board orders," would be redesignated as new § 25.11. This section would also be revised to reflect that under the proposed rule hearings are to be conducted by ALJs.

Current §§ 25.10, 25.11, and 25.13 are being consolidated into new § 25.12.

Section 25.10, entitled "Publication in **Federal Register** of actions," § 25.11, entitled "Notification to other agencies," and § 25.13, entitled "Notifying GNMA of withdrawal actions," are being combined and redesignated as § 25.12. In addition to including each of the referenced provisions, § 25.12 would be revised to include a paragraph that provides for the availability of all non-privileged information regarding the nature of the violation and the resolution of the action to the public in cases where the notice of administrative action does not result in a hearing or in any case in which a settlement is entered into by the Board and a mortgagee.

III. Small Business Concerns Related to Board Enforcement Actions

With respect to enforcement actions undertaken by the Board against a mortgagee, HUD is cognizant that section 222 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel." To implement this statutory provision, the Small Business Administration has requested that federal agencies include the following language on agency publications and notices that are provided to small business concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], you will find the necessary comment forms at *www.sba.gov/ombudsman* or call 1–888–REG–FAIR (1–888–734–3247).

In accordance with its notice describing HUD's actions on the implementation of SBREFA, which was published on May 21, 1998 (63 FR 28214), HUD will provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

IV. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0523. In accordance with the Paperwork Reduction Act, 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 valid OMB control number.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) (RFA) 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 proposed rule would make changes to HUD's Mortgagee Review Board regulations at 24 CFR part 25 to clarify and better reflect statutory directives and to amend current practice. All entities, small or large, are subject to the same penalties for violations of HUD requirements, as established by statute and implemented by the part 25 regulations. To the extent the rule has any impact on a small entity, it would be a result of the entity's failure to comply with HUD requirements.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives, as described in this preamble.

Environmental Impact

This proposed 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 proposed rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of Section 6 of the Executive Order are met. This rule affects only mortgagees and 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.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

List of Subjects in 24 CFR Part 25

Administrative practice and procedure, Loan programs-housing and community development, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 25 to read as follows:

PART 25—MORTGAGEE REVIEW BOARD

1. The authority citation for 24 CFR part 25 continues to read as follows:

Authority: 12 U.S.C. 1708(c), 1708(d), 1709(s), 1715b, and 1735f-14; 42 U.S.C. 3535(d).

2. Revise § 25.2 to read as follows:

§ 25.2 Establishment and authority of Board.

(a) *Establishment of the Board.* The Mortgagee Review Board (Board) was established in the Federal Housing Administration, which is in the Office of the Assistant Secretary for Housing—

Federal Housing Commissioner, by section 202(c)(1) of the National Housing Act (12 U.S.C. 1708(c)(1)), as added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989).

(b) *Authority of the Board.* The Board has the authority to initiate administrative actions against mortgagees and lenders under 12 U.S.C. 1708(c) and shall exercise all of the functions of the Secretary with respect to administrative actions against mortgagees and lenders and such other functions as are provided in this part. The Board shall have all powers necessary and incident to the performance of these functions and such other functions as are provided in this part, except as limited by this part.

(1) *Administrative Actions.* The Board has the authority to take any administrative action against mortgagees and lenders as provided in 12 U.S.C. 1708(c). The Board may delegate its authority to take all nondiscretionary acts.

(2) *Civil Money Penalties.* The Board is authorized pursuant to section 536 of the National Housing Act (12 U.S.C. 1735(f)–14) to impose civil money penalties upon mortgagees and lenders, as set forth in 24 CFR part 30. The violations for which a civil money penalty may be imposed are listed in subpart B (Violations) of 24 CFR part 30. Hearings to challenge the imposition of civil money penalties shall be conducted according to the applicable rules of 24 CFR part 30.

(3) *Authorization for other administrative actions.* The Board may, in its discretion, approve the initiation of a suspension or debarment action against a mortgagee or lender by any Suspending or Debarring Official under 24 CFR part 24.

3. In § 25.3, remove the definitions of "Hearing Official" and "Hearing Officer."

4. In § 25.4, revise paragraphs (a) and (b) to read as follows:

§ 25.4 Operation of the Mortgagee Review Board.

(a) *Members.* The Board consists of those HUD officials designated to serve on the Board by section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)(2)).

(b) *Advisors.* The Inspector General or his or her designee, and the Director of the Office of Lender Activities and Program Compliance (or such other position as may be assigned such duties), and such other persons as the Board may appoint, shall serve as nonvoting advisors to the Board.

* * * * *

5. Revise § 25.5 to read as follows:

§ 25.5 Administrative actions.

(a) *General.* The Board is authorized to take administrative actions in accordance with 12 U.S.C. 1708(c), including, but not limited to, the following: issue a letter of reprimand, probation, suspension, or withdrawal; or enter into a settlement agreement.

(b) *Letter of reprimand.* A letter of reprimand shall be effective upon receipt of the letter by the mortgagee. Failure to comply with a directive in the letter of reprimand may result in any other administrative action as provided by 12 U.S.C. 1708(c) that the Board finds appropriate.

(c) *Probation.* Probation shall be effective upon receipt of the notice of probation by the mortgagee. Failure to comply with the terms of probation may result in any other administrative action as provided by 12 U.S.C. 1708(c) that the Board finds appropriate.

(d) *Suspension.* (1) *Effect of suspension.* (i) During the period of suspension, HUD will not endorse any mortgage originated by the suspended mortgagee under the Title II program unless prior to the date of suspension:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of suspension, a lender or loan correspondent may not originate new Title I loans under its Title I Contract of Insurance or apply for a new Contract of Insurance.

(2) *Effective date of suspension.* A suspension issued pursuant to § 25.7(d) is effective upon issuance. Any other suspension is effective upon receipt of the notice of suspension by the mortgagee.

(e) *Withdrawal.* (1) *Effect of withdrawal.* (i) During the period of withdrawal, HUD will not endorse any mortgage originated by the withdrawn mortgagee under the Title II program, unless prior to the date of withdrawal:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of withdrawal, a lender or loan correspondent may not originate new Title I loans under its Title I Contract of Insurance or apply for a new Contract of Insurance. The Board may limit the geographical extent of the withdrawal, or limit its scope (*e.g.*, to either the single family or multifamily activities of a withdrawn mortgagee). Upon the expiration of the period of withdrawal, the mortgagee may file a new application for approval under 24 CFR part 202.

(2) *Effective date of withdrawal.* (i) If the Board determines that immediate action is in the public interest or in the best interests of the Department, then withdrawal shall be effective upon receipt of the Board's notice of withdrawal.

(ii) If the Board does not determine that immediate action is necessary according to paragraph (e)(2)(i) of this section, then withdrawal shall be effective either:

(A) Upon the expiration of the 30-day period specified in § 25.10, if the mortgagee has not requested a hearing; or

(B) Upon receipt of the Board's decision under § 25.10, if the mortgagee requests a hearing.

§§ 25.10 and 25.11 [Removed]

6. Remove §§ 25.10 and 25.11.

7. Redesignate §§ 25.6, 25.7, 25.8, and 25.9 as §§ 25.7, 25.9, 25.10, and 25.6, respectively.

8. In newly designated § 25.6, revise the section heading, the introductory text, and paragraphs (g), (j), (x), and (ff), to read as follows:

§ 25.6 Violations creating grounds for administrative action.

Any administrative action imposed under 12 U.S.C. 1708(c) shall be based upon one or more of the following violations:

* * * * *

(g) Failure to comply with any agreement, certification, undertaking, or condition of approval listed on, or applicable to, either a mortgagee's application for approval or an approved mortgagee's branch office notification;

* * * * *

(j) Violation of the requirements of any contract or agreement with the Department, or violation of the requirements set forth in any statute, regulation, handbook, mortgagee letter, or other written rule or instruction;

* * * * *

(x) Failure to submit a report required under 24 CFR 202.12(c) within the time determined by the Commissioner, or to commence or complete a plan for corrective action under that section within the time agreed upon with the Commissioner.

* * * * *

(ff) Any other violation of Federal Housing Administration requirements that the Board or the Secretary determines to be so serious as to justify an administrative sanction.

9. Revise newly designated § 25.7, to read as follows:

§ 25.7 Notice of violation.

(a) *General.* The Chairperson of the Board, or the Chairperson's designee, shall issue a written notice to the mortgagee at the mortgagee's address of record at least 30 days prior to taking any action under 12 U.S.C. 1708(c) against the mortgagee. Proof of delivery to the mortgagee's address of record shall establish the mortgagee's receipt of the notice. The notice shall state the specific violations that have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days after receipt of the notice by the mortgagee. The notice shall also provide the address to which the response shall be sent. If the mortgagee fails to reply during such time period, the Board may make a determination without considering any comments of the mortgagee.

(b) *Mortgagee's response.* The mortgagee's response to the Board shall be in a format prescribed by the Secretary and shall not exceed 15 double-spaced typewritten pages. The response shall include an executive summary, a statement of the facts surrounding the matter, an argument, and a conclusion. Such response shall also address the factors listed in § 25.8. A more lengthy submission, including documents and other exhibits, may be simultaneously submitted to Board staff for review.

(c) *Exception for letter of reprimand.* Whenever information comes before the Board that discloses a basis for the issuance of a letter of reprimand, the Board may issue the letter without having previously issued a notice of violation.

(d) *Exception for immediate suspension.* If the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public, the Board may take a suspension action without having previously issued a notice of violation.

10. Add § 25.8, to read as follows:

§ 25.8 Factors considered in taking administrative action.

In determining which administrative action under 12 U.S.C. 1708(c), if any, should be taken, the Board will consider, among other factors, the seriousness and extent of the violations, the degree of mortgagee responsibility for the occurrences, and any other mitigating or aggravating facts. Where the Board is considering the taking of a withdrawal action, the Board will also consider whether the violations were egregious or willful in order to determine whether a permanent withdrawal is mandated by 12 U.S.C. 1708(c).

11. Revise newly designated § 25.9 to read as follows:

§ 25.9 Notice of administrative action.

(a) Whenever the Board decides to take an action in accordance with 12 U.S.C. 1708(c)(3), the Chairperson of the Board, or the Chairperson's designee, shall issue a written notice of the action to the mortgagee at the mortgagee's address of record of the determination. Proof of delivery to the mortgagee's address of record shall establish the mortgagee's receipt of the notice.

(b) In actions for probation, suspension, or withdrawal, the notice shall describe the nature and duration of the administrative action, and shall specifically state the reasons for the action. In actions for probation, suspension, or withdrawal, the notice shall inform the mortgagee of its right to a hearing, pursuant to § 25.10, regarding the administrative action and of the manner and time in which to request a hearing.

12. Revise newly designated § 25.10 to read as follows:

§ 25.10 Hearings and hearing request.

(a) *Hearing request.* A mortgagee subject to administrative action under 12 U.S.C. 1708(c) (except for a letter of reprimand) is entitled to a hearing, which, when requested, shall be held on the record. The mortgagee shall submit its request for a hearing within 30 days of receiving the Board's notice of administrative action. The request shall be addressed to the Mortgagee Review Board Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. The request shall specifically respond to the violations set forth in the notice of administrative action. If the mortgagee fails to request a hearing within 30 days after receiving the notice of administrative action, the Board's action shall become final.

(b) *Hearing by Administrative Law Judge.* Hearings are to be conducted by an Administrative Law Judge (ALJ), as set forth in this part. The ALJ shall commence a de novo hearing within 30 days of HUD's receipt of the mortgagee's request, unless the parties agree to an extension. The ALJ may extend this time period for good cause.

(c) *Procedural rules.* The hearing shall be conducted in accordance with the applicable provisions of 24 CFR part 26, with the following modifications:

(1) The mortgagee or its representative shall be afforded an opportunity to appear, submit documentary evidence, present witnesses, and confront any witness the agency presents, except that the parties shall not be allowed to present members of the Board as witnesses.

(2) Discovery of information and/or documents that do not pertain to the appealing mortgagee, including, but not limited to, reviews or audits by the Department or administrative actions by the Board against mortgagees other than the appealing mortgagee, shall not be permitted. Members of the Board shall not be subject to deposition.

(3) The hearing shall generally be held in Washington, DC. However, upon a showing of undue hardship or other cause, the ALJ may, in his or her discretion, order the hearing to be held in a location other than Washington, DC.

13. Revise § 25.12 to read as follows:

§ 25.12 Public access to information; Publication of actions.

(a) Where a notice of administrative action does not result in a hearing and in any cases in which a settlement is entered into by the Board and a mortgagee, all non-privileged information regarding the nature of the violation and the resolution of the action shall be available to the public.

(b) *Publication in the Federal Register.* The Secretary shall publish, in the **Federal Register**, a description of and the cause for each administrative action taken by the Board against a mortgagee.

(c) *Notification of other agencies.* Whenever the Board has taken any discretionary action to suspend and/or withdraw the approval of a mortgagee, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to the Secretary of Veterans Affairs; the chief executive officer of the Federal National Mortgage Association; the chief executive officer of the Federal Home Loan Mortgage Corporation; the Administrator of the Rural Housing Service (formerly the Farmers Home Administration); the Comptroller of the Currency, if the mortgagee is a National Bank or District Bank or subsidiary or affiliate of such a bank; the Board of Governors of the Federal Reserve System, if the mortgagee is a state bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company; the Board of Directors of the Federal Deposit Insurance Corporation, if the mortgagee is a state bank that is not a member of the Federal Reserve System, or is a subsidiary or affiliate of such a bank; and the Director of the

Office of Thrift Supervision, if the mortgagee is a federal or state savings association or a subsidiary or affiliate of a savings association.

(d) *Notification to GNMA of withdrawal actions.* Whenever the Board issues a notice of violation that could lead to withdrawal of a mortgagee's approval, or is notified by GNMA of an action that could lead to withdrawal of GNMA approval, the Board shall proceed in accordance with 12 U.S.C. 1708(d).

§ 25.13 [Removed]

14. Section 25.13 is removed.

15. Section 25.14 is redesignated as § 25.11 and is revised to read as follows:

§ 25.11 Prohibition against modification of Board orders.

No ALJ before whom proceedings are conducted under § 25.10 shall modify or otherwise disturb in any way an order or notice by the Board until the hearing under § 25.10 has been concluded. Any order issued by the presiding ALJ following the conclusion of the hearing under § 25.10 shall not become effective until all administrative appeals have been exhausted.

16. Redesignate § 25.15 as § 25.13.

Dated: *February 26, 2008.*

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner .

[FR Doc. E8–6323 Filed 3–27–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–133300–07]

RIN 1545–BG80

Automatic Contribution Arrangements; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on a notice of proposed rulemaking under sections 401(k), 401(m), 402(c), 411(a), 414(w), and 4979(f) of the Internal Revenue Code relating to automatic contribution arrangements. These proposed regulations will affect administrators of, employers maintaining, participants in, and beneficiaries of eligible plans that include an automatic contribution arrangement under section 401(k)(13), 401(m)(12), or 414(w).

DATES: The public hearing is being held on Monday, May 19, 2008, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by Monday, April 28, 2008.

ADDRESSES: The public hearing is being held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: CC: PA: LPD: PR (REG–133300–07), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC: PA: LPD: PR (REG–133300–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic outlines of oral comments via the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, R. Lisa Mojiri-Azad, Dana Barry or William D. Gibbs at (202) 622–6060; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst at *Richard.A.Hurst@irscounsel.treas.gov* or (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–133300–07) that was published in the **Federal Register** on Thursday, November 8, 2007 (72 FR 63144).

Persons, who wish to present oral comments at the hearing that submitted written comments, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by April 28, 2008.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW., entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

LaNita Van Dyke,

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

[FR Doc. E8–6308 Filed 3–27–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114126–07]

RIN 1545–BG54

Reduction of Foreign Tax Credit Limitation Categories Under Section 904(d); Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document cancels a public hearing on proposed regulations that provide guidance relating to the reduction of the number of separate foreign tax credit limitation categories under section 904(d) of the Internal Revenue Code. Changes to the applicable law were made by the American Jobs Creation Act of 2004 reducing the number of section 904(d) separate categories from eight to two, effective for taxable years beginning after December 31, 2006.

DATES: The public hearing, originally scheduled for April 22, 2008, at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Funmi Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–3628 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations and a notice of public hearing that appeared in the **Federal Register** on Friday, December 21, 2007 (72 FR 72645), announced that a public hearing was scheduled for April 22, 2008, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under the section 904 of the Internal Revenue Code.

The public comment period for these regulations expired on March 20, 2008. The notice of proposed rulemaking by

cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, March 25, 2008, no one has requested to speak. Therefore, the public hearing scheduled for April 22, 2008, is cancelled.

LaNita Van Dyke,

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

[FR Doc. E8–6306 Filed 3–27–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–141399–07]

RIN 1545–BH13

Treatment of Overall Foreign and Domestic Losses; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document cancels a public hearing on proposed rulemaking by cross-reference to temporary regulations providing guidance relating to the recapture of overall foreign and domestic losses.

DATES: The public hearing, originally scheduled for April 10, 2008, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at *Richard.A.Hurst@irscounsel.treas.gov*.

SUPPLEMENTARY INFORMATION: A notice of public hearing that appeared in the **Federal Register** on Friday, December 21, 2007 (72 FR 72646), announced that a public hearing was scheduled for April 10, 2008, at 10 a.m., in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under section 904 of the Internal Revenue Code.

The public comment period for these regulations expired on March 20, 2008. Outlines of topics to be discussed at the hearing were due on March 20, 2008. The notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Friday, March 21, 2008, no one has requested to speak. Therefore, the public hearing scheduled for April 10, 2008, is cancelled.

LaNita Van Dyke,

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

[FR Doc. E8–6307 Filed 3–27–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 403

RIN 1215–AB64

Labor Organization Annual Financial Reports

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, United States Department of Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for comments on the proposed rule published on March 4, 2008 (73 FR 11754). The proposed rule would establish the financial report (Form T–1) required to be filed by labor organizations under the Labor-Management Reporting and Disclosure Act of 1959, as amended, on trusts in which they are interested. The comment period, which was to expire on April 18, 2008, is extended to May 5, 2008.

DATES: Comments on the proposed rule published on March 4, 2008 (73 FR 11754) must be received on or before May 5, 2008.

ADDRESSES: You may submit comments, identified by RIN 1215–AB64, by any of the following methods:

Internet—Federal eRulemaking Portal. Electronic comments may be submitted through *http://www.regulations.gov*. To locate the proposed rule, use key words such as "Labor-Management Standards" or "Labor Organization Annual Financial Reports" to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Mail: Mailed comments should be sent to: Kay H. Oshel, Director of the Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210.

Because of security precautions, the Department continues to experience delays in U.S. mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments.

OLMS recommends that you confirm receipt of your mailed comments by contacting (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877–8339 (TTY/TDD).

Only those comments submitted through *www.regulations.gov*, hand-delivered, or mailed will be accepted.

Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Director of the Office of Policy, Reports and Disclosure, at: Kay H. Oshel, U.S. Department of Labor, Office of Labor-Management Standards, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, (202) 693–1233 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 4, 2008 (73 FR 11754), the Department published a notice of proposed rulemaking that would establish the Form T–1 to be used by labor organizations to file annual financial reports on trusts in which they are interested.

Interested persons were invited to submit comments on or before April 18, 2008, 45 days after the publication of the notice. Based on requests that the Department extend the period for submitting comments, the Department has decided to extend the comment period until May 5, 2008.

The proposed rule, including the proposed Form T–1 and its instructions, is available on the Web site maintained by OLMS at: *http://www.olms.dol.gov*. (Anyone who is unable to access this information on the Internet can obtain the information by contacting the Employment Standards Administration at 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, at: *olms-public@dol.gov* or at (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

Signed at Washington, DC, this 24th day of March, 2008.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

[FR Doc. E8–6301 Filed 3–27–08; 8:45 am]

BILLING CODE 4510–86–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD–2007–HA–0078; RIN 0720–AB17]

TRICARE; Relationship Between the TRICARE Program and Employer-Sponsored Group Health Plans

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Proposed Rule.

SUMMARY: This proposed rule implements Section 1097c of Title 10, United States Code. This law prohibits employers from offering incentives to TRICARE-eligible employees to not enroll, or to terminate enrollment, in an employer-offered Group Health Plan (GHP) that is or would be primary to TRICARE. Cafeteria plans that comport with section 125 of the Internal Revenue Code will be permissible so long as the plan treats all employees the same and does not illegally take TRICARE eligibility into account.

DATES: Written comments received at the address indicated below by May 27, 2008 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or RIN 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 and docket number or Regulatory Information Number (RIN) 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://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Anne Giese, TRICARE Policy and Operations, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA, 22041, telephone (703) 681–0039.

SUPPLEMENTARY INFORMATION:

I. Background

Section 707 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) added Section 1097c to Title 10, United States Code. Section 1097c prohibits employers from offering financial or other incentives to certain TRICARE-eligible employees (essentially retirees and their family members) to not enroll in an employer-offered GHP in the same manner as employers are currently prohibited from offering incentives to Medicare-eligible employees under section 1862(b)(3)(C) of the Social Security Act (42 U.S.C. 1395y(b)(3)(C)). Many employers, including state and local governments, have begun to offer their employees who are TRICARE-eligible a TRICARE supplemental insurance as an incentive not to enroll in the employer's primary GHP. These actions shift thousands of dollars of annual health costs per employee to the Defense Department, draining resources from higher national security priorities. TRICARE, as is Medicare, is a secondary payer to employer-provided health insurance. In all instances where a TRICARE beneficiary is employed by a public or private entity and elects to participate in a GHP, reimbursements for TRICARE claims will be paid as a secondary payer to the TRICARE beneficiary's employer-sponsored GHP. TRICARE is not responsible for paying first as it relates to reimbursements for a TRICARE beneficiary's health care and the coordination of benefits with employer-sponsored GHPs.

An identified employer-sponsored health insurance plan will be the primary payer and TRICARE will be the secondary payer. TRICARE will generally pay no more than the amount it would have paid if there were no employer GHP. As applicable to both the Medicare and TRICARE secondary payer programs, the term "group health plan" means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families. It should be noted that by including any plan of an employer to provide health care to the employees, this definition is very broad. It should also be noted that Section 1097c also reaches to any other plan that would be primary to TRICARE.

Prohibition on incentives not to enroll in employer-sponsored GHPs is to prevent employers from shifting their responsibility for their employees onto the Federal taxpayers. Certain common employer benefits programs do not constitute improper incentives under the law. For example, supplemental insurance offered under an employer's cafeteria plan which comports with section 125 of the Internal Revenue Code would not be considered improper incentive, as long as it is not a TRICARE-exclusive plan.

A cafeteria plan is defined by the Internal Revenue Code, 26 U.S.C. 125(d), as a written plan under which all participants are employees and the participants may choose among two or more benefits consisting of cash and qualified benefits. Employers who adhere to the requirements of section 125 and offer all employees without regard to TRICARE eligibility a choice between health insurance and cash payment equivalents are not considered in violation of 42 U.S.C. 1395y(b)(3)(C). Therefore, if a TRICARE beneficiary elects the cash payment option as a benefit offered under the employer's cafeteria plan, one which meets section 125 requirements, then the employer would not be in violation of these provisions.

10 U.S.C. 1097c prohibits TRICARE supplemental insurance plans as an option for health coverage under an employer-sponsored GHP to TRICARE-eligible beneficiaries. Such plans cannot be included in cafeteria plans because they are not open to all employees, and constitute an improper incentive targeted only at TRICARE beneficiaries for not enrolling in the employer's main health plan option or options. Section 1097c does not impact TRICARE supplemental insurance plans that are not offered by an employer; but are sold by an insurer and/or beneficiary association working in conjunction with an insurer. Such non-employer-sponsored TRICARE supplemental insurance will continue to be expressly excluded as double coverage under 32 CFR 199.2(b) and 199.8(b)(4)(ii), so that TRICARE is the primary payer and the TRICARE Supplemental plan is the secondary payer. These plans have been sold by beneficiary associations or insurers.

Cafeteria plans. Cafeteria plans that comport with section 125 of the Internal Revenue Code are permissible. Additional requirements of any plan

offered by the employer are permissible so long as the plan treats all employees the same and does not illegally take TRICARE eligibility into account. The Conference Report accompanying the enactment of section 1097c made clear that supplemental insurance offered by employers through cafeteria plans are permissible under 1097c only if they are "non-TRICARE exclusive employer-provider health care incentives." TRICARE-exclusive plans even if offered under cafeteria plans, are not allowed. However, an employer incentive not to enroll in the employer's Group Health plan does not violate this new law if the incentive is available to and can be used by all employees, and not limited to employees who are also TRICARE beneficiaries. For example, non-TRICARE exclusive employer-provided health care incentives offered under an otherwise proper employer-sponsored Cafeteria Plan would not be a violation. Similarly, cash payments or other bona fide fringe benefits may properly be offered under the Services Contract Act in lieu of health care coverage so long as the employer does not consider TRICARE eligibility when formulating the cash payment or fringe benefits options for an employee.

It has been determined that the regulation is economically significant. An economic analysis has been completed.

II. Regulatory Enforcement

Enforcement of this prohibition is afforded through the authority provided by section 1097c: civil monetary penalties not to exceed $5000 for each violation, investigative authorities of the Department of Defense Inspector General, recourse under the Debt Collection Improvement Act, 31 U.S.C. 3701 *et seq.*, and any other authority provided by law. Procedures for civil monetary penalties will be considered with reference to section 1097c(a)(2)(B), which authorizes agreements between DoD and the Department of Health and Human Services.

III. Regulatory Procedures

Executive Order 12866, "Regulatory Planning and Review" and Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. This rule is an economically significant regulatory action. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule will not have a significant impact on a substantial number of small entities for purposes of the RFA. This proposed rule is subject to an economic analysis.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

Executive Order 13132, "Federalism"

We have examined the impact(s) of the proposed rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, therefore, consultation with State and local officials is not required.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

This rule does not contain unfunded mandates. It does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 32 CFR Part 199

Claims, Health care, Health Insurance, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS) [AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.8 is amended by adding a new paragraph (d)(6) to read as follows:

§ 199.8 Double coverage.

* * * * *

(d) * * *

(6) *Prohibition against financial and other incentives not to enroll in a group health plan*—(i) *General rule*. An employer or other entity is prohibited from offering TRICARE beneficiaries financial or other benefits as incentives not to enroll in, or to terminate enrollment in, a group health plan that is, or would be, primary to TRICARE. This prohibition applies in the same manner as section 1862(b)(3)(C) of the Social Security Act applies to incentives for a Medicare-eligible employee not to enroll in a group health plan that is or would be primary to Medicare. This prohibition precludes offering to TRICARE beneficiaries an alternative to the employer primary plan unless:

(A) The beneficiary has primary coverage other than TRICARE; or

(B) The benefit is a Cafeteria Plan offered under Section 125 of the Internal Revenue Code and is offered to all employees, including non-TRICARE eligible employees.

(ii) *Remedies and penalties*. (A) Remedies for violation include, but are not limited to, remedies under the Federal Claims Collection Act, 31 U.S.C. 3701 *et seq.*

(B) Penalties for violation include a civil money penalty of up to $5000 for each violation. The provisions of Section 1128A of the Social Security Act, 42 U.S.C. 1320a–7a, (other than subsections (a) and (b)) apply to the civil money penalty in the same manner as the provisions apply to a penalty or proceeding under Section 1128A.

(iii) *Definitions*. For the purposes of this paragraph (d)(6):

(A) The term 'employer' includes any State or unit of local government and any employer that employs at least 20 employees.

(B) The term 'group health plan' means a group health plan (as that term is defined in section 5000(b)(1) of the Internal Revenue Code of 1986 without regard to section 5000(d) of the Internal Revenue Code of 1986).

(C) The term 'TRICARE-eligible employee' means a covered beneficiary under section 1086 of title 10, United States Code, Chapter 55, entitled to health care benefits under the TRICARE program.

(iv) *Procedures*. The Departments of Defense and Health and Human Services are authorized to enter into agreements to further carry out this section.

* * * * *

Dated: March 21, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–6419 Filed 3–27–08; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0647; FRL–8546–4]

Approval and Promulgation of State Implementation Plans; State of Utah; Interstate Transport of Pollution and Other Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on March 22 and September 17, 2007. The revisions address Interstate Transport Pollution requirements of section 110(a)(2)(D)(i) of the Clean Air Act and a typographical error in Rule R307–130–4, "Options." The March 22, 2007 submittal adds "Section XXIII, Interstate Transport" to the Utah SIP, and Rule R307–110–36 to the Utah Administrative Code (UAC). The new Rule R307–110–36 incorporates by reference the Interstate Transport declaration into the State rules. The September 17, 2007 submittal amends UAC Rule R307–130–4, "Options," by removing from the text the word "not" which had been accidentally placed in this rule. This action is being taken under section 110 of the Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a non-controversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before April 28, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2007–0647, by one of the following methods:

- *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- E-mail: *videtich.callie@epa.gov* and *mastrangelo.domenico@epa.gov*.

Fax: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129.
- Hand Delivery: Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6436, *mastrangelo.domenico@epa.gov*.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: March 12, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8–6272 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 165

[EPA–HQ–OPP–2006–0688; FRL–8357–6]

RIN 2070–AJ29

Pesticide Container Recycling; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft proposed rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As described in the Agency's semi-annual Regulatory Agenda, the draft proposed rule would require that manufacturers of agricultural and professional specialty pesticides support (either by managing and operating, or contracting with another organization) a container recycling program that meets the standards of the American National Standards Institute.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0688. To access the electronic docket, go to *http://www.regulations.gov*, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jeanne Kasai, Field and External Affairs Division, (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: (703) 308–3240; e-mail address: kasai.jeanne@*epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to the United States Department of Agriculture (USDA) and does not otherwise affect any specific entities. This action may, however, be of particular interest to pesticide formulators, pesticide container recycling programs, third party certification bodies and accreditation organizations. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. What Action is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include the comments of the Secretary and the Administrator's response to those comments in the proposed rule when published in the **Federal Register**. If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30–day period.

III. Do Any Statutory and Executive Order Reviews Apply to this Notification?

No. This document is not a proposed rule, it is merely a notification of submission to the Secretary of Agriculture. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in Part 165

Environmental protection, packaging and containers, pesticides and pests, recycling.

Dated: March 19, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E8–6396 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531 and 533

[Docket No. NHTSA–2008–0060]

Notice of Intent to Prepare an Environmental Impact Statement for New Corporate Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of intent; request for scoping comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), NHTSA plans to prepare an Environmental Impact Statement (EIS) to address the potential environmental impacts of the agency's Corporate Average Fuel Economy program for passenger automobiles (referred to herein as "passenger cars") and non-passenger automobiles (referred to herein as "light trucks"). The EIS will consider the potential environmental impacts of new fuel economy standards for model year 2011–2015 passenger cars and light trucks that NHTSA will be proposing pursuant to the Energy Independence and Security Act of 2007.

To this end, this notice initiates the NEPA scoping process to identify the environmental issues and reasonable alternatives to be examined in the EIS, and requests comments regarding those and other matters related to the scope of NHTSA'S NEPA analysis for the new standards. NHTSA will provide further guidance for the public about the scoping process in a separate notice that will be published when the proposal itself is published.

DATES: The scoping process will culminate in the preparation and issuance of a Draft EIS, which will be made available for public comment. Interested persons are requested to submit their scoping comments as soon as possible after the issuance of the proposal in order to ensure their consideration and facilitate the agency's prompt preparation of the Draft EIS.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, 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, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

Note that all comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Carol Hammel-Smith, Fuel Economy Division, Office of International Vehicle, Fuel Economy and Consumer Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–5206.

For legal issues, contact Kerry E. Rodgers, Vehicle Safety Standards & Harmonization Division, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–5552.

SUPPLEMENTARY INFORMATION: NHTSA is preparing a notice of proposed rulemaking (NPRM) to propose Corporate Average Fuel Economy (CAFE) standards for model year (MY) 2011–2015 passenger cars and light trucks pursuant to the amendments made by the Energy Independence and Security Act of 2007, Public Law 110–140, 121 Stat. 1492 (December 19, 2007)

(EISA), to the Energy Policy and Conservation Act (EPCA).[1] 49 U.S.C.A. 32901 *et seq.* NHTSA intends to prepare an Environmental Impact Statement (EIS) to address the potential environmental impacts of the proposed standards in the context of NHTSA's CAFE program.

This notice of intent initiates the scoping process for the EIS under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347, and implementing regulations issued by the Council on Environmental Quality (CEQ), 40 CFR Pt. 1500, and NHTSA, 49 CFR Pt. 520. See 40 CFR 1501.7, 1508.22; 49 CFR 520.21(g). Specifically, this notice of intent requests public input on the scope of NHTSA's NEPA analysis relating to the CAFE standards for MY 2011–2015 automobiles. As a related part of the NEPA scoping process, NHTSA intends to describe proposed standards to meet EPCA's requirements and the possible alternatives NHTSA plans to consider for purposes of its NEPA analysis in its NPRM and in a separate scoping notice that will provide further guidance for the public about the scoping process. See 40 CFR 1508.22.

EPCA sets forth extensive requirements concerning the rulemaking to establish MY 2011–2015 CAFE standards. It requires the Secretary of Transportation [2] to establish CAFE standards at least 18 months before each model year and to set them at "the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year." 49 U.S.C.A. 32902(a). In making decisions about "maximum feasible" levels of fuel economy, the Secretary is required to "consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy." 49 U.S.C. 32902(a), 32902(f). In past rulemakings, NHTSA has construed these statutory factors as including environmental and safety considerations.[3] NHTSA also considers environmental impacts under NEPA when setting CAFE standards.

EPCA further directs the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, to establish separate average fuel economy standards for passenger cars and for light trucks manufactured in each model year beginning with model year 2011 "to achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year." 49 U.S.C.A. 32902(b)(1), 32902(b)(2)(A). In doing so, the Secretary of Transportation is required to "prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020." 49 U.S.C.A. 32902(b)(2)(C). The standards for passenger cars and light trucks must be "based on 1 or more vehicle attributes related to fuel economy," 49 U.S.C.A. 32902(b)(3)(A). In any single rulemaking, standards may be established for not more than five model years. 49 U.S.C.A. 32902(b)(3)(B). EPCA also specifies a minimum standard for domestically manufactured passenger cars. 49 U.S.C.A. 32902(b)(4).

In preparing an EIS for the new MY 2011–2015 CAFE standards, NHTSA intends to consider issues raised in litigation concerning a 2006 final rule, "Average Fuel Economy Standards for Light Trucks, Model Years 2008–2011," 71 FR 17,566, April 6, 2006 (2006 Rule). NHTSA prepared a final EA for the 2006 Rule after publishing a draft EA for public comment and considering the comments received. Based on the final EA, NHTSA determined that the 2006 Rule would not have a significant effect on the quality of the human environment and that the agency therefore was not required to prepare an EIS. See 71 FR at 17,671; 42 U.S.C. 4332(2)(C).[4]

In a challenge to the 2006 Rule, petitioners argued in the U.S. Court of Appeals for the Ninth Circuit that NHTSA's EA did not comply with NEPA and that NEPA requires the agency to prepare an EIS. *See Center for Biological Diversity* v. *NHTSA*, 508 F.3d 508, 514, 545–58 (9th Cir. 2007).[5] The Court held, among other things, that NHTSA did not prepare an adequate EA under NEPA. 508 F.3d at 548–558. The Court's remedy was to order the agency to prepare an EIS. 508 F.3d 558. The Government is presently seeking rehearing in the Ninth Circuit on the appropriateness of that remedy.

In any event, NHTSA must now propose CAFE standards for MY 2011 and beyond, pursuant to the recent amendments to EPCA, to begin increasing CAFE levels so that the combined fleet of all passenger cars and light trucks in MY 2020 will achieve at least 35 mpg. NHTSA, therefore, now needs to engage in a new analysis, including taking a fresh look at potential environmental impacts under NEPA, and assessing whether or not those impacts are "significant" within the meaning of NEPA law. See 40 CFR 1508.27.

NHTSA is beginning the EIS process for that rule, which includes light truck standards for one model year previously covered by the 2006 Rule (MY 2011). We are doing so now because a standard for MY 2011 must be issued by the end of March 2009 and achieving an industry-wide combined fleet average of at least 35 miles per gallon for MY 2020 depends, in substantial part, upon setting standards well in advance so as to provide the automobile manufacturers with as much lead time as possible to make the extensive necessary changes to their automobiles.

The scoping process initiated by this notice seeks to determine "the range of actions, alternatives, and impacts to be considered" in the EIS and to identify the most important issues for analysis involving the potential environmental impacts of NHTSA's CAFE standards. See 40 CFR 1501.7, 1508.25. NHTSA invites stakeholders to participate in the scoping process by submitting written comments to the docket number identified in the heading of this notice using any of the methods described in the **ADDRESSES** section of this notice. NHTSA believes that the EPCA provisions described above regarding the levels of the standards to be established and NHTSA's implementation of the CAFE program to

[1] On February 20, 2008, NHTSA submitted a draft NPRM proposing those standards to the Office of Management and Budget for review pursuant to Executive Order 12,866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), as amended.

[2] NHTSA is delegated responsibility for implementing the EPCA fuel economy requirements assigned to the Secretary of Transportation. 49 CFR 1.50, 501.2(a)(8).

[3] There is case law with respect to the consideration of safety. See, e.g., *Competitive Enterprise Inst.* v. *NUTSA*, 956 F.2d 321, 322 (D.C. Cir. 1992) (citing *Competitive Enterprise Inst.* v. *NHTSA*, 901 F.2d 107, 120 n.11 (D.C. Cir. 1990)): *see also Center for Biological Diversity* v. *NHTSA*, 508 F.3d 508, 547 (9th Cir. 2007).

[4] Before preparing an EIS, an agency may prepare a more concise environmental assessment (EA) to present "sufficient evidence and analysis for determining whether to prepare an [EIS] or a finding of no significant impact" and to "[f]acilitate preparation of [an EIS] when one is necessary." 40 CFR 1508.9(a)(1), (3). NHTSA's final EA and Finding of No Significant Impact (FONSI) are available in the docket for the 2006 Rule. *See* Docket No. NHTSA–2006–24309–0006 (Final Environmental Assessment: NHTSA Corporate Average Fuel Economy (CAFE) Standards, March 29, 2006): Docket No. NHTSA 2006–24309–0003[1] (Finding of No Significant Environmental Impact for Model Year 2008–2011 Light Truck Fuel Economy Standards, March 28, 2006).

[5] The Petitioners also challenged the 2006 Rule under EPCA. *See Center for Biological Diversity* v. *NHTSA*, 508 F.3d at 527–45.

date provide sufficient information to begin the scoping process. This assessment is supported by the public comments submitted on the 2005 NPRM that led to the 2006 Rule (70 FR 51414, August 30, 2005).

As noted above, NHTSA plans to publish a separate scoping notice in the **Federal Register** to provide further information and guidance to facilitate public participation in the scoping process. Based on comments received during scoping, NHTSA expects to prepare a draft EIS for public comment and a final EIS to support a final rule later this year.

Issued: March 21, 2008.

Ronald Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. E8–6227 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 071105649–8028–01]

RIN 0648–AW22

Marine Mammals; Advance Notice of Proposed Rulemaking

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

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On January 31, 2008, NMFS published an Advanced Notice of Proposed Rulemaking (ANPR) soliciting public comments on revisions to its implementing regulations governing the taking of stranded marine mammals. Written comments were due by March 31, 2008. NMFS has decided to allow additional time for submission of public comments on this action.

DATES: The public comment period for this action has been extended for 30 days. Written comments must be received or postmarked by April 30, 2008.

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

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*;
- Fax: 301–427–2522, Attn: Chief, Marine Mammal and Sea Turtle Conservation Division (Stranding Regulations ANPR); or
- Mail: Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: Stranding Regulations ANPR, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13635, Silver Spring, MD 20910.

Instructions: All comments received are 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.

FOR FURTHER INFORMATION CONTACT: Sarah Howlett at (301) 713–2322.

SUPPLEMENTARY INFORMATION: The ANPR, published on January 31, 2008 (73 FR 5786), is available upon request and can be found on the NMFS Office of Protected Resources web site: *http://www.nmfs.noaa.gov/pr/health/mmpa__anpr.htm*.

Dated: March 24, 2008.

David Cottingham,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–6443 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR 223 and 224

[Docket No. 080318441–8467–01]

RIN 0648–AV36

Endangered and Threatened Wildlife; Notice of 90–Day Finding on a Petition to List the Ribbon Seal as a Threatened or Endangered Species

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

ACTION: Notice of a 90–day petition finding; request for information; and initiation of status reviews of ribbon, bearded, ringed, and spotted seals.

SUMMARY: We (NMFS) announce a 90–day finding on a petition to list the ribbon seal (*Histriophoca fasciata*) as a threatened or endangered species under the Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, we initiate a status review of the ribbon seal to determine if listing under the ESA is warranted. Concurrently, we also initiate a status review of the other ice seal species: bearded (*Erignathus barbatus*), ringed (*Phoca fasciata*), and spotted (*Phoca largha*). To ensure these status reviews are comprehensive, we solicit scientific and commercial information regarding all of these ice seal species.

DATES: Information and comments must be submitted to NMFS by May 27, 2008.

ADDRESSES: You may submit comments, information, or data, identified by the Regulation Identifier Number (RIN), 0648–AV36, by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*.

Mail: Assistant Regional Administrator, Protected Resources Division, NMFS, Alaska Regional Office, P.O. Box 21668, Juneau, AK 99802.

Facsimile (fax): 907–586–7012.

Instructions: All comments received are a part of the public record and will generally beposted 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.

Interested persons may obtain a copy of the ribbon seal petition from the above address or online from the NMFS Alaska Region website: *http://www.fakr.noaa.gov/protectedresources/seals/ice.htm*.

FOR FURTHER INFORMATION CONTACT: James Wilder, NMFS Alaska Region, (907) 271 6620; Kaja Brix, NMFS Alaska Region, (907) 586–7235; or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to designate a species as threatened or endangered, the Secretary of Commerce

(Secretary) make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Joint ESA-implementing regulations between NMFS and U.S. Fish and Wildlife Service (50 CFR 424.14) define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.

In making a finding on a petition to list a species, the Secretary must consider whether the petition: (i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains a detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (iii) provides information regarding the status of the species over all or a significant portion of its range; and (iv) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)). To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. When it is found that substantial information is presented in the petition, we are required to promptly commence a review of the status of the species concerned. Within 1 year of receipt of the petition, we shall conclude the review with a finding as to whether or not the petitioned action is warranted.

Under the ESA, a listing determination may address a species, subspecies, or a distinct population segment (DPS) of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(15)). A joint NOAA-USFWS policy clarifies the agencies' interpretation of the phrase "distinct population segment of any species of vertebrate fish or wildlife" (ESA section 3(16)) for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722, February 7, 1996). The joint DPS policy established two criteria that must be met for a population or group of populations to be considered a DPS: (1) the population segment must be discrete in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the population segment must be significant to the remainder of the species (or subspecies) to which it belongs. A population segment may be considered discrete if it satisfies either one of the following conditions: (1) it is markedly separated from other populations of the same biological taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries across which there is a significant difference in exploitation control, habitat management, conservation status, or if regulatory mechanisms exist that are significant in light of section 4(a)(1) of the ESA. If a population is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs. Considerations in evaluating the significance of a discrete population include: (1) persistence of the discrete population in an unusual or unique ecological setting for the taxon; (2) evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere outside its historical geographic range; or (4) evidence that the discrete population has marked genetic differences from other populations of the species.

A species, subspecies, or DPS is "endangered" if it is in danger of extinction throughout all or a significant portion of its range, or "threatened" if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively).

Background

On December 20, 2007, we received a petition from the Center for Biological Diversity to list the ribbon seal as an endangered species under the ESA. The petitioner also requested that critical habitat be designated for ribbon seals concurrent with listing under the ESA. The petition states the ribbon seal population is a "species" under the definition of the ESA, with distinctive characteristics, morphology, and mtDNA to be considered its own genus, which is the current accepted taxonomy. The petitioner provides genetic and physiological information to support that ribbon seals are discrete from other pinnipeds of the Arctic shelf region. It is the petitioner's contention that the ribbon seal faces global extinction in the wild, and therefore, is an endangered species as defined under 16 U.S.C. 1532(6). The petition presents information on (1) "global warming which is resulting in the rapid melt of the [seals'] sea-ice habitat;" (2) "high harvest levels allowed by the Russian Federation;" (3) "current oil and gas development;" (4) "rising contaminant levels in the Arctic;" and (5) "bycatch mortality and competition for prey resources from commercial fisheries." The petition also presents information on the taxonomy, distribution, habitat requirements, reproduction, diet, natural mortality, and demographics; as well as a discussion of the applicability of the five factors listed under ESA section 4(a)(1).

We have reviewed the petition, the literature cited in the petition, and other literature and information available in our files. Based on that literature and information, we find that the petition meets the aforementioned requirements of the regulations under 50 CFR 424.14(b)(2) and, therefore, determine that the petition presents substantial information indicating that the requested listing action may be warranted.

It is also our prerogative to broaden the scope of the review if available information indicates such an action is appropriate. In this case, we have also chosen to initiate a status review of the other ice seal species (bearded--*Erignathus barbatus*, ringed--*Phoca fasciata*, and spotted--*Phoca largha*) in the Alaska region that share similar habitat and biological requirements as ribbon seals (*Histriophoca fasciata*). This status review is not subject to the statutory timelines which govern the ribbon seal status review, as outlined above, and will be completed as agency resources allow.

Status Review

As a result of this finding, we will commence a status review to determine whether or not listing ribbon seals under the ESA is warranted. We intend that any final action resulting from this status review be as accurate and as effective as possible. Because the ribbon seal is one of three marine mammals in Arctic waters (the other two are polar bears—*Ursus maritimus*--and walrus—*Odobenus rosmarus divergens*), which have been petitioned under the ESA in recent years primarily due to the effects of global climate change, we have decided to also initiate a status review of the other ice seals in U.S. waters. These other ice seal species include the bearded, ringed, and spotted seals. Therefore, we are opening a 60–day public comment period to solicit comments, suggestions, and information

from the public, government agencies, the scientific community, industry, and any other interested parties on the status of the ribbon seal and other ice seals throughout their range, including:

(1) Information on taxonomy, abundance, reproductive success, age structure, distribution, habitat selection, food habits, population density and trends, habitat trends, and effects of management on ribbon seals and other ice seals;

(2) Information on the effects of climate change and sea ice change on the distribution and abundance of ribbon seals, and other ice seals, and their principal prey over the short- and long-term;

(3) Information on the effects of other potential threat factors, including oil and gas development, contaminants, hunting, and poaching, on the distribution and abundance of ribbon seals, and other ice seals, and their principal prey over the short- and long-term;

(4) Information on management programs for ribbon seal conservation, including mitigation measures related to oil and gas exploration and development, hunting conservation programs, anti-poaching programs, and any other private, tribal, or governmental conservation programs which benefit ribbon seals and other ice seals; and

(5) Information relevant to whether any populations of the ice seal species may qualify as distinct population segments.

We will base our findings on a review of the best scientific and commercial information available, including all information received during the public comment period.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 25, 2008.

Samuel D. Rauch III,

Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E8–6432 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 080118059–8067–01]

RIN 0648–AW41

South Pacific Tuna Fisheries; Establishment of Limits on Entry or Effort in the Purse Seine Fishery in the Western and Central Pacific Ocean

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

ACTION: Advance notice of proposed rulemaking; notification of control date; request for comments.

SUMMARY: NMFS announces that persons who enter the purse seine fishery in the western and central Pacific Ocean (WCPO), as managed under the South Pacific Tuna Act of 1988 (SPTA), the Western and Central Pacific Convention Implementation Act (WCPFCIA) and other law, after March 28, 2008 ("control date"), are not guaranteed future participation in the fishery if NMFS decides to revise the criteria and procedures used to process license applications and/or to limit further the number of licenses available in the fishery. NMFS is considering the need to undertake such actions in order to provide greater clarity about the process used and thus help license holders and prospective license applicants in making business decisions, as well as to fulfill the obligations of the United States under international agreements to which it is party. This action does not commit NMFS to revising the criteria and procedures it uses or to establishing a new limit, and it does not prevent any other date or criteria from being selected for eligibility to participate in the fishery.

DATES: Comments must be submitted in writing by April 28, 2008.

ADDRESSES: You may submit comments on this advance notice of proposed rulemaking by any of the following methods:

- Federal e-Rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: William L. Robinson, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Include the identifier "0648–AW41" in the comments.
- Fax: 808–973–2941. Include the identifier "0648–AW41" in the comments.

Instructions: All comments received are part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publically 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.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–944–2219.

SUPPLEMENTARY INFORMATION:

Background

The WCPO purse seine fishery is regulated primarily under the authority of the SPTA (16 U.S.C. 973–973r) via implementing regulations at 50 CFR part 300, subpart D. The SPTA and its implementing regulations implement the terms of a treaty between the United States and 16 Members of the Pacific Islands Forum Fisheries Agency (Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America and its annexes, schedules, and implementing agreements, as amended; hereafter called "the Treaty"). The Treaty governs the conduct of U.S. fishing vessel operations in the Treaty Area. The Treaty Area, which is defined at 50 CFR 300.31, encompasses approximately 10 million square miles (26 million square kilometers). The Treaty provides access by U.S. purse seine vessels to a large portion of the WCPO by authorizing, and regulating through a licensing system, U.S. purse seine vessels operations within all or part of the exclusive economic zones (EEZs) of the 16 Pacific Island Parties to the Treaty (PIPs). Licenses are issued by the Pacific Islands Forum Fisheries Agency (FFA), based in Honiara, Solomon Islands, which acts as the Treaty administrator on behalf of the PIPs.

The Treaty and SPTA and its implementing regulations allow U.S. longline vessels and U.S. vessels fishing for albacore by the trolling method to fish in the high seas portion of the Treaty Area, but such vessels are not subject to the Treaty's or SPTA's licensing requirements.

The Treaty entered into force in 1988 following ratification by the U.S. and the PIPs. After an initial 5–year

agreement, the Treaty was renewed in 1993 for an additional 10 years and renewed again in 2003 for an additional 10 years (through June 14, 2013). Currently, the Treaty allows for a maximum of 45 licenses to U.S. purse seine fishing vessels to fish in the Licensing Area of the Treaty. Of the 45 licenses, 5 are reserved for "joint venture" arrangements with PIPs. The Licensing Area includes all or part of the EEZs of the following countries: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. Licenses are issued by the FFA, but license applications are first submitted to NMFS, which ensures they are complete and forwards them to the FFA on a first-come, first-served basis.

In addition to being governed by the Treaty and the SPTA, the WCPO purse seine fishery is subject to the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), particularly with respect to the operation of the fishery within the U.S. EEZ. The fishery is also subject to the authority of the High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.*), which governs the conduct of U.S. fishing vessels on the high seas. The fishery also falls under the purview of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) (Public Law 109–479, sec 501–511), which implements the provisions of the Western and Central Pacific Fisheries (WCPF) Convention and the decisions of the WCPF Commission, established under the Convention. The area of competence of the WCPF Commission, or the Convention Area, includes the majority of the Treaty Area. As a Party to the WCPF Convention and a Member of the WCPF Commission, the United States is obligated to implement the decisions of the Commission. To date, the Commission has made several decisions that might affect the level of activity of the WCPO purse seine fishery, including decisions related to allowable levels of fishing capacity (e.g. numbers of vessels or some other measure of fishing power present in the fishery) as well as allowable levels of fishing effort (e.g. numbers of days fished or sets made per unit of time). These decisions can be found on the web site of the WCPF Commission (*http://www.wcpfc.int/*).

Recent Developments in the Fishery

The number of U.S. purse seine vessels licensed under the Treaty has varied widely since its entry into force in 1988. The number of licensed vessels reached a high of 49 in 1994 (at which time the Treaty authorized up to 55 licenses, with 5 reserved for joint ventures) and a low of 11 in 2007. As of February 2008, there were 22 licenses issued and several additional license applications were being processed. No joint venture licenses have been issued under the Treaty.

Establishment of Control Date and Possible Rulemaking

In part because of the recent increase in the number of purse seine vessel licenses issued and applications pending under the Treaty, NMFS is considering clarifying, and possibly revising, the criteria and procedures used to process license applications. Such clarification would help both current license holders and prospective license applicants in making future business decisions.

Also, in order to comply with the decisions of the WCPF Commission and to implement the provisions of the WCPFCIA, NMFS may be required to limit the number of vessels in the WCPO purse seine fishery. This rulemaking may be used to implement future actions in that fishery.

In addition, on August 15, 2005, NMFS published an advance notice of proposed rulemaking (70 FR 47782) that established a control date of June 2, 2005, applicable to persons contemplating entering the purse seine fishery in the U.S. EEZ in the western Pacific region (the control date also applied to persons interested in the longline fishery in the western Pacific region). That decision was based on a recommendation made by the Western Pacific Fishery Management Council on June 2, 2005, at its 127th meeting. The control date is limited in application (with respect to purse seine vessels) to vessels that operate within the U.S. EEZ. This control date has not yet been acted on. The control date announced here applies more broadly than the June 2, 2005, control date: it applies to purse seine vessels that are subject to the Treaty and the SPTA; that is, to purse seine vessels operating anywhere on the high seas in the Treaty Area or in the EEZs of the 16 PIPs. The June 2, 2005, control date for the U.S. EEZ also remains in effect.

One purpose of this advance notice of proposed rulemaking is to notify fishermen that if they attempt to enter the WCPO purse seine fishery after the control date of March 28, 2008, there is no assurance of being granted entry or of future participation if all available licenses have been issued or if NMFS must limit the number of available licenses or impose other management measures in the fishery.

The second purpose is to solicit comments and input on possible criteria and procedures that could be used by NMFS to review, order, and process license applications. These criteria and procedures would be used by NMFS in determining eligibility for processing applications and requesting the FFA to provide licenses for US purse seine vessels operating in this fishery.

Establishment of this control date does not commit NMFS to any particular management regime or any particular criteria for limiting entry into the WCPO purse seine fishery. Fishermen are not guaranteed future participation in the fishery, regardless of their level of participation before or after the control date. NMFS might adopt a different control date or it might adopt a management regime that does not involve a control date. Any number of possible criteria might be used to determine eligibility for participation in the fishery, including criteria involving date of license application (e.g. first-come-first-served), historical participation (e.g. history of licenses or landings), vessel size or capacity, or a vessel hull's country of origin, among others.

If and until NMFS issues a final rule to clarify and/or revise the process it uses to process license applications, NMFS will continue its practice of doing so on a first-come, first-served basis.

Classification

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

Authority: 16 U.S.C. 973–973r; PL 109–479 sec 501–511; 16 U.S.C. 5501 *et seq.*; 16 U.S.C. 1801 *et seq.*].

Dated: March 24, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–6457 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 73, No. 61

Friday, March 28, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Cibola National Forest Invasive Plant Management Project

AGENCY: Forest Service, USDA.

ACTION: Cancellation of notice of intent to prepare an environmental impact statement.

SUMMARY: On April 29, 2002, Forest Supervisor Liz Agpaoa signed a Notice of Intent (NOT) to prepare an Environmental Impact Statement (EIS) for the Cibola National Forest Invasive Plant Management Project. On May 3, 2002, the **Federal Register** published the Notice of Intent (NOT) (Volume 67, Number 86, pages 22389–22390). The Department of Agriculture, Forest Service is issuing this notice to advise the public that we are cancelling the notice of intent to prepare an environmental impact statement for this proposed action. The initial proposal provided for the inclusion of all the administrative units on the Cibola National Forest including the Kiowa, Rita Blanca, Black Kettle, and McClellan Creek National Grasslands. The areas included in the proposal vary widely in geographical and ecological settings and conditions, from woodlands and forests to short-grass and tall-grass prairies. The wide range of biological and physical settings complicates the analysis and disclosure of effects. The Forest Service plans to reassess the proposal and determine the appropriate scope of the proposal and form of environmental documentation. The NEPA process will be re-initiated for any new proposed actions.

FOR FURTHER INFORMATION CONTACT: Keith Baker, NEPA Coordinator, Cibola National Forest, 2113 Osuna Road NE., Albuquerque, NM 87113, Phone (505) 346–3820, Fax (505) 346–3901.

Dated: March 18, 2008.

Nancy Rose,

Forest Supervisor.

[FR Doc. E8–6328 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest; Revised Notice of Intent To Prepare a Supplemental Environmental Impact Statement To Analyze and Disclose New Information Relative to Oil and Gas Leasing of 44,720 Acres on the Big Piney Ranger District

AGENCY: Forest Service, USDA.

SUMMARY: This notice revises an earlier Notice of Intent (NOI) to prepare a supplemental environmental impact statement (SEIS) to analyze and disclose new information relative to oil and gas leasing of 44,720 acres on the Big Piney Ranger District. The Forest Service is providing this revised notice because the public scoping period is being extended. Scoping for a supplemental statement is not required [40 CFR 1502.9(c)(4)], but due to the length of time since scoping associated with the current leasing decision was conducted, comments specific to new issues or information that was not considered are being solicited.

DATES: Comments concerning new information or issues not previously considered in the leasing analysis must be postmarked by April 28, 2008. The Draft SEIS (DSEIS) is expected in November 2008. The estimated completion date for the Final SEIS (FSEIS) is April 2009.

ADDRESSES: Send written comments to Stephen Haydon, Forest Minerals Staff, Bridger-Teton National Forest, 340 N. Cache, PO Box 1888, Jackson, WY 83001–1888. Send electronic comments to: *comments-intermtn-bridger-teton@fs.fed.us* with the subject clearly titled ''Leasing SEIS''.

FOR FURTHER INFORMATION CONTACT: Stephen Haydon, Project Leader.

SUPPLEMENTARY INFORMATION: This revised notice updates the original NOI, which appeared Monday, February 4, 2008, in the **Federal Register** (73 FR pages 6453–6454). The Bridger-Teton National Forest (BTNF) made an oil and gas leasing decision in the Forest Plan signed in 1990 after preparing an environmental impact statement (EIS). Subsequent Environmental Assessments were completed in the early 1990s to consider the impacts of oil and gas leasing in various Management Areas throughout the Forest. Since the early 1990s, several new issues bearing on oil and gas leasing have arisen and new information has become available since that decision. The Forest reviewed those issues and the new information and documented that review in a Supplemental Information Report dated February 25, 2004. The Forest Supervisor concluded that the new issues and information did not alter the previous leasing decision in the Forest Plan. Subsequently, in 2005 the Forest Service sent lease parcels covering 44,720 acres to the Bureau of Land Management (BLM) for competitive lease sale. The BLM offered, sold and issued leases on 20,963 acres in December 2005 and April 2006, and sold but did not issue leases on the remaining 23,757 acres in June and August 2006. Following protest and BLM State Director's Review, an appeal to the Interior Board of Land Appeals (IBLA) was filed for the December and April lease sales. This appeal included a ''Request for Stay'', which was granted. Upon request by the BLM, IBLA remanded the appeals back to the BLM for resolution. This supplemental analysis will address the resource issues and effects analysis concerns identified by IBLA or as identified though this scoping effort.

Purpose and Need for Action

The purpose and need for action is to determine whether and to what extent analysis of new issues and information might alter the oil and gas leasing decision as it relates to the 44,720 acres forwarded to the BLM for competitive lease sale. This action is needed to address the appropriateness of the previous leasing decisions, to decide the final disposition of the suspended existing leases and lease parcels, and to be responsive to the IBLA remand requiring incorporation of the new issues and information in the BLM decision to lift the suspension of lease parcels and issue oil and gas leases.

Proposed Action

The proposed federal action is to lift the current suspension on the issued

December 2005 and April 2006 leases and to issue those that were sold but not issued from the June and August 2006 sales. To do so requires the analysis of new issues and information not available to the deciding officials at the time the leasing decision was made.

Possible Alternatives

The alternatives to be considered may include continuation of the current leasing decision contained in the Forest Plan, the no action alternative, and potentially others identified in scoping. The no action alternative would involve not issuing the leases that have been sold but not issued, and cancelling the leases that were sold. Additional alternatives may be identified once scoping is completed.

Lead and Cooperating Agencies

The Forest Service is the lead agency. The BLM and the State of Wyoming are cooperating agencies.

Responsible Official

The Forest Service responsible official for determining if and to what extent the analysis of new issues and information would alter the oil and gas leasing decision contained in the BTNF Forest Plan [36 CFR 228.102(d)] is Carol ''Kniffy'' Hamilton, Forest Supervisor, Bridger-Teton National Forest, 340 N. Cache (P.O. Box 1888), Jackson, Wyoming 83001. The BLM responsible official for final decision (43 CFR 3101.7) relative to the issuance or disposition of the leases and lease parcels is Robert A. Bennett, State Director, BLM, Wyoming State Office, 5353 Yellowstone (P.O. Box 1828), Cheyenne, Wyoming 82009.

Nature of Decision To Be Made

The Forest Service will determine if and how the current Forest Plan oil and gas leasing decision, as it relates to the 44,720 acres, should be changed based on new information. If a new decision is determined not to be needed following preparation of the supplemental environmental impact statement, that determination is not subject to appeal in accordance with 36 CFR 215.12. The BLM will then decide whether or not the revised Forest Service National Environmental Policy Act (NEPA) analysis is adequate, and subsequently whether to lift the suspension on the existing leases and whether to issue leases on the other lease parcels.

Scoping Process

Scoping for a supplemental statement is not required [40 CFR 1502.9(c)(4)], but due to the length of time since scoping associated with the current leasing decision was conducted, the agencies are soliciting comments specific to new issues or information that was not considered. Letters will be sent to the Forest mailing list of known interested parties. Public meetings held in 2006 in association with Forest Plan revision efforts generated issues relative to oil and gas leasing. Comments received during those meetings will be considered in this supplemental analysis. The scoping process will assist the agencies in identifying specific issues to be addressed related to the purpose and need and the scope of the decision. Ongoing information related to the proposed action and related analysis will be posted on the BTNF Web site at *http://www.fs.fed.us/r4/btnf.*

Preliminary Issues

Preliminary issues associated with the proposed action include:

(1) The drilling and production of wells subsequent to leasing could impact air quality and air quality related values, with emphasis on cumulative effects due to extensive development in the Pinedale area.

(2) The T&E listed Canada lynx, or its habitat, could be impacted by subsequent exploration and development activities.

(3) Impacts to water quality due to subsequent surface disturbing activities could adversely affect the Colorado River cutthroat trout.

(4) The development of a transportation system to support field development could adversely affect mule deer migration routes in the area and fragment habitat.

Comment Requested

This revised notice extends the scoping process which guides the development of the supplemental environmental impact statement. Send written comments to the addresses given above for further information. No meetings are planned at this time.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A DSEIS will be prepared for comment. The comment period on the DSEIS will be for a period of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft environmental impact statement (DEIS) or a DSEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when the agency can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: March 19, 2008.

Carole ''Kniffy'' Hamilton,

Forest Supervisor, Bridger-Teton National Forest.

[FR Doc. E8–6229 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Recreation Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: National Forests in Mississippi, USDA Forest Service.

ACTION: Notice of Proposed Recreation Fees.

SUMMARY: The National Forests in Mississippi is proposing new fees for two horse trails. *Witch Dance Horse Trail* is located on the Tombigbee National Forest within Chickasaw County, MS. This trail is 18 miles long with multiple loops and 1 trailhead that provides a toilet, hitching posts, and designated developed parking. *Big Foot Horse Trail* is located on the De Soto National Forest, De Soto Ranger District within Harrison County, MS. This trail is 22 miles long trail with multiple loops and 1 trailhead that provides a toilet, hitching posts and designated developed parking. The Forest Service proposes to charge $5 per rider per day for use of these trails. Funds received from these fees will be used for continued operation and maintenance of these trails and would allow additional amenities to be added in the future. The purpose of this notice is to solicit public input on this proposal. Please contact us or provide written comments (information below) within 6 months from the date of this publication.

DATES: These trails are available for public use now. However, fees will not be initiated until after public comments have been considered and reviewed by the Recreation Resource (citizen) Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Jeff Gainey, Recreation Program Manager, 601–965–1617, National Forests in Mississippi, 100 West Capitol Street, Suite 1141, Jackson, MS 39269.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish advance notice in the **Federal Register** whenever new recreation fee areas are established. The National Forests in Mississippi currently manages two other horse trails. Comparable recreational use fees are currently charged at these sites.

Dated: March 10, 2008.

R.E. Vann III,

Acting Forest Supervisor, National Forest in Mississippi.

[FR Doc. E8–6191 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Recreation Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: National Forests in Mississippi, USDA Forest Service.

ACTION: Notice of Proposed Recreation Fees.

SUMMARY: The National Forests in Mississippi is proposing new fees for two motorized trails. *Rattlesnake Bay ATV Trail* is located on the De Soto Ranger District, De Soto National Forest within Perry County, MS. This site has a trailhead with a restroom, designated improved parking, and bulletin board with trail map. This trail is 31 miles long. *Bethel Motorcycle Trail* is located on the De Soto Ranger District, De Soto National Forest within Harrison County, MS. This site has a trailhead with designated improved parking, picnic tables, grills, and bulletin board with trail map. This trail is 15 miles long. The Forest Service proposes to charge $5 per operator per day for use of these trails. Funds received from these fees would be used for continued operation and maintenance of these trails and would allow additional amenities to be added in the future. The purpose of this notice is to solicit public input on this proposal. Please contact us or provide written comments (contact information below) within 6 months from the date of this publication.

DATES: These trails will be available for public use in summer, 2008. However, fees will not be initiated until after public comments have been considered and reviewed by the Recreation Resource (citizen) Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Jeff Gainey, Recreation Program Manager, 601–965–1617, National Forests in Mississippi, 100 West Capitol Street, Suite 1141, Jackson, MS 39269.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish advance notice in the **Federal Register** whenever new recreation fee areas are established. The National Forests in Mississippi currently manages two other ATV/motorcycle trails. Comparable recreational use fees are currently charged at these sites.

Dated: March 10, 2008.

R.E. Vann III,

Acting Forest Supervisor, National Forest in Mississippi.

[FR Doc. E8–6192 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Woody Biomass Utilization Grant Award

AGENCY: Forest Service, USDA.

ACTION: Notice of award.

SUMMARY: The USDA Forest Service, State and Private Forestry, Forest Products Laboratory, Madison, WI, awarded a grant to Flambeau River Papers, LLC, Park Falls, WI in the amount of $1.925MIL for a project titled ''Biomass-to-Fuel''. This grant is being used by the grantee to support its ongoing effort in determining the potential technical and economic viability of constructing and operating a demonstration biomass-to-liquids biofuels facility, which would be co-located with the company's existing pulp and paper mill. If successful, the biomass-to-liquids facility would generate renewable energy to operate the pulp and paper mill, as well as producing a marketable liquid transportation fuel.

DATES: Grant award—March 17, 2008.

ADDRESSES: USDA Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53726–2398.

FOR FURTHER INFORMATION CONTACT: For questions regarding the grant award, contact William Clark, Grants and Agreements Specialist, (608) 231–9282, *wlclark@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

Dated: March 24, 2008.

Ann M. Bartuska,

Deputy Chief for Research & Development.

[FR Doc. E8–6395 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Rural Economic Development Loan and Grant Program for Fiscal Year 2008

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the dollar amount available for grants is up to $300,000 per application for Rural Economic Development Grants with the aggregate amount of grant funds not to exceed $10,000,000 during fiscal year 2008.

SUPPLEMENTARY INFORMATION: RBS published a Notice on February 5, 2008, [73 FR 6696] of funds available. This Notice announces the amounts available for Rural Economic Development Grants.

Dated: March 21, 2008.

Ben Anderson,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E8–6322 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funds; Multi-Family Housing, Single Family Housing

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service, hereinafter referred to as Housing and Community Facilities Programs (HCFP), announces the availability of housing funds for fiscal year (FY) 2008. This action is taken to comply with 42 U.S.C. 1490p, which requires that HCFP publish in the **Federal Register** notice of the availability of any housing assistance.

DATES: Unless otherwise indicated below, applications are accepted year-round at a local Rural Development office.

Effective Date: March 28, 2008.

FOR FURTHER INFORMATION CONTACT: For information and application assistance contact the appropriate state office from the attached state office listing, or visit our Internet Web site at *http://www.offices.usda.gov* and select your State. Applicants can also obtain local contact information in a local telephone directory's blue pages under ''Rural Development.''

For information regarding this notice contact Myron Wooden, Loan Specialist, Single Family Housing Direct Loan Division, telephone 202–720–4780, for single family housing (SFH) issues and Tammy S. Daniels, Senior Loan Specialist, Multi-Family Housing (MFH) Processing Division, telephone 202–720–0021, for multi-family housing issues, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250. (The telephone numbers listed are not toll free numbers).

SUPPLEMENTARY INFORMATION: The information in this Notice describes how funds for the various Rural Development HCFP programs are distributed.

Programs Affected

The following programs are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. These programs or activities are listed in the Catalog of Federal Domestic Assistance under Nos. 10.405 Farm Labor Housing (LH) Loans and Grants.

10.410 Very Low to Moderate Income Housing Loans.

10.411 Rural Housing Site Loans and Self-Help Housing Land Development Loans.

10.415 Rural Rental Housing Loans.

10.417 Very Low Income Housing Repair Loans and Grants.

10.420 Rural Self-Help Housing Technical Assistance.

10.427 Rural Rental Assistance Payments.

10.433 Rural Housing Preservation Grants.

10.442 Housing Application Packaging Grants.

Part 1940, subpart L of 7 CFR contains the ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' To apply for assistance under these programs or for more information, contact the USDA Rural Development Office for your area.

Multi-Family Housing (MFH)

I. General

A. This Notice provides guidance on MFH funding for the Rural Rental Housing program (RRH) for FY 2008. Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578. For FY 2008, State Directors, under the Rural Housing Assistance Grants (RHAG), will have the flexibility to transfer their initial allocations of budget authority between the Single Family Housing (SFH) Section 504 Rural Housing Grants and section 533 Housing Preservation Grant (HPG) programs.

B. MFH loan and grant levels for FY 2008 are as follows:

MFH Loan Programs Credit Sales	$1,475,864
Section 514 Farm Labor Housing (LH) loans*	27,545,076
Section 515 Rural Rental Housing (RRH) loans	69,510,000
Section 521 Rental Assistance (RA) and 502(c)(5)(C) Advance	472,757,370
Section 516 LH grants	9,930,000
Sections 525 Technical and Supervisory Assistance (TSA) and Section 509 Housing Application Packaging Grants (HAPG) (Shared between single and multi-family housing)*	0
Section 533 Housing Preservation grants (HPG)**	9,593,704
Section 538 Guaranteed Rural Rental Housing Program	129,090,000
Preservation Revolving Loan Fund Demonstration Program*	6,421,642
Sections 514, 515 and 516 Multi-Family Housing Revitalization Demonstration Program (MPR)***	19,860,000
Rural Housing Voucher Demonstration Program*	4,965,000

* Does Not Include Carryover Funds.
** Includes Carryover Funds.
*** Stated at the budget authority level, rather than at the program level.

II. Funds Not Allocated to States

A. *Credit Sales Authority*. For FY 2008, $1,475,864 will be made available for credit sales to program and nonprogram buyers. Credit sale funding will not be allocated by State.

B. *Section 538 Guaranteed Rural Rental Housing Program*. Guaranteed loan funds have been made available

under a Notice of Funding Availability (NOFA) published in the **Federal Register** on February 4, 2008. Additional guidance is provided in the NOFA.

C. *Sections 514, 515 and 516 Multi-Family Housing and Revitalization Demonstration Program (MPR) for Fiscal Year 2008.* The MPR program is designed to preserve and revitalize Section 515 multi-family rental housing properties and sections 514/516 Off-farm labor housing properties. The program is designed to utilize several demonstration revitalization tools to restructure debt and financing of an aging portfolio of rental properties. The goal of the MPR program is to ensure that properties have sufficient resources to continue providing safe and affordable housing for low-income rural residents.

D. *USDA Rural Development Voucher Demonstration Program.* The USDA Rural Development Voucher program, authorized under section 542 of the Housing Act of 1949, is designed to provide tenant protections in properties that prepay their mortgages after October 1, 2005. These vouchers are portable and will enable tenants to continue to access affordable housing without benefit of the traditional rental assistance program.

III. Farm Labor Housing (LH) Loans and Grants.

The Administrator has the authority to transfer the allocation of budget authority between the two programs. Upon the closing date of the NOFA, the Administrator will evaluate the responses and determine proper distribution of funds between loans and grants.

A. Section 514 Farm LH Loans

1. These loans are funded in accordance with 7 CFR 1940.579(a).

FY 2008 Appropriation	$27,545,076
Available for Off-Farm Loans	19,158,807
Available for On-Farm Loans	2,000,000
National Office Reserve	6,386,269

2. Off-Farm loan funds have been made available under a NOFA published in the **Federal Register** on March 12, 2008. Additional guidance is provided in the NOFA.

B. Section 516 Farm LH Grants

1. Grants are funded in accordance with 7 CFR 1940.579(b). Unobligated prior year balances and cancellations will be added to the amount shown.

FY 2008 Appropriation	$9,930,000
Available for LH Grants for Off-Farm	7,447,500
National Office Reserve	2,482,500

2. Labor Housing grant funds for Off-Farm have been made available under a NOFA published in the **Federal Register** on March 12, 2008. Additional guidance is provided in the NOFA.

C. *Labor Housing Rental Assistance (RA).* It is anticipated that Labor Housing RA will not be available for Fiscal Year 2008.

IV. Section 515 RRH Loan Funds

FY 2008 Section 515 Rural Rental Housing allocation (Total)	$69,510,000
New Construction funds and set-asides	14,529,124
Non-Restricted	2,341,200
Set-aside for nonprofits	6,255,900
Set-aside for underserved counties and colonias	3,475,500
Set-aside for EZ, EC, or REAP Zones	1,456,524
State RA designated reserve	1,000,000
Rehab and repair funds and equity	40,036,226
Rehab and repair loans	35,036,226
Designated equity loan reserve	5,000,000
General Reserve	14,944,650

A. *New Construction Loan Funds.* New construction loan funds have been made available using a national NOFA published in the **Federal Register** on March 12, 2008. Additional guidance is provided in the NOFA.

B. *National Office New Construction Set-asides.* The following legislatively mandated set-asides of funds are part of the National office set-aside:

1. *Nonprofit Set-aside.* An amount of $6,255,900 has been set-aside for nonprofit applicants. All nonprofit loan proposals must be located in designated places as defined in 7 CFR 3560.

2. *Underserved Counties and Colonias Set-aside.* An amount of $3,475,500 has been set aside for loan requests to develop units in the underserved 100 most needy counties or colonias as defined in section 509(f) of the Housing Act of 1949 as amended. Priority will be given to proposals to develop units in colonias or tribal lands.

3. *EZ, EC or REAP Zone Set-aside.* An amount of $1,456,524 has been set-aside for loan requests to develop units in EZ or EC communities or REAP Zones until June 30, 2008.

C. *Designated Reserves for State RA.* An amount of $1,000,000 of Section 515 loan funds has been set-aside for matching with projects in which an active State sponsored RA program is available. The State RA program must be comparable to the HCFP RA program.

D. *Repair and Rehabilitation Loans.* All funds will be held in the National Office and will be distributed based upon rehabilitation needs to projects selected and processed under the FY 2008 MPR NOFA.

E. *Designated Reserve for Equity Loans.* An amount of $5,000,000 has been designated for the equity loan preservation incentive described in 7 CFR 3560. The $5 million will be further divided into $4 million for equity loan requests currently on the pending funding list and $1 million to facilitate the transfer of properties from for-profit owners to nonprofit corporations and public bodies. Funds for such transfers would be authorized only for for-profit owners who are currently on the pending funding list who agree to transfer to nonprofit corporations or public bodies rather than to remain on the pending list. If insufficient transfer requests are generated to utilize the full $1 million set-aside for nonprofit and public body transfers, the balance will revert to the existing pending equity loan funding list.

F. *General Reserve.* There is one general reserve fund of $14,944,650. Some examples of immediate allowable uses include, but are not limited to, hardships and emergencies, HCFP cooperatives or group homes, or RRH preservation.

V. Section 533 HPG

Total Available (Includes carryover funds)	$9,593,704.00
Less General Reserve	957,570.40
Less Set-aside for EZ, EC or REAP Zones	595,800.00
Total Available for Distribution	8,040,333.60

See the end of this Notice for HPG state allocations. Fund availability has been announced in a NOFA that was published in the **Federal Register** on February 20, 2008.

The amount of $595,800 is set-aside for EZ, EC or REAP Zones until June 30, 2008.

Single Family Housing (SFH)

I. *General.* All SFH programs are administered through field offices. For more information or to make application, please contact the Rural Development office servicing your area. To locate these offices, contact the appropriate state office from the attached state office listing, visit our Web site at: *http://www.offices.usda.gov,* or search the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area.

A. This Notice provides SFH allocations for FY 2008. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568. Information on basic formula criteria, data source and weight, administrative allocation, pooling of funds, and availability of the allocation are located on a chart at the end of this notice.

B. The SFH levels authorized for FY 2008 are as follows:

Section 502 Guaranteed Rural Housing (RH) loans:	
Nonsubsidized Guarantees—Purchase	$4,958,563,379
Nonsubsidized Guarantees—Refinance	269,375,804
Section 502 Direct RH Loans*	1,121,485,933
Credit sales (Nonprogram)	10,000,000
Section 504 Housing Repair Loans*	34,409,013
Section 504 Housing Repair Grants*/**	29,790,000
Section 509 Compensation for Construction Defects**	0
Section 523 Mutual and Self-help Housing Grants and Contracts*/**	38,727,000
Section 523 Self-Help Site Loans	4,965,000
Section 524 RH site Loans	5,045,000
Section 306C Water and Waste Disposal (WWD) Grants**	1,000,000
Total available	6,473,961,129

* Includes funds for EZ/EC and REAP communities until June 30, 2008.
** Carryover funds are not included in the balance.

C. *SFH Funding Not Allocated to States.* The following funding is not allocated to states by formula. Funds are made available to each state on a case-by-case basis.

1. *Credit sale authority.* Credit sale funds in the amount of $10,000,000 are available only for nonprogram sales of Real Estate Owned (REO) property.

2. *Section 523 Mutual and Self-Help Technical Assistance Grants.* $38,727,000 is available for Section 523 Mutual and Self-Help Technical Assistance Grants. Of these funds, $993,000 is set-aside for EZ, EC or REAP Zones until June 30, 2008. A technical review and analysis must be completed by the Technical and Management Assistance (T&MA) contractor on all predevelopment, new, and existing (refunding) grant applications.

3. *Section 523 Mutual and Self-Help Site Loans and Section 524 RH Site Loans.* $4,965,000 and $5,045,000 are available for Section 523 Mutual Self-Help and Section 524 RH Site loans, respectively.

4. *Section 306C WWD Grants to Individuals in Colonias.* The objective of the Section 306C WWD individual grant program is to facilitate the use of community water or waste disposal systems for the residents of the colonias along the U.S.-Mexico border.

The total amount available to Arizona, California, New Mexico, and Texas will be $1,000,000 for FY 2008. This amount is transferred from the Rural Utilities Service (RUS) to HCFP for processing individual grant applications.

5. *Natural Disaster Funds.* Funds are available until exhausted to those states with active Presidential Declarations.

II. State Allocations

A. Section 502 Nonsubsidized Guaranteed RH (GRH) Loans

1. *Purchase—Amount Available for Allocation.*

Total Available—Purchase	$4,958,563,379
Less National Office General Reserve	1,090,994,365
Less Special Outreach Area Reserve	467,569,014
Basic Formula—Administrative Allocation	3,400,000,000

a. *National Office General Reserve.* The Administrator may restrict access to this reserve for states not meeting their goals in special outreach areas.

b. *Special Outreach Areas.* FY 2008 GRH funding is allocated to states in two funding streams. Seventy percent of GRH funds may be used in any eligible area. Thirty percent of GRH funds are to be used in special outreach areas. Special outreach areas for the GRH program are defined as those areas within a state that are not located within a metropolitan statistical area (MSA).

c. *National Office Special Area Outreach Reserve.* A special outreach area reserve fund has been established at the National Office. Funds from this reserve may only be used in special outreach areas.

2. Refinance—Amount available for allocation.

Total Available—Refinance	$269,375,804
Less National Office General Reserve	269,375,804
Basic Formula—Administrative Allocation	0

a. *Refinance Funds.* Refinance loan funds will be distributed from the National Office on a case-by-case basis.

b. *National Office General Reserve.* The Administrator may restrict access to this reserve for states not meeting their goals in special outreach areas.

B. Section 502 Direct RH Loans

1. *Amount Available for Allocation.*

Total Available	$1,121,485,933
Less Required Set-Aside for:	
Underserved Counties and Colonias	56,074,296
EZ, EC and REAP Set-aside	17,978,388
Less General Reserve	170,148,593
Administrator's Reserve	30,000,000
Hardships & Homelessness	2,000,000
Rural Housing Demonstration Program	1,000,000
Homeownership Partnership	112,148,593
Program funds for the sale of REO properties	25,000,000
Less Designated Reserve for Self-Help	175,000,000
Basic Formula—Administrative Allocation	702,284,655

2. *Reserves.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to fund the following applications:

(i) Hardship and homeless applicants including the Direct Section 502 loan and Section 504 loan and grant programs.

(ii) Rural Home Loan Partnerships (RHLP) and Community Development Financial Institutions (CDFI) loans.

(iii) States will leverage with funding from other sources.

(iv) Areas targeted by the state, according to its strategic plan.

b. *National Office Reserves.*

(i) General Reserve. The National Office has a general reserve of $170.1 million. Of this amount, the Administrator's reserve is $30,000,000. One of the purposes of the Administrator's reserve will be for loans in Indian Country. Indian Country consists of land inside the boundaries of Indian reservations, communities made up mainly of Native Americans, Indian trust and restricted land, and tribal allotted lands. Another purpose of the reserve will be to provide funding for subsequent loans for essential improvements or repairs and transfers with assumptions. The Administrator's reserve may also be made available to states beginning in the 3rd quarter when demand for funds is unusually high.

(ii) Hardship and Homelessness Reserve. $2 million has been set aside for hardships and homeless.

(iii) Rural Housing Demonstration Program. $1 million has been set aside for innovative demonstration initiatives.

(iv) Program Credit Sales. $25 million has been set aside for program sales of REO property.

c. *Homeownership Partnership.* $112.1 million has been set aside for Homeownership Partnerships. These funds will be used to expand existing partnerships and create new partnerships, such as the following:

(i) Department of the Treasury, Community Development Financial Institutions (CDFI). Funds will be available to fund leveraged loans made in partnership with the Department of Treasury CDFI participants.

(ii) Partnership initiatives established to carry out the objectives of the Rural Home Loan Partnership (RHLP).

d. *Designated Reserve for Self-Help.* $175 million has been set-aside to assist participating Self-Help applicants. The National Office will contribute 100 percent from the National Office reserve. States are not required to contribute from their allocated Section 502 funds.

e. *Underserved Counties and Colonias.* An amount of $56,074,296 has been set-aside for the 100 underserved counties and colonias.

f. *Empowerment Zone (EZ), Enterprise Community (EC) or Rural Economic Area Partnership (REAP) set-aside.* An amount of $17,978,388 has been set-aside until June 30, 2008, for loans in EZ, EC or REAP zones.

g. *State Office Pooling.* If pooling is conducted within a state, it must not take place within the first 30 calendar days of the first, second, or third quarter. (There are no restrictions on pooling in the fourth quarter.)

h. *Suballocation by the State Director.* The State Director may suballocate to each area office using the methodology and formulas required by 7 CFR part 1940, subpart L. If suballocated to the area level, the Rural Development Manager will make funds available on a first-come, first-served basis to all offices at the field or area level. No field office will have its access to funds restricted without the prior written approval of the Administrator.

C. *Section 504 Housing Loans and Grants.* Section 504 grant funds are included in the Rural Housing Assistance Grant program (RHAG) in the FY 2008 appropriation.

1. *Amount available for allocation.*

SECTION 504 LOANS

Total Available	$34,409,013
Less 5% for 100 Underserved Counties and Colonias	1,720,450
EZ, EC or REAP Zone Set-aside	627,666
Less General Reserve	733,915
Basic Formula—Administrative Allocation	31,326,982

SECTION 504 GRANTS

Total Available	$29,790,000
Less 5% for 100 Underserved Counties and Colonias	1,489,500
Less EZ, EC or REAP Set-aside	595,800
Less General Reserve	1,649,895
Basic Formula—Administrative Allocation	26,054,805

2. *Reserves and Set-asides.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to handle all anticipated hardship applicants based upon historical data and projected demand.

b. *Underserved Counties and Colonias.* $1,720,450 and $1,489,500 have been set-aside for the 100 underserved counties and colonias until June 30, 2008, for the Section 504 loan and grant programs, respectively.

c. *Empowerment Zone (EZ) and Enterprise Community (EC) or Rural Economic Area Partnership (REAP) Set-aside (Loan Funds Only).* $627,666 and $595,800 have been set-aside through June 30, 2008, for EZ, EC or REAPs for the Section 504 loan and grant programs, respectively.

d. *General Reserve.* $733,915 for Section 504 loan hardships and $1,649,895 for Section 504 grant extreme hardships have been set-aside in the general reserve. For Section 504 grants, an extreme hardship case is one requiring a significant priority in funding, ahead of other requests, due to severe health or safety hazards, or physical needs of the applicant.

INFORMATION ON BASIC FORMULA CRITERIA, DATA SOURCE AND WEIGHT, ADMINISTRATIVE ALLOCATION, POOLING OF FUNDS, AND AVAILABILITY OF THE ALLOCATION

No.	Description	Section 502 nonsubsidized guaranteed RH loans	Section 502 direct RH loans	Section 504 loans and grants
1	Basic formula criteria, data source, and weight.	See 7 CFR 1940.563(b)	See 7 CFR 1940.565(b)	See 7 CFR 1940.566(b) and 1940.567(b).
2	Administrative Allocation:.			
	Western Pacific Area	$4,000,000	$2,000,000	$500,000 loan $500,000 grant.
3	Pooling of funds:.			
	a. Mid-year pooling	If necessary	If necessary	If necessary.
	b. Year-end pooling	August 14, 2008	July 17, 2008	July 17, 2008.
	c. Underserved counties & colonias.	N/A	June 30, 2008	June 30, 2008.
	d. EZ, EC or REAP	N/A	June 30, 2008	June 30, 2008.
	e. Credit sales	N/A	June 30, 2008	N/A.
4	Availability of the allocation:.			
	a. first quarter	40 percent	25 percent	25 percent.
	b. second quarter	70 percent	50 percent	50 percent.
	c. third quarter	90 percent	75 percent	75 percent.
	d. fourth quarter	100 percent	100 percent	100 percent.

1. Data derived from the 2000 U.S. Census is available on the Web at: *http://census.sc.egov.usda.gov*.

2. Due to the absence of Census data.

3. All dates are tentative and are for the close of business (COB). Pooled funds will be placed in the National Office reserve and made available administratively. The Administrator reserves the right to redistribute funds based upon program performance.

4. Funds will be distributed cumulatively through each quarter listed until the National Office year-end pooling date.

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Dated: March 20, 2008.

Russell T. Davis,

Administrator, Rural Housing Service.

HCFP FISCAL YEAR 2008—SECTION 533—HOUSING PRESERVATION GRANT

[Allocation in Thousands]

State	Formula factor	Total allocation
ALABAMA	0.02957	237,752.66
ALASKA	0.00587	47,196.76
ARIZONA	0.01780	143,117.94
ARKANSAS	0.02310	185,731.71
CALIFORNIA	0.04653	374,116.72
COLORADO	0.00840	67,538.80
DELAWARE	0.00190	15,276.63
MARYLAND	0.00880	70,754.94
FLORIDA	0.02890	232,365.64
VIRGIN ISLANDS	0.00273	21,950.11
GEORGIA	0.03867	310,919.70
HAWAII	0.00790	63,518.64
WPA	0.00647	52,020.96
IDAHO	0.00743	59,739.68
ILLINOIS	0.02250	180,907.51
INDIANA	0.02157	173,430.00
IOWA	0.01340	107,740.47
KANSAS	0.01130	90,855.77
KENTUCKY	0.03483	280,044.82
LOUISIANA	0.03170	254,878.58
MAINE	0.00913	73,408.25
MASSACHUSETTS	0.00793	63,759.85
CONNECTICUT	0.00453	36,422.71
RHODE ISLAND	0.00100	8,040.33
MICHIGAN	0.02977	239,360.73
MINNESOTA	0.01673	134,514.78

HCFP FISCAL YEAR 2008—SECTION 533—HOUSING PRESERVATION GRANT—Continued

[Allocation in Thousands]

State	Formula factor	Total allocation
MISSISSIPPI	0.03180	255,682.61
MISSOURI	0.02460	197,792.21
MONTANA	0.00620	49,850.07
NEBRASKA	0.00713	57,327.58
NEVADA	0.00263	21,146.08
NEW JERSEY	0.00657	52,824.99
NEW MEXICO	0.01437	115,539.59
NEW YORK	0.02753	221,350.38
NORTH CAROLINA	0.04497	361,573.80
NORTH DAKOTA	0.00413	33,206.58
OHIO	0.03450	277,391.51
OKLAHOMA	0.01917	154,133.20
OREGON	0.01423	114,413.95
PENNSYLVANIA	0.03687	296,447.10
PUERTO RICO	0.04923	395,825.62
SOUTH CAROLINA	0.02690	216,284.97
SOUTH DAKOTA	0.00597	48,000.79
TENNESSEE	0.02973	239,039.12
TEXAS	0.07645	614,683.50
UTAH	0.00430	34,573.43
VERMONT	0.00403	32,402.54
NEW HAMPSHIRE	0.00503	40,442.88
VIRGINIA	0.02660	213,872.87
WASHINGTON	0.01743	140,143.01
WEST VIRGINIA	0.01937	155,741.26
WISCONSIN	0.01873	150,595.45
WYOMING	0.00307	24,683.82
DISTR.	1.00000	8,040,333.60
N/O RES.		957,570.40
EZ/EC/REAP		595,800.00
Ttl Avail.		9,593,704.00

USDA RURAL DEVELOPMENT STATE OFFICE LOCATIONS—STATE DIRECTORS/HCFP PROGRAM DIRECTORS

ALABAMA

Steve Pelham, Vann McCloud, Sterling Centre, 4121 Carmichael Road, Suite 601, Montgomery, AL 36106–3683, (334) 279–3400

ALASKA

Chad Padgett, Deborah Davis, Suite 201, 800 W. Evergreen, Palmer, AK 99645–6539, (907) 761–7705

ARIZONA

Eddie Browning, Ernie Wetherbee, Phoenix Corporate Center, 230 North First Avenue, Suite 206, Phoenix, AZ 85003–1706, (602) 280–8755

ARKANSAS

Roy Smith, Lawrence McCullough, Room 3416, 700 W. Capitol, Little Rock, AR 72201–3225, (501) 301–3200

CALIFORNIA

Benjamin Higgins, Bob Anderson, Agency 4169, 430 G Street, Davis, CA 95616–4169, (530) 792–5800

COLORADO

Mike Bennett, Jamie Spakow, Room E100, 655 Parfet Street, Lakewood, CO 80215, (720) 544–2903

USDA RURAL DEVELOPMENT STATE OFFICE LOCATIONS—STATE DIRECTORS/HCFP PROGRAM DIRECTORS—Continued

DELAWARE & MARYLAND

Marlene B. Elliott, Pat Baker, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3625

FLORIDA & VIRGIN ISLANDS

Jennifer Delattibodier (Acting), Daryl Cooper, P.O. Box 147010, 4440 NW. 25th Place, Gainesville, FL 32614–7010, (352) 338–3435

GEORGIA

F. Stone Workman, Douglas Canup, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2162

HAWAII

Lorraine Shin, Donald Etes, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309

IDAHO

Michael A. Field, Roni Atkins, Suite A1, 9173 W. Barnes Dr., Boise, ID 83709, (208) 378–5600

ILLINOIS

Douglas Wilson, Barry Ramsey, 2118 W. Park Court, Suite A, Champaign, IL 61821, (217) 403–6222

USDA RURAL DEVELOPMENT STATE OFFICE LOCATIONS—STATE DIRECTORS/HCFP PROGRAM DIRECTORS—Continued

INDIANA

Robert White, Paul Neumann, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100

IOWA

Mark Reisinger, Tim Helmbrecht, Acting, 873 Federal Bldg., 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663

KANSAS

Charles (Chuck) R. Banks, Tim Rogers, 1303 SW. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2700

KENTUCKY

Kenneth Slone, Paul Higgins (Acting), Suite 200, 771 Corporate Drive, Lexington, KY 40503, (859) 224–7322

LOUISIANA

Clyde Holloway, Debbie Redfearn, 3727 Government Street, Alexandria, LA 71302, (318) 473–7920

MAINE

Michael W. Aube, Dale Holmes, P.O. Box 405, 967 Illinois Avenue, Suite 4, Bangor, ME 04402–0405, (207) 990–9118

MASSACHUSETTS/CT/RI

David H. Tuttle, 451 West Street, Amherst, MA 01002, (413) 253–4300

USDA Rural Development State Office Locations—State Directors/HCFP Program Directors—Continued

MICHIGAN

Gene DeRossett, Richard Annis, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5100

MINNESOTA

Stephen G. Wenzel, Lance Larson, 410 AgriBank Bldg., 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7792

MISSISSIPPI

George Irvin, Johnny Jones, Federal Bldg., Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325

MISSOURI

Anita J. (Janie) Dunning, Acting, Randy Griffith, Parkade Center, Suite 235, 601 Business Loop 70 West, Columbia, MO 65203, (573) 876–9301

MONTANA

Clark Johnson, Debra Chorlton, Suite B, 900 Technology Boulevard, Bozeman, MT 59715, (406) 585–2551

NEBRASKA

Scot Blehm, Byron Fischer, Federal Bldg., Room 152, 100 Centennial Mall N., Lincoln, NE 68508, (402) 437–5551

NEVADA

Larry J. Smith, Bill Brewer, 1390 South Curry Street, Carson City, NV 89703, (775) 887–1222

NEW JERSEY

Andrew (Andy) M.G. Law, George Hyatt, 5th Floor N. Suite 500, 8000 Midlantic Drive, Mt. Laurel, NJ 08054, (856) 787–7700

NEW MEXICO

Ryan Gleason, Art Garcia, Room 255, 6200 Jefferson Street, NE., Albuquerque, NM 87109, (505) 761–4973

USDA Rural Development State Office Locations—State Directors/HCFP Program Directors—Continued

NEW YORK

Patrick Brennan, Jennifer Jackson, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6417

NORTH CAROLINA

John Cooper, Mel Ellis, Suite 260, 4405 Bland Road, Raleigh, NC 27609, (919) 873–2000

NORTH DAKOTA

Clare Carlson, Mark Wax, Federal Bldg., Room 208, 220 East Rooser, P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2061

OHIO

Randall Hunt, Gerald Arnott, Federal Bldg., Room 507, 200 N. High Street, Columbus, OH 43215–2477, (614) 255–2500

OKLAHOMA

Brent J. Kisling, Tommy Earls, Suite 108, 100 USDA, Stillwater, OK 74074–2654, (405) 742–1000

OREGON

Mark Simmons, Rod Hansen, 1201 NE. Lloyd Blvd., Suite 801, Portland, OR 97232, (503) 414–3300

PENNSYLVANIA

Gary Groves, Frank Wetherhold, Suite 330, One Credit Union Place, Harrisburg, PA 17110–2996, (717) 237–2299

PUERTO RICO

Jose Otero-Garcia, Pedro Gomez, IBM Building, Suite 601, 654 Munoz Rivera Avenue, San Juan, PR 00936–6106, (787) 766–5095

SOUTH CAROLINA

Tee Miller, Herbert Koon, Strom Thurmond Federal Bldg., 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5163

USDA Rural Development State Office Locations—State Directors/HCFP Program Directors—Continued

SOUTH DAKOTA

Mike Jaspers, Roger Hazuka, Federal Bldg., Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1100

TENNESSEE

Mary (Ruth) Tackett, Donald L. Harris, Suite 300, 3322 W. End Avenue, Nashville, TN 37203–1084, (615) 783–1300

TEXAS

Scooter Brockette, Acting, Scooter Brockette, Federal Bldg., Suite 102, 101 S. Main, Temple, TX 76501, (254) 742–9700

UTAH

John R. Cox, Dave Brown, Wallace F. Bennett Federal Bldg., 125 S. State Street, Room 4311, Salt Lake City, UT 84147, (801) 524–4320

VERMONT & NEW HAMPSHIRE

Jolinda H. LaClair, Bob McDonald, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6000

VIRGINIA

Ellen M. Davis, James Reid, 1606 Santa Rosa Road, Suite 238, Richmond, VA 23229–5014, (804) 287–1598

WASHINGTON

Jon DeVaney, Robert Lund, Suite B, 1835 Black Lake Blvd., SW. Olympia, WA 98512–5715, (360) 704–7740

WEST VIRGINIA

Rick Rice, Dianne Crysler, Federal Bldg., Room 320, 75 High Street, Morgantown, WV 26505–7500, (304) 284–4860

WISCONSIN

Frank Frassetto, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7600

WYOMING

Del Tinsley, Alan Brooks, Federal Building, Room 1005, 100 East B, P.O. Box 11005, Casper, WY 82602, (307) 233–6700

HCFP—Fiscal Year 2008—Section 502 Direct Rural Housing Loans

[Allocations in thousands]

State	State basic formula factor	Total FY 2008 allocation
ALABAMA	0.02893348	$18,168
ALASKA	0.00623983	7,055
ARIZONA	0.01551438	11,597
ARKANSAS	0.02202430	14,785
CALIFORNIA	0.04281159	24,964
COLORADO	0.01225178	9,999
CONNECTICUT	0.00445853	6,183
DELAWARE	0.00293815	5,439
FLORIDA	0.02769317	17,561
GEORGIA	0.03803061	22,623
HAWAII	0.00623301	7,052
IDAHO	0.00847438	8,150
ILLINOIS	0.02627571	16,866
INDIANA	0.02616726	16,813
IOWA	0.01764334	12,639
KANSAS	0.01336777	10,546
KENTUCKY	0.02807301	17,747
LOUISIANA	0.02361424	15,563

HCFP—FISCAL YEAR 2008—SECTION 502 DIRECT RURAL HOUSING LOANS—Continued

[Allocations in thousands]

State	State basic formula factor	Total FY 2008 allocation
MAINE	0.01109070	9,431
MARYLAND	0.01010209	8,947
MASSACHUSETTS	0.00622585	7,049
MICHIGAN	0.03579346	21,527
MINNESOTA	0.02361828	15,565
MISSISSIPPI	0.02636473	16,910
MISSOURI	0.02809053	17,755
MONTANA	0.00738806	7,618
NEBRASKA	0.00953784	8,670
NEVADA	0.00339314	5,662
NEW HAMPSHIRE	0.00666198	7,262
NEW JERSEY	0.00551402	6,700
NEW MEXICO	0.01296637	10,349
NEW YORK	0.03378933	20,546
NORTH CAROLINA	0.05148079	29,209
NORTH DAKOTA	0.00469453	6,299
OHIO	0.03725173	22,241
OKLAHOMA	0.02019475	13,889
OREGON	0.01654303	12,101
PENNSYLVANIA	0.04269918	24,909
PUERTO RICO	0.00884495	10,123
RHODE ISLAND	0.00090026	4,441
SOUTH CAROLINA	0.02669849	17,074
SOUTH DAKOTA	0.00705037	7,452
TENNESSEE	0.03062418	18,996
TEXAS	0.07365688	40,068
UTAH	0.00500465	6,451
VERMONT	0.00579860	6,839
VIRGIN ISLANDS	0.00217552	5,065
VIRGINIA	0.02711459	17,277
WASHINGTON	0.01939199	13,496
WEST PAC ISLANDS	0.00239453	2,000
WEST VIRGINIA	0.01591004	11,791
WISCONSIN	0.02634031	16,898
WYOMING	0.00393497	5,927
State Totals		702,285
100 Underserved Counties/Colonias		56,074
Empowerment Zones and Enterprise Community Set-Aside		17,978
General Reserve		170,149
Self Help		175,000
Total		1,121,485

HCFP—FISCAL YEAR 2008—SECTION 502 DIRECT RURAL HOUSING LOANS

[Allocation in thousands]

State	Total FY 2008 allocation	Very low income allocation 45 percent	Low income allocation 55 percent
1 ALABAMA	$18,168	$8,176	$9,992
60 ALASKA	7,055	3,175	3,880
2 ARIZONA	11,597	5,219	6,378
3 ARKANSAS	14,785	6,653	8,132
4 CALIFORNIA	24,964	11,234	13,730
5 COLORADO	9,999	4,500	5,499
6 CONNECTICUT	6,183	2,782	3,401
7 DELAWARE	5,439	2,448	2,991
9 FLORIDA	17,561	7,902	9,659
10 GEORGIA	22,623	10,180	12,443
61 HAWAII	7,052	3,173	3,879
12 IDAHO	8,150	3,668	4,483
13 ILLINOIS	16,866	7,590	9,276
15 INDIANA	16,813	7,566	9,247
16 IOWA	12,639	5,688	6,951
18 KANSAS	10,546	4,746	5,800
20 KENTUCKY	17,747	7,986	9,761

HCFP—FISCAL YEAR 2008—SECTION 502 DIRECT RURAL HOUSING LOANS—Continued

[Allocation in thousands]

State	Total FY 2008 allocation	Very low income allocation 45 percent	Low income allocation 55 percent
22 LOUISIANA	15,563	7,003	8,560
23 MAINE	9,431	4,244	5,187
24 MARYLAND	8,947	4,026	4,921
25 MASSACHUSETTS	7,049	3,172	3,877
26 MICHIGAN	21,527	9,687	11,840
27 MINNESOTA	15,565	7,004	8,561
28 MISSISSIPPI	16,910	7,610	9,301
29 MISSOURI	17,755	7,990	9,765
31 MONTANA	7,618	3,428	4,190
32 NEBRASKA	8,670	3,902	4,769
33 NEVADA	5,662	2,548	3,114
34 NEW HAMPSHIRE	7,262	3,268	3,994
35 NEW JERSY	6,700	3,015	3,685
36 NEW MEXICO	10,349	4,657	5,692
37 NEW YORK	20,546	9,246	11,300
38 NORTH CAROLINA	29,209	13,144	16,065
40 NORTH DAKOTA	6,299	2,835	3,464
41 OHIO	22,241	10,008	12,233
42 OKLAHOMA	13,889	6,250	7,639
43 OREGON	12,101	5,445	6,656
44 PENNSYLVANIA	24,909	11,209	13,700
63 PUERTO RICO	10,123	4,555	5,568
45 RHODE ISLAND	4,441	1,998	2,443
46 SOUTH CAROLINA	17,074	7,683	9,391
47 SOUTH DAKOTA	7,452	3,353	4,099
48 TENNESSEE	18,996	8,548	10,448
49 TEXAS	40,068	18,031	22,037
52 UTAH	6,451	2,903	3,548
53 VERMONT	6,839	3,078	3,761
64 VIRGIN ISLANDS	5,065	2,279	2,786
54 VIRGINIA	17,277	7,775	9,502
56 WASHINGTON	13,496	6,073	7,423
62 WEST PAC ISLANDS	2,000	900	1,100
57 WEST VIRGINIA	11,791	5,306	6,485
58 WISCONSIN	16,898	7,604	9,294
59 WYOMING	5,927	2,667	3,260
State Totals	702,285	316,028	386,257
100 Underserved Counties/Colonias	56,074	25,233	30,841
EZ/EC/REAP Reserve	17,978	8,090	9,888
General Reserve	170,149	76,567	93,582
Self Help	175,000	78,750	96,250
Total	1,121,485	504,668	616,817

HCFP—FISCAL YEAR 2008—SECTION 502 GUARANTEED PURCHASE LOANS (NONSUBSIDIZED)

[Allocation in actual dollars]

State	State basic formula factor	FY 2008 state basic formula allocation	Additional administrative allocation FY 2008	Total FY 2008 allocation
Alabama	0.02657575	$66,439,375	$0	$66,439,375
Alaska	0.00722325	18,058,125	10,937,359	28,995,484
Arizona	0.01640900	41,022,500	0	41,022,500
Arkansas	0.02282102	57,052,550	63,553,262	120,605,812
California	0.05030996	125,774,900	0	125,774,900
Colorado	0.01357525	33,938,125	0	33,938,125
Connecticut	0.00408986	10,224,650	0	10,224,650
Delaware	0.00276106	6,902,650	1,713,350	8,616,000
Florida	0.02650361	66,259,025	0	66,259,025
Georgia	0.03793281	94,832,025	0	94,832,025
Hawaii	0.00796215	19,905,375	0	19,905,375
Idaho	0.00888491	22,212,275	5,620,284	27,832,559
Illinois	0.02591265	64,781,625	129,541,273	194,322,898
Indiana	0.02361952	59,048,800	0	59,048,800

HCFP—FISCAL YEAR 2008—SECTION 502 GUARANTEED PURCHASE LOANS (NONSUBSIDIZED)—Continued

[Allocation in actual dollars]

State	State basic formula factor	FY 2008 state basic formula allocation	Additional administrative allocation FY 2008	Total FY 2008 allocation
Iowa	0.01674764	$41,869,100	$11,998,164	$53,867,264
Kansas	0.01333450	33,336,250	36,218,726	69,554,976
Kentucky	0.02667768	66,694,200	38,659,598	105,353,798
Louisiana	0.02306785	57,669,625	0	57,669,625
Maine	0.01154316	28,857,900	13,702,932	42,560,832
Maryland	0.00944838	23,620,950	4,968,254	28,589,204
Massachusetts	0.00620846	15,521,150	0	15,521,150
Michigan	0.03318174	82,954,350	98,230,746	181,185,096
Minnesota	0.02265572	56,639,300	75,312,997	131,952,297
Mississippi	0.02650848	66,271,200	0	66,271,200
Missouri	0.02830414	70,760,350	69,488,422	140,248,772
Montana	0.00778549	19,463,725	17,437,568	36,901,293
Nebraska	0.00963559	24,088,975	4,998,792	29,087,767
Nevada	0.00373060	9,326,500	0	9,326,500
New Hampshire	0.00696793	17,419,825	0	17,419,825
New Jersey	0.00489407	12,235,175	4,339,860	16,575,035
New Mexico	0.01349689	33,742,225	0	33,742,225
New York	0.03640605	91,015,125	0	91,015,125
North Carolina	0.05076681	126,917,025	0	126,917,025
North Dakota	0.00440032	11,000,800	2,080,579	13,081,379
Ohio	0.03518978	87,974,450	2,418,898	90,393,348
Oklahoma	0.02008600	50,215,000	10,401,466	60,616,466
Oregon	0.01909631	47,740,775	0	47,740,775
Pennsylvania	0.04089133	102,228,325	0	102,228,325
Puerto Rico	0.00919939	22,998,475	131,612,371	154,610,846
Rhode Island	0.00075627	1,890,675	0	1,890,675
South Carolina	0.02526494	63,162,350	0	63,162,350
South Dakota	0.00751015	18,775,375	53,138,707	71,914,082
Tennessee	0.02902148	72,553,700	45,526,777	118,080,477
Texas	0.07276234	181,905,850	0	181,905,850
Utah	0.00510515	12,762,875	11,985,564	24,748,439
Vermont	0.00663633	16,590,825	0	16,590,825
Virgin Islands	0.00306743	7,668,575	0	7,668,575
Virginia	0.02554389	63,859,725	37,186,762	101,046,487
Washington	0.02205374	55,134,350	0	55,134,350
West Pac	N/A	0	8,298,821	8,298,821
West Virginia	0.01502432	37,560,800	8,274,490	45,835,290
Wisconsin	0.02575423	64,385,575	9,211,203	73,596,778
Wyoming	0.00395173	9,879,325	0	9,879,325
State Totals				3,400,000,000
General Reserve				1,090,994,365
Special Outreach Areas Reserve				467,569,014
Total				4,958,563,379

**Total includes FY 2007 Carryover and Rescission.

HCFP—FISCAL YEAR 2008—SECTION 502 GUARANTEED REFINANCE LOANS (NONSUBSIDIZED)

[Allocation in actual dollars]

State	State basic formula factor	Total FY 2008 allocation
Alabama	N/A	$0
Alaska	N/A	0
Arizona	N/A	0
Arkansas	N/A	0
California	N/A	0
Colorado	N/A	0
Connecticut	N/A	0
Delaware	N/A	0
Florida	N/A	0
Georgia	N/A	0
Hawaii	N/A	0
Idaho	N/A	0
Illinois	N/A	0
Indiana	N/A	0

HCFP—FISCAL YEAR 2008—SECTION 502 GUARANTEED REFINANCE LOANS (NONSUBSIDIZED)—Continued

[Allocation in actual dollars]

State	State basic formula factor	Total FY 2008 allocation
Iowa	N/A	0
Kansas	N/A	0
Kentucky	N/A	0
Louisiana	N/A	0
Maine	N/A	0
Maryland	N/A	0
Massachusetts	N/A	0
Michigan	N/A	0
Minnesota	N/A	0
Mississippi	N/A	0
Missouri	N/A	0
Montana	N/A	0
Nebraska	N/A	0
Nevada	N/A	0
New Hampshire	N/A	0
New Jersey	N/A	0
New Mexico	N/A	0
New York	N/A	0
North Carolina	N/A	0
North Dakota	N/A	0
Ohio	N/A	0
Oklahoma	N/A	0
Oregon	N/A	0
Pennsylvania	N/A	0
Puerto Rico	N/A	0
Rhode Island	N/A	0
South Carolina	N/A	0
South Dakota	N/A	0
Tennessee	N/A	0
Texas	N/A	0
Utah	N/A	0
Vermont	N/A	0
Virgin Islands	N/A	0
Virginia	N/A	0
Washington	N/A	0
West Pac	N/A	0
West Virginia	N/A	0
Wisconsin	N/A	0
Wyoming	N/A	0
State Totals		0
National Office Reserve		269,375,804
Total		269,375,804

** Includes FY 2007 Carryover.

HCFP—FISCAL YEAR 2008—SECTION 504 DIRECT RURAL HOUSING LOANS

[Allocation in Thousands]

State	State basic formula factor	Total FY 2008 allocation
1 ALABAMA	0.02914691	$903
60 ALASKA	0.00945161	293
2 ARIZONA	0.02165916	671
3 ARKANSAS	0.02301181	713
4 CALIFORNIA	0.05356026	1,659
5 COLORADO	0.01244796	386
6 CONNECTICUT	0.00301503	93
7 DELAWARE	0.00260858	81
9 FLORIDA	0.02862195	887
10 GEORGIA	0.03870552	1,199
61 HAWAII	0.00914234	283
12 IDAHO	0.00926157	287
13 ILLINOIS	0.02289193	709
15 INDIANA	0.02163577	670
16 IOWA	0.01497537	464
18 KANSAS	0.01252499	388
20 KENTUCKY	0.02699175	836

HCFP—FISCAL YEAR 2008—SECTION 504 DIRECT RURAL HOUSING LOANS—Continued

[Allocation in Thousands]

	State	State basic formula factor	Total FY 2008 allocation
22	LOUISIANA	0.02658801	824
23	MAINE	0.01004646	311
24	MARYLAND	0.00809012	251
25	MASSACHUSETTS	0.00467784	145
26	MICHIGAN	0.03036170	941
27	MINNESOTA	0.02241926	695
28	MISSISSIPPI	0.02944306	912
29	MISSOURI	0.02649320	821
31	MONTANA	0.00748030	232
32	NEBRASKA	0.00889870	276
33	NEVADA	0.00389431	121
34	NEW HAMPSHIRE	0.00533998	165
35	NEW JERSEY	0.00402807	125
36	NEW MEXICO	0.01723147	534
37	NEW YORK	0.02829025	876
38	NORTH CAROLINA	0.04993409	1,547
40	NORTH DAKOTA	0.00445144	138
41	OHIO	0.03025666	937
42	OKLAHOMA	0.02084848	646
43	OREGON	0.01749746	542
44	PENNSYLVANIA	0.03508076	1,087
63	PUERTO RICO	0.01361295	422
45	RHODE ISLAND	0.00061002	19
46	SOUTH CAROLINA	0.02721728	843
47	SOUTH DAKOTA	0.00727218	225
48	TENNESSEE	0.02874616	891
49	TEXAS	0.08626859	2,673
52	UTAH	0.00539086	167
53	VERMONT	0.00496554	154
64	VIRGIN ISLANDS	0.00348170	108
54	VIRGINIA	0.02455868	761
56	WASHINGTON	0.02114040	655
62	WEST PAC ISLANDS	0.00407807	500
57	WEST VIRGINIA	0.01464971	454
58	WISCONSIN	0.02300364	713
59	WYOMING	0.00397110	123
	State Totals		31,327
	100 Underserved Counties/Colonias		1,720
	Empowerment Zones and Enterprise Community Set-Aside		628
	General Reserve		734
	Total		34,409

HCFP—FISCAL YEAR 2008—SECTION 504 DIRECT RURAL HOUSING GRANTS

[Allocation in thousands]

	State	State basic formula factor	Total FY 2008 allocation
1	ALABAMA	0.02895129	$742
60	ALASKA	0.00683910	175
2	ARIZONA	0.01822198	467
3	ARKANSAS	0.02307817	591
4	CALIFORNIA	0.04712512	1,208
5	COLORADO	0.01159403	297
6	CONNECTICUT	0.00371268	95
7	DELAWARE	0.00293163	75
9	FLORIDA	0.03041312	779
10	GEORGIA	0.03661908	939
61	HAWAII	0.00731435	187
12	IDAHO	0.00852842	219
13	ILLINOIS	0.02641754	677
15	INDIANA	0.02405959	617
16	IOWA	0.01786210	458
18	KANSAS	0.01364909	350
20	KENTUCKY	0.02688977	689
22	LOUISIANA	0.02413924	619
23	MAINE	0.01074827	275

HCFP—FISCAL YEAR 2008—SECTION 504 DIRECT RURAL HOUSING GRANTS—Continued

[Allocation in thousands]

State		State basic formula factor	Total FY 2008 allocation
24	MARYLAND	0.00927164	238
25	MASSACHUSETTS	0.00548024	140
26	MICHIGAN	0.03302491	846
27	MINNESOTA	0.02348925	602
28	MISSISSIPPI	0.02699213	692
29	MISSOURI	0.02801252	718
31	MONTANA	0.00736568	189
32	NEBRASKA	0.00983363	252
33	NEVADA	0.00359134	92
34	NEW HAMPSHIRE	0.00589663	151
35	NEW JERSEY	0.00461712	118
36	NEW MEXICO	0.01420178	364
37	NEW YORK	0.03156987	809
38	NORTH CAROLINA	0.05019393	1,286
40	NORTH DAKOTA	0.00470192	121
41	OHIO	0.03422496	877
42	OKLAHOMA	0.02108316	540
43	OREGON	0.01770850	454
44	PENNSYLVANIA	0.04090487	1,048
63	PUERTO RICO	0.01023070	262
45	RHODE ISLAND	0.00074832	19
46	SOUTH CAROLINA	0.02591134	664
47	SOUTH DAKOTA	0.00723669	185
48	TENNESSEE	0.02972644	762
49	TEXAS	0.07876808	2,019
52	UTAH	0.00493463	126
53	VERMONT	0.00527848	135
64	VIRGIN ISLANDS	0.00243791	62
54	VIRGINIA	0.02623675	672
56	WASHINGTON	0.01980392	508
62	WEST PAC ISLANDS	0.00280568	500
57	WEST VIRGINIA	0.01559911	400
58	WISCONSIN	0.02514997	645
59	WYOMING	0.00385395	99
	State Totals		26,054
	100 Underserved Counties/Colonias		1,490
	Empowerment Zones and Enterprise Community Set-Aside		596
	General Reserve		1,650
	Total		29,790

HCFP—FISCAL YEAR 2008—UNDERSERVED AND COLONIAS FUNDS

[Allocation in thousands]

Underserved state	Sum of rural populations	Percentage	Weight	502 Direct	502 VL (45%)	502 Low (55%)	504 Loan	504 Grant
Alabama	34,310	2.62	3	$1,121	$505	$617	$34	$30
Alaska	29,320	2.24	3	1,121	505	617	34	30
Hawaii	33,480	2.56	3	1,121	505	617	34	30
Arizona	217,690	16.63	5	1,869	841	1,028	57	50
California	69,640	5.32	4	1,495	673	822	46	40
Colorado	3,670	0.28	1	374	168	206	11	10
Florida	72,310	5.52	4	1,495	673	822	46	40
Georgia	14,230	1.09	2	748	336	411	23	20
Idaho	1,030	0.08	1	374	168	206	11	10
Louisiana	36,260	2.77	3	1,121	505	617	34	30
Mississippi	92,260	7.05	4	1,495	673	822	46	40
Montana	32,540	2.49	3	1,121	505	617	34	30
Nebraska	7,160	0.55	1	374	168	206	11	10
New Mexico	57,970	4.43	4	1,495	673	822	46	40
North Dakota	17,550	1.34	2	748	336	411	23	20
West Pac Islands	5,920	0.45	1	374	168	206	11	10
Puerto Rico	301,960	23.07	5	1,869	841	1,028	57	50
South Dakota	41,840	3.20	3	1,121	505	617	34	30
Texas	189,070	14.45	5	1,869	841	1,028	57	50

HCFP—FISCAL YEAR 2008—UNDERSERVED AND COLONIAS FUNDS—Continued

[Allocation in thousands]

Underserved state	Sum of rural populations	Percentage	Weight	502 Direct	502 VL (45%)	502 Low (55%)	504 Loan	504 Grant
Virgin Islands	50,580	3.86	3	1,121	505	617	34	30
	1,308,790	100.00	60	22,430	10,093	12,336	688	596
Subtotal						22,430	688	596
Reserve						11,215	344	298
Colonias						22,430	688	596
Total FY 08						56,074	1,720	1,490
Base Allocation						373.83	11.47	9.93

COLONIAS	502 Direct	502 VL	502 Low	504 Loan	504 Grant
Arizona	5,607	2,523	3,084	172	149
California	5,607	2,523	3,084	172	149
New Mexico	5,607	2,523	3,084	172	149
Texas	5,607	2,523	3,084	172	149
Total	22,430	10,093	12,336	688	596

HCFP—FISCAL YEAR 2008—EMPOWERMENT ZONE, ENTERPRISE COMMUNITY AND RURAL ECONOMIC PARTNERSHIP FUNDS

[Allocation in thousands]

State	No.	502 VL EZ/EC/REAP amount	502 Low EZ/EC/REAP amount	504 Loan EZ/EC/REAP amount
AK	1	$115	$135	$15
AZ	1	115	135	15
CA	2	230	270	30
FL	1	115	135	15
GA	1	115	135	15
HI	1	115	135	15
IL	1	115	135	15
IN	1	115	135	15
KS	1	115	135	15
KY	2	230	270	30
ME	2	230	270	30
MI	1	115	135	15
MO	1	115	135	15
MS	1	115	135	15
MT	1	115	135	15
ND	3	345	405	45
NM	1	115	135	15
NY	2	230	270	30
OK	1	115	135	15
PA	1	115	135	15
SC	1	115	135	15
SD	1	115	135	15
TN	1	115	135	15
TX	2	230	270	30
VT	1	115	135	15
WA	1	115	135	15
WI	1	115	135	15
WV	1	115	135	15
Reserve		4,065	5,163	103
Available	35	8,090	9,888	627

HCFP—FISCAL YEAR 2008—SECTION 502 GUARANTEED PURCHASE 2005 HURRICANE DISASTER LOANS (NONSUBSIDIZED)

[Allocation in actual dollars]

State	State basic formula factor	Total FY 2008 allocation
Alabama	N/A	$28,313,769
Alaska	N/A	0
Arizona	N/A	0
Arkansas	N/A	0
California	N/A	0
Colorado	N/A	0
Connecticut	N/A	0
Delaware	N/A	0
Florida	N/A	28,313,769
Georgia	N/A	0
Hawaii	N/A	0
Idaho	N/A	0
Illinois	N/A	0
Indiana	N/A	0
Iowa	N/A	0
Kansas	N/A	0
Kentucky	N/A	0
Louisiana	N/A	356,753,491
Maine	N/A	0
Maryland	N/A	0
Massachusetts	N/A	0
Michigan	N/A	0
Minnesota	N/A	0
Mississippi	N/A	237,835,660
Missouri	N/A	0
Montana	N/A	0
Nebraska	N/A	0
Nevada	N/A	0
New Hampshire	N/A	0
New Jersey	N/A	0
New Mexico	N/A	0
New York	N/A	0
North Carolina	N/A	0
North Dakota	N/A	0
Ohio	N/A	0
Oklahoma	N/A	0
Oregon	N/A	0
Pennsylvania	N/A	0
Puerto Rico	N/A	0
Rhode Island	N/A	0
South Carolina	N/A	0
South Dakota	N/A	0
Tennessee	N/A	0
Texas	N/A	28,313,769
Utah	N/A	0
Vermont	N/A	0
Virgin Islands	N/A	0
Virginia	N/A	0
Washington	N/A	0
West Pac	N/A	0
West Virginia	N/A	0
Wisconsin	N/A	0
Wyoming	N/A	0
State Totals	.....	679,530,458
National Office Reserve	.....	75,503,383
Total	.....	755,033,841

** Includes FY 2007 Carryover.

[FR Doc. E8–6332 Filed 3–27–08; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to and Deletion from the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and to delete a product previously furnished by such an agency.

Comments Must be Received on or Before: April 27, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Service Type/Location: Custodial Services, Andersen Air Force Base (Basewide), APO AP, GU.

NPA: Able Industries of the Pacific, Santa Rita, GU Contracting Activity: U.S. Air Force, Andersen Air Force Base, 36th Contracting Squadron, APO AP, GU.

Deletion

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action should not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the product to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for deletion from the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following product is proposed for deletion from the Procurement List:

Product

Cover, Ironing Board and Pad Set

NSN: M.R. 968

NPA: Chester County Branch of the PAB, Coatesville, PA

Contracting Activity: Defense Commissary Agency (DeCA), Fort Lee, VA

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–6402 Filed 3–27–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* April 27, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION: On January 25, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 4519) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service:

Service Type/Location: Grounds Maintenance, Janitorial & Facility Maintenance Services, Loyalhanna & Conemaugh Dam, 400 Loyalhanna Dam Road, Saltsburgh, PA.

NPA: The Burnley Workshop of the Poconos, Inc., Stroudsburg, PA.

Contracting Activity: U.S. Army Corps of Engineers—Pittsburgh District, Pittsburgh, PA.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–6403 Filed 3–27–08; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–831

Fresh Garlic from the People's Republic Republic of China: Extension of Time Limit for Final Results of the Twelfth Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 28, 2008.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1394 and (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2007, the Department of Commerce (''Department'') published the preliminary results of this administrative review. *See Fresh Garlic from the People's Republic of China: Notice of Preliminary Results and Preliminary Partial Rescission of the Twelfth Administrative Review*, 72 FR 69652 (December 10, 2007) (''*Preliminary Results*''). The period of review for this administrative review is November 1, 2005, through October 31, 2006. The final results are currently due on April 8, 2008.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''Act''), requires the Department to issue the final results in an administrative review of an antidumping duty order 120 days after the date on which the preliminary results are published. The Department may, however, extend the deadline for completion of the final results of an administrative review to 180 days if it determines it is not practicable to complete the review within the foregoing time period. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

The Department finds that it is not practicable to complete the final results of the administrative review within this time limit. Specifically, after coordinating with the interested parties, the Department is extending the deadline for the final results to accommodate parties' public hearing requests so that parties may address all issues. Additionally, the Department requires additional time to complete the analysis of certain fact-intensive issues, such as questions regarding the selection of surrogate values, raised in the case briefs. For the reasons noted above, we are extending the time for the completion of the final results of this review by 60 days to June 9, 2008.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 14, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–6449 Filed 3–27–08; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–845

Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 28, 2008.

SUMMARY: On November 7, 2007, the Department of Commerce published its preliminary determination and amended preliminary determination, respectively, of the investigation of sales at less than fair value in the antidumping duty investigation of glycine from India. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62827 (November 7, 2007), and *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62826 (November 7, 2007).

The Department of Commerce has determined that glycine from India is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at less than fair value are listed below in the section entitled ''Final Determination of Investigation.''

FOR FURTHER INFORMATION CONTACT: George Callen or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0180 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary and amended preliminary determinations in this investigation were published on November 7, 2007. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62827 (November 7, 2007) (*Preliminary Determination*), and *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62826 (November 7, 2007). Since then, we determined that an allegation of critical circumstances submitted by the petitioner on October 12 and 25, 2007, was inadequate. See Memorandum from Kristin Case to Laurie Parkhill dated November 13, 2007. We have also conducted sales and cost verifications of the responses submitted by Paras Intermediates, Ltd. (Paras). See Memoranda to the file entitled ''Verification of the Sales Response of Paras Intermediates Pvt. Ltd. in the Antidumping Duty Investigation of Glycine from India'' dated January 23, 2008, and ''Verification of the Cost Response of Paras Intermediates Private Ltd, in the Antidumping Investigation of Glycine from India'' dated February 20, 2008, available in the Central Records Unit (CRU), room 1117 of the main Department of Commerce building. On February 22, 2008, we released a memorandum entitled ''Proposed Adjustments to the Cost of Production and Constructed Value Data Paras Intermediates Pvt. Ltd.'' and invited interested parties to submit comments. We received a case brief from Paras on March 3, 2008; the petitioner, GEO Specialty Chemicals, Inc. (GEO), filed a rebuttal brief on March 5, 2008.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the ''Issues and Decision Memorandum for the Antidumping Duty Investigation of Glycine from India for the Period of Investigation January 1, 2006, through December 31, 2006'' (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated March 21, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The merchandise covered by this investigation is glycine, which in its solid, *i.e.*, crystallized, form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of this investigation covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of this investigation, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is C2H5NO2 and is normally classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).

The scope of this investigation also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry, *i.e.*, glycine in a non-crystallized form, and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is from January 1, 2006, through December 31, 2006.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for Paras. For a discussion of these changes, see memorandum from George Callen to The File entitled ''Glycine from India - Final Determination of Sales at Less Than Fair Value Analysis Memorandum for Paras'' dated March 21, 2008, and the memorandum from Angela Strom to Neal Halper entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Final Determination Paras Intermediates Pvt. Ltd.'' dated March 21, 2008.

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, certain producers and/or exporters of glycine from India did not act to the best of their ability in responding to our requests for information. Thus, the Department continues to find that the use of adverse facts available is warranted for these companies under sections 776(a)(2) and (b) of the Act. See *Preliminary Determination*, 72 FR at 62829. As we explained in the *Preliminary Determination*, the rate of 121.62 percent we selected as the adverse facts-available rate is the highest margin alleged in the petition, as recalculated in the April 19, 2007, ''Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from India'' (the Initiation Checklist) on file in CRU. See also *Petition for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea* filed on March 30, 2007 (the Petition), and the April 3, 12, 13, 17, and 18, 2007, supplements to the Petition submitted by GEO. We selected this rate from the range of margins we re-calculated in the Initiation Checklist in *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007) (*Initiation Notice*). Further, as discussed in the *Preliminary Determination*, we corroborated the adverse facts-available rate pursuant to section 776(c) of the Act.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins and any margins determined entirely under section 776 of the Act. For this final determination we have calculated a margin for Paras that is above *de minimis*. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, because other respondents are receiving margins based on adverse facts available, we are using the dumping margin we have calculated for Paras as indicated in the ''Final Determination of Investigation'' section below.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

Manufacturer or Exporter	Margin (percent)
Paras Intermediates, Ltd.	10.90
Abhiyan Media Pvt. Ltd.	121.62
Advanced Exports/Aico Laboratories	121.62
Ashok Alco-Chem, Ltd.	121.62
Bimal Pharma, Pvt., Ltd.	121.62
Euro Asian Industrial Co.	121.62
EPIC Enzymes Pharmaceuticals & Industrial	121.62
Indian Chemical Industries	121.62
Kumar Industries	121.62
Nutracare International/Salvi Chemical Industries	121.62
Sisco Research Laboratories Pvt. Ltd	121.62
Sealink International, Inc.	121.62
All Others	10.90

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from India entered, or withdrawn from warehouse, for consumption on or after November 7, 2007, the date of the publication of *Preliminary Determination*, for all producers/exporters other than Paras. Because we found Paras to have a *de minimis* margin in the *Preliminary Determination*, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from India from

Paras and entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this final determination. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) the rate for the respondents will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 10.90 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 21, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

Comment 1: Work-in-Process Inventories

Comment 2: Recovery of Bad Debts
Comment 3: Duty Drawback
Comment 4: Interest Income Offset
Comment 5: Appropriate Sales Database to Use

[FR Doc. E8–6450 Filed 3–27–08; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG69

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice; intent to issue the EFP; request for comments.

SUMMARY: NMFS announces the intent to issue exempted fishing permits (EFPs) to Pacific whiting shoreside vessels and first receivers that participate in a maximized retention and monitor program for the 2008 Pacific whiting shoreside fishery. EFPs are needed to allow vessels to retain catch in excess of the cumulative limits and to retain prohibited species until offloading. EFPs are also needed to allow first receivers to possess catch from a vessel that is in excess of cumulative limits and to used hopper type scales to derive accurate catch weights prior to sorting. Issuance of the EFPs would allow NMFS to collect catch data on incidentally caught species, including salmonids listed under the Endangered Species Act, and would allow new components of an overall monitoring program to be investigated before implementation of a regulatory program.

DATES: Comments must be received by April 14, 2008.

ADDRESSES: You may submit comments, identified by RIN 0648–XG69 by any one of the following methods:

- Fax: 206–526–6736, Attn: Becky Renko
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Becky Renko.

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.

FOR FURTHER INFORMATION CONTACT: Becky Renko or Gretchen Arentzen or (206)526(6140.

SUPPLEMENTARY INFORMATION: This action is authorized by the Magnuson–Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745 which states that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the March 10–14, 2008, Pacific Fishery Management Council (Council) meeting in Sacramento, California, NMFS Northwest Region presented a proposal for issuance of EFPs to vessels and first receivers participating in the 2008 Pacific whiting shoreside fishery. If issued, the EFPs would provide for a maximized retention and monitoring program for the Pacific whiting shoreside fishery. The proposed maximized retention and monitoring program regulations are intended to allow for the Pacific whiting shoreside fishery to be efficiently prosecuted while providing accurate catch data such that the Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act requirements for this fishery are adequately met. An opportunity for Council discussion and public testimony were provided during the Councils March 2008 meeting in Sacramento, California.

The issuance of EFPs would allow approximately 40 vessels to delay sorting of groundfish catch and to retain catch in excess of cumulative trip limits and prohibited species catch until offloading. These activities are otherwise prohibited by regulations at 50 CFR 660.306(a)(10) and 660.306(a)(2), respectively.

Issuance of the EFPs, to approximately 15 first receivers, will allow first receivers to possess more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period. The

possession of catch in excess of the cumulative limits is otherwise prohibited by regulations at 50 CFR 660.306(a)(10). In addition, the EFPs will include an allowance for first receivers to use hopper type scales to derive an accurate total catch weight prior to sorting. Regulations pertaining to sorting at § 660.370(h)(6) and prohibitions at § 660.306(a)(7) require vessels to sort the catch before weighing.

Issuance of these EFPs will allow for the collection of information on the catch of salmon, non-whiting groundfish, and other non-groundfish species incidentally taken with Pacific whiting. These data are needed to monitor the attainment of the shore–based whiting allocation while assuring that the fishery specifications (bycatch limits, species allocations, OYs, and biological opinion thresholds) are not exceeded. Because whiting flesh deteriorates rapidly once the fish are caught, whiting must be minimally handled and immediately chilled to maintain the flesh quality. Allowing Pacific whiting shoreside vessels to retain unsorted catch will also enable whiting quality to be maintained.

At the June 2007 Pacific Fishery Management Council (PFMC) meeting, the PFMC recommended that NMFS implement a maximized retention program in Federal regulations that would allow full retention of Pacific whiting catch by the vessels and delivered to first receivers on shore. NMFS Northwest Region is in the process of transitioning the Pacific whiting shoreside fishery from a maximized retention and monitoring program conducted under a state-run EFP to a Federal regulatory program. Though it was expected that the program would be in place at the start of the 2008 fishing season, it will not be possible given the complexity of the rulemaking and other workload priorities. The EFP, as proposed, would be used to investigate the new components of the overall monitoring program before regulatory implementation. The EFP would be in effect until the effective date of the new Federal maximized retention and monitoring program, later in 2008.

Proposed Federal regulations for a maximized retention and monitoring program would require Pacific whiting shoreside vessels to dump unsorted catch directly below deck and would allow unsorted catch to be landed, providing that an electronic monitoring system (EMS) is used on all fishing trips to verify retention of catch at sea. The EMS is an effective tool for accurately monitoring catch retention and identifying the time and location of discard events. The EFP would include provisions for EMS, paid for by the vessels, similar to the 2007 EFP and similar to the proposed Federal regulatory program.

Proposed Federal regulations for a maximized retention and monitoring program would also require first receivers to have on shore monitoring conducted by catch monitors. Catch monitors would be third party employees, paid for by industry, and trained to NMFS standards. The EFP would include provisions for third party catch monitors from a NMFS specified provider. Like the proposed Federal regulatory program, catch monitors used under the EFP would be trained in techniques that would be used for the verification of fish ticket data and in species identification. Catch monitor duties would include overseeing the sorting, weighing, and recordkeeping process, as well as gathering information on incidentally caught salmon. Catch monitors would verify the accuracy of electronic fish ticket data used to manage the Pacific whiting shoreside fishery such that inaccurate or delayed information does not result in any fishery specifications (bycatch limits, species allocations, OYs, and biological opinion thresholds) being exceeded.

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

Dated: March 25, 2008.

Alan D. Risenhoover

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

[FR Doc. E8–6430 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XG68

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Oversight Committee in April, 2008, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, April 15, 2008, at 5:30 p.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700; fax: (401) 455–3040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will recommend final action on Framework Adjustment 6 to the Monkfish Fishery Management Plan (FMP) following a review of the draft Framework Adjustment 6 document and the decision of the Mid-Atlantic Fishery Management Council (which will have voted on Framework 6 at their Council meeting on April 9). Based on the recent stock assessment and change in stock status, the Councils are considering eliminating the backstop measure adopted in Framework Adjustment 4, an action that would reduce or eliminate monkfish days-at-sea in fishing year 2009 if landings exceed the catch targets in either or both of the two management areas during this current fishing year.

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 listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 25, 2008.

William D. Chappell,

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

[FR Doc. E8–6438 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG67

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee on April 14–15, 2008, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, April 14 beginning at 1 p.m. and April 15 beginning at 8 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700; fax: (401) 455–3040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review Skate Plan Development Team analyses regarding skate catch limits and develop allowable biological catch limit recommendations that are consistent with Skate Fishery Management Plan objectives to prevent overfishing and rebuild thorny and winter skates.

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 listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 25, 2008.

William D. Chappell,

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

[FR Doc. E8–6439 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG66

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting on April 15–17, 2008, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, April 15 beginning at 10 a.m., and Wednesday and Thursday, April 16 and 17, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Providence, RI 02903; telephone: (401) 421–0700.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, April 15, 2008

Following introductions and any announcements, the Council will receive a series of brief reports from the Council Chairman and Executive Director, the NOAA Fisheries Northeast Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel, NOAA Enforcement and representatives of the U.S. Coast Guard and the Atlantic States Marine Fisheries Commission. The Council also will review any experimental fishery permits requests published since the last Council meeting and possibly offer comments. Following a lunch break, the Council's Scientific and Statistical Committee will make recommendations concerning acceptable biological catch levels for winter and thorny skates while the Skate Committee will report on progress to develop winter and thorny skate rebuilding and management alternatives for inclusion in Amendment 3 to the Skate Fishery Management Plan (FMP). The committee will ask the Council to consider and approve precautionary annual catch limits, accountability measures and additional management measures to address recent changes in the skate fishery. The last agenda item of the day will involve an update by Virginia Institute of Marine Science staff on the institution's Northeast Area Monitoring and Assessment Program.

Wednesday, April 16, 2008

The Council will review and approve comment letters regarding the Minerals Management Service's Draft Environmental Impact Statement for the Cape Wind Energy Project and the Revised Framework for Developing a National System for Marine Protected Areas. A report from the Monkfish Committee will follow, during which the Council intends to take final action on Framework 6 to the Monkfish FMP. The Mid-Atlantic and New England Councils are considering eliminating backstop measures adopted in an earlier action that would reduce or eliminate days-at-sea in 2009 if landings exceeded catch targets in either or both of the two monkfish management areas during this current fishing year. The Enforcement Committee will review its recommendations concerning any changes to the running clock prohibition and review its initial discussion about sector monitoring and enforcement. During the afternoon session there will be a preliminary report on a Gulf of Maine Research Institute project to evaluate the monitoring, reporting and enforcement needs necessary to effectively track catch by sector vessels in New England. During the last agenda item, the Council's Groundfish Committee will provide an update on Amendment 16, including a review of annual catch limit and accountability measures, as well as effort control measures and sector policy issues.

Thursday, April 17, 2008

During the Herring Committee report the Council will review and approve a scoping document for Amendment 4 to the Atlantic Herring FMP and review the amendment timeline. The Northeast Fisheries Science Center will provide an update on trawl survey gear and calibration exercises regarding the FSVs

Albatross and Bigelow. The Scallop Survey Advisory Panel will discuss new terms of reference and plans to calibrate the new survey dredge on the RV Sharp during the 2008 sea scallop survey. This report will be followed by a period for the public to comment on fisheries related issues that are not listed on the agenda. Any other outstanding business will be addressed before the meeting adjourns.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: March 25, 2008.

William D. Chappell,

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

[FR Doc. E8–6440 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG75

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 141st meeting to consider and take actions on fishery management issues in the Western Pacific Region.

DATES: The 141st Council meeting and public hearings will be held at 1 p.m. (Hawaii Standard Time) on Monday, April 14, 2008 (12 noon in American Samoa and 9 a.m. on Tuesday, April 15, 2008, in Guam and the Commonwealth of the Northern Mariana Islands) at the Council Office in Honolulu, HI and by teleconference. For specific times and the agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The 141st Council meeting and public hearings will be held at the Council's office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813. For participants residing in American Samoa, the Northern Mariana Islands, Guam, Hawaii and the continental United States, the 141st Council meeting telephone conference call-in-number is: 1–888–482–3560; Access Code; 5228220. For Guam and international participants, the call-in-number is: 1–647–723–3959; Access Code: 5228220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220; FAX: 808–522–8226.

SUPPLEMENTARY INFORMATION: The Council transmitted the 140th Council Meeting **Federal Register** notice to *NMFS.Regs@noaa.gov* on February 15, 2008, in accordance with the NMFS Regulatory Unit guidelines. NMFS failed to transmit this notice to the Office of the Federal Register for publication and the lack of publication was announced on the last day of the 140th Council Meeting. While the notice was published on the last day of the meeting, this did not fulfill the requirement of advance notification to the public pursuant to the Magnuson-Stevens Fishery Conservation and Management Act.

This notice advises the public that the Council will convene its 141st Meeting at 1 p.m. (Hawaii Standard Time) Monday, April 14, 2008 (12 noon in American Samoa and 9 a.m. on Tuesday, April 15, 2008, in Guam and the Commonwealth of the Northern Mariana Islands) at the Council Office in Honolulu, HI and by teleconference. The Council will consider, and take action on, regulatory action items discussed at the 140th meeting and provide the public with an opportunity for comment on items listed as regulatory actions in the proposed 141st meeting agenda.

The documents and records for the 140th Council Meeting action items are available for public inspection on the Council's website, *http://www.wpcouncil.org* and at the Council Office at 1164 Bishop St, Suite 1400, Honolulu, HI 96813.

In addition to the agenda items listed here, the Council will hear recommendations from other Council advisory groups. Public comment periods will be provided near the end of the meeting agenda before Council discussion and action. The order in which agenda items are addressed may change. The Council will meet as late as necessary to complete scheduled business.

Schedule and Agenda for Council Meeting

1 p.m. 5 p.m. Monday, April 14, 2008

1. Introductions
2. Approval of Agenda
3. Approval of 139th Minutes
4. Pelagics Fisheries Regulatory Actions
   a. Hawaii Swordfish Fishery Effort
   b. Squid Permits
   c. American Samoa Longline Program Modifications
   d. Commonwealth of the Northern Mariana Islands(CNMI)Longline Exclusion Zone
   e. American Samoa Purse-Seine Exclusion Zones
   f. Guam Purse-Seine Exclusion Zones
   g. CNMI Purse-Seine Exclusion Zones
5. Hawaii Bottomfish Fisheries Regulatory Actions
   a. Main Hawaiian Islands (MHI) Bottomfish Risk Analysis
6. Program Planning, Research, and Executive/Budget Actions
   a. Annual Catch Limits
   b. Community Development Plan (CDP) Regulatory Amendment to Allow Future CDPs
7. Public Hearing
8. Council Discussion and Action
9. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or (808)522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: March 26, 2008.

William D. Chappell,

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

[FR Doc. 08–1083 Filed 3–26–08; 11:16 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE32

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Surf Zone Testing/ Training and Amphibious Vehicle Training and Weapons Testing

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

ACTION: Notice; proposed incidental harassment authorization and receipt of application for five-year regulations; request for comments and information.

SUMMARY: On November 29, 2005, NMFS received a request from Eglin Air Force Base (Eglin AFB), for authorization to harass marine mammals, incidental to conducting surf zone testing/training and amphibious vehicle training and weapons testing off the coast of Santa Rosa Island (SRI). Following notice and comment, NMFS issued an incidental harassment authorization (IHA) to Eglin AFB for a period of one year from December 11, 2006, to December 10, 2007, with mitigation, monitoring, and reporting requirements. On October 16, 2007, NMFS received a request from Eglin AFB to renew the IHA for a period of one year. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Eglin AFB to incidentally take, by harassment, two species of cetaceans for a period of 1 year. NMFS is also requesting comments, information, and suggestions concerning Eglin AFB's application and the structure and content of future regulations.

DATES: Comments and information must be postmarked no later than April 28, 2008.

ADDRESSES: Comments should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. The mailbox address for providing email comments on this action is *PR1.0648–XE32@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 10–megabyte file size. A copy of the application and a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (see FOR FURTHER INFORMATION CONTACT) and is also available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. A copy of the *Santa Rosa Island Mission Utilization Plan Programmatic Environmental Assessment* (SRI Mission PEA) (U.S. Air Force, 2005) and a 2007 supplemental environmental assessment (SEA) are available by writing to the Department of the Air Force, AAC/EMSN, Natural Resources Branch, 501 DeLeon St., Suite 101, Eglin AFB, FL 32542–5133.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, 301–713–2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take marine mammals by harassment. With respect to ''military readiness activities,'' the MMPA defines ''harassment'' as follows:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B harassment].

Summary of Request

On November 21, 2005, Eglin AFB petitioned NMFS for an authorization under section 101(a)(5) of the MMPA for the taking, by harassment, of marine mammals incidental to programmatic mission activities on Eglin's SRI property, including the shoreline of the Gulf of Mexico (Gulf or GOM) to a depth of 30 feet (9.1 meters), which is also known as the surf zone. The distance from the island shoreline that corresponds to this depth varies from approximately 0.5 mile (0.8 km) at the western side of the Air Force property to 1.5 miles (2.4 km) at the eastern side, extending out into the inner continental shelf.

Activities conducted in this area are addressed in the *Estuarine and Riverine Areas Programmatic Environmental Assessment* (U.S. Air Force, 2003a). The proposed action is for the 46th Test Wing Commander to establish a mission utilization plan for SRI based on historical and anticipated future use. Current and future operations are categorized as either testing or training and include: 1) Surf Zone Testing/ Training; 2) Landing Craft Air Cushion (LCAC) Training and Weapons Testing; 3) Amphibious Assaults; and 4) Special Operations Training. A detailed description of the proposed activities is provided in the June 22, 2006, **Federal Register** notice of proposed IHA (71 FR 35870). There is no change of activities for the proposed renewal of the IHA, therefore, please refer to that **Federal Register** notice for detailed information of the activities.

Description of Marine Mammals Affected by the Activity

Marine mammal species potentially occurring within the proposed action area include the Atlantic bottlenose dolphin (*Tursiops truncatus*), the Atlantic spotted dolphin (*Stenella frontalis*), and the Florida manatee (*Trichechus manatus latirostris*). General information on Florida manatees can be found in the *Florida Manatee Recovery Plan* (US Fish and Wildlife Service, 2001).

Atlantic bottlenose dolphins are distributed throughout the continental shelf, coastal, and bay-sound waters of the northern GOM and along the U.S. mid-Atlantic coast. The identification of a biologically-meaningful ''stock'' of bottlenose dolphins in the GOM is complicated by the high degree of behavioral variability exhibited by this species (Wells, 2003). Currently, bottlenose dolphins in the U.S. GOM are managed as 38 different stocks: one northern GOM oceanic stock, one

northern GOM continental shelf stock, three northern GOM costal stocks (western, northern, and eastern Gulf), and 33 bay, sound, and estuarine stocks (Waring *et al.*, 2007). The identification of these stocks is based on descriptions of relatively discrete dolphin communities in these waters. A community includes resident dolphins that regularly share large portions of their ranges, exhibit similar distinct genetic profiles, and interact with each other to a much greater extent than with dolphins in adjacent waters. Bottlenose dolphin communities do not constitute closed demographic populations, as individuals from adjacent communities are known to interbreed. Nevertheless, the geographic nature of these areas and long-term stability of residency patterns suggest that many of these communities exist as functioning units of their ecosystems.

Within the proposed action area, at least three Atlantic bottlenose dolphin stocks are expected to occur: the northern GOM northern coastal, the Pensacola Bay/East Bay stock, and the Choctawhatchee Bay stock (Waring *et al.*, 2007). The best population size estimates available for these stocks are more than 13 years old; therefore, the current population size for each stock is considered unknown (Wade and Angliss, 1997). These data are insufficient to determine population trends for all of the GOM bay, sound and estuary bottlenose dolphin communities. The relatively high number of bottlenose dolphin deaths that occurred during mortality events (mostly from stranding) since 1990 raises a concern that some of the stocks are stressed. Human-caused mortality and serious injury for each of these stocks is not known, but considering the evidence from stranding data, the total human-caused mortality and serious injury exceeds 10 percent of the total known potential biological removal (PBR) or pervious PBR, and, therefore, it is probably not insignificant. For these reasons, each of these stocks is listed as a strategic stock under the MMPA.

The Atlantic spotted dolphin is endemic to the Atlantic Ocean in temperate to tropical waters (Perrin *et al.*, 1994). In the GOM, this species occurs primarily from continental shelf waters 10 – 200 m (32.8 – 656.2 ft) deep to slope waters <500 m (1,640 ft) deep (Fulling *et al.*, 2003). Atlantic spotted dolphins were seen in all seasons during GulfCet aerial surveys of the northern GOM from 1992 to 1998 (Hansen *et al.*, 1996; Mullin and Hoggard, 2003). It has been suggested that this species may move inshore seasonally during spring, but data supporting this hypothesis are limited (Fritts *et al.*, 1983). The best available abundance estimate for the northern GOM stock of the Atlantic spotted dolphin is 30,947 (NMFS, 2005).

More detailed information on Atlantic bottlenose and spotted dolphins can be found in the NMFS Stock Assessment Reports at: *http://www.nefsc.noaa.gov/nefsc/publications/tm/tm201/tm201.pdf*.

Potential Impacts to Marine Mammals

Potential impacts to marine mammals may occur due to underwater noise and direct physical impacts (DPI). Noise is produced by underwater detonations in the surf zone and by the operation of amphibious vehicles. DPI could result from collisions with amphibious vehicles and from ordnance live fire. However, with implementation of the mitigation actions proposed later in this document, the potential for impacts to marine mammals are anticipated to be de minimus (U.S. Air Force, 2005).

Explosive criteria and thresholds for assessing impacts of explosions on marine mammals are summarized here in Table 1 and were discussed in detail in NMFS's notice of issuance of an IHA for Eglin's Precision Strike Weapon testing activity (70 FR 48675, August 19, 2005). Please refer to that document for background information.

Estimation of Take and Impact

Surf Zone Detonation

Surf zone detonation noise impacts are considered within two categories: overpressure and acoustics. Underwater explosive detonations produce a wave of pressure in the water column. This pressure wave potentially has lethal and injurious impacts, depending on the proximity to the source detonation. Humans and animals receive the acoustic signature of noise as sound. Beyond the physical impacts, acoustics may cause annoyance and behavior modifications (Goertner, 1982).

The impacts on marine mammals from underwater detonations were discussed by NMFS in detail in its notice of receipt of application for an IHA for Eglin's Air-to-Surface Gunnery mission in the Gulf (71 FR 3474, January 23, 2006) and is not repeated here. Please refer to that document for this background information.

A maximum of one surf zone testing/training mission would be completed per year. The impact areas of the proposed action are derived from mathematical calculations and models that predict the distances to which threshold noise levels would travel. The equations for the models consider the amount of net explosive, the properties of detonations under water, and environmental factors such as depth of the explosion, overall water depth, water temperature, and bottom type.

The end result of the analysis is an area known as the Zone of Influence (ZOI). A ZOI is based on an outward radial distance from the point of detonation, extending to the limit of a particular threshold level in a 360–degree area. Thus, there are separate ZOIs for mortality, injury (hearing-related injury and slight, non-fatal lung injury), and harassment (temporary threshold shift, or TTS, and sub-TTS). Given the radius, and assuming noise spreads outward in a spherical manner, the entire area ensonified (i.e., exposed to the specific noise level being analyzed) is estimated.

The radius of each threshold is shown for each shallow water surf zone mine clearing system in Table 1. The radius is assumed to extend from the point of detonation in all directions, allowing calculation of the affected area.

The number of takes is estimated by applying marine mammal density to the ZOI (area) for each detonation type. Species density for most cetaceans is based on adjusted GulfCet II aerial survey data, which is shown in Table 2. GulfCet II data were conservatively adjusted upward to approximately two standard deviations to obtain 99 percent confidence, and a submergence correction factor was applied to account for the presence of submerged, uncounted animals. However, the calculation is an overestimate, since up to half of the ZOI would be over land and very shallow surf, which is not considered marine mammal habitat.

TABLE 1. ZONES OF IMPACT FOR UNDERWATER EXPLOSIVE FROM FOUR MINE CLEARING SYSTEMS (ACOUSTIC UNITS ARE RE 1 MICROPA^2)

Criteria	Threshold	ZOI Radius (m)			
		SABRE 232 lb NEW	MK–5 MCS 1,750 lb NEW	DET 130 lb	MK–82 ARRAY 1,372 lb
Level B Behavior	176 dB 1/3 Octave SEL*	1,440	2,299	1,252	2,207
Level B TTS Dual Criterion	182 dB 1/3 Octave SEL	961	1,658	796	1,544
Level A PTS	205 dB SEL	200	478	155	436
Level B Dual Criteria	23 psi	857	1,788	761	1,557
Level A Injury	13 psi-msec	60	100	58	86
Mortality	30.5 psi-msec	45	68	42	60

*SEL - Sound energy level

Table 2. Cetacean Densities for Gulf of Mexico Shelf Region

Species	Individuals/km^2	Dive profile - % at surface	Adjusted density (Individuals/km^2)*
Bottlenose dolphin	0.148	30	0.810
Atlantic spotted dolphin	0.089	30	0.677
Bottlenose or Atlantic dolphin	0.007	30	0.053
Total	0.244		1.54

* Adjusted for undetected submerged animals to approximately two standard deviations.

Table 3 lists the noise-related dolphin take estimates resulting from surf zone detonations that are the subject of this proposed IHA. The take numbers represent the combined total of Atlantic bottlenose and Atlantic spotted dolphins, and do not consider any mitigation measures. The use of combined Atlantic bottlenose and Atlantic spotted dolphin numbers is because of the difficulty in distinguish them from each other in the field. Implementation of mitigation measures discussed below would significantly decrease the number of takes. Discussion of the amount of take reduction is provided below.

TABLE 3. TAKE ESTIMATES FROM NOISE IMPACTS TO DOLPHINS (ACOUSTIC UNITS ARE RE 1 MICROPA^2)

Criteria	Threshold	SABRE	MK–5 MCS	DET	MK–82 Array	Total Takes*
Sub-TTS	176 dB 1/3 Octave SEL	10	26	8	24	68
Level B Harassment TTS (dual criterion)	182 dB 1/3 Octave SEL	5	13	3	12	33
Level B TTS (dual criterion)	23 psi	4	15	3	12	34
Level A PTS	205 dB Total SEL	0	1	0	1	2
Level A Non-lethal Injury	13 psi-msec	0	0	0	0	0
Mortality	30.5 psi-msec	0	0	0	0	0

*Estimated exposure with no mitigation measures in place

Noise from LCAC

Noise resulting from LCAC operations was considered under a transit mode of operation. The LCAC uses rotary air screw technology to power the craft over the water, therefore, noise from the engine is not emitted directly into the water. The Navy's acoustic in-water noise characterization studies show the noise emitted from the LCAC into the water is very similar to that of the MH–53 helicopter operating at low altitudes. Based on the Air Force's Excess Sound Attenuation Model for the LCAC's engines under ground runup condition, the data estimate that the maximum noise level (98 dBA) is at a point 45 degrees from the bow of the craft at a distance of 61 m (200 ft) in air. Maximum noise levels fall below 90 dBA at a point less than 122 meters (400 ft) from the craft in air (U.S. Air Force, 1999).

Due to the large difference of acoustic impedance between air and water, much of the acoustic energy would be reflected at the surface. Therefore, the effects of noise from LCAC to marine mammals would be negligible.

Collision with Vessels

During the time that amphibious vehicles are operating in (or, in the case of LCACs, just above) the water, encounters with marine mammals are possible. A slight possibility exists that such encounters could result in a vessel physically striking an animal. However, this scenario is considered very unlikely. Dolphins are extremely mobile and have keen hearing and would likely leave the vicinity of any vehicle traffic. The largest vehicles that would be moving are LCACs, and their beam measurement can be used for conservative impact analyses. The operation which potentially uses the largest number of LCACs is Amphibious Ready Group/Marine Expeditionary Unit (ARG/MEU) training. Based on analysis in the *ARG/MEU Readiness Training Environmental Assessment* (U.S. Air Force, 2003b), LCAC activities (over 10 days) could potentially impact 22.25 square miles of the total water surface area. The estimated number of bottlenose dolphins in this area is 6.9, with an approximately equal number of Atlantic spotted dolphins. These species would easily avoid collision because the LCACs produce noise that would be detected some distance away, and therefore would be avoided as any other boat in the Gulf. In addition, Amphibious Assault Vehicles (AAVs) move very slowly and could be easily avoided. The potential for amphibious craft colliding with marine mammals and causing injury or death is therefore considered remote.

Live Fire Operations

Live fire operations with munitions directed towards the Gulf have the potential to impact marine mammals (primarily bottlenose and Atlantic spotted dolphins).

A maximum of two live fire operations would be conducted in a year, and are associated with expanded Special Operations training on SRI. Small caliber weapons between 5.56 mm and .50 caliber with low-range munitions would be allowed only within designated live fire areas. The average range of the munitions is approximately 1 km (0.54 nm). If a given live fire area was 1 km (0.54 nm) wide, then approximately 1.5 dolphins could be vulnerable to a munitions strike. However, even the largest live fire area on SRI is considerably less than 1 km (0.54 nm) wide. If live fire is conservatively estimated to originate from a section of beach 0.2 km (0.11 nm) wide, only 0.3 dolphins would be within the area of potential DPI (using Table 2 density estimates). Finally, the mitigation measures discussed below would further reduce the likelihood of direct impacts to marine mammals due to live fire operations.

Given the infrequency of the surf zone detonation (maximum of once per year) and the amphibious vehicle and weapon testing (maximum of twice per year), NMFS believes there is no potential for long-term displacement or behavioral impacts of marine mammals within the proposed action area.

Proposed Mitigation

Eglin AFB would employ a number of mitigation measures in an effort to substantially decrease the number of animals potentially affected. Visual monitoring of the operational area can be a very effective means of detecting the presence of marine mammals. This is particularly true of the species most likely to be present (bottlenose and Atlantic spotted dolphins) due to their tendency to occur in groups, their relatively short dive time, and their relatively high level of surface activity. In addition, the water clarity in the northeastern GOM is typically very high. It is often possible to view the entire water column in the water depth that defines the action area (30 feet or 9.1 m).

For the surf zone testing/training, missions would only be conducted under daylight conditions of suitable visibility and sea state of number three or less. Prior to the mission, a trained observer aboard a helicopter would survey (visually monitor) the test area, which is a very effective method for detecting sea turtles and cetaceans. In addition, shipboard personnel would provide supplemental observations when available. The size of the area to be surveyed would depend on the specific test system, but it would correspond to the ZOI for Level B behavioral harassment (176 dB 1/3 octave SEL) listed in Table 1. The survey would be conducted approximately 250 feet (76 m) above the sea surface to allow observers to scan a large distance. If a marine mammal is sighted within the ZOI, the mission would be suspended until the animal is clear of this area. Surf zone testing would be conducted between 1 November and 1 March whenever possible.

Navy personnel would only conduct live fire testing with sea surface conditions of sea state 3 or less on the Beaufort scale, which is when there is about 33 – 50 percent of surface whitecaps with 0.6 – 0.9 m (2 – 3 ft) waves. During daytime missions, small boats would be used to survey for marine mammals in the proposed action area before and after the operations. If a marine mammal is sighted within the target or closely adjacent areas, the mission would be suspended until the area is clear. No mitigation for marine mammals would be feasible for nighttime missions, however, given the remoteness of impact, the potential that a marine mammal is injured or killed is unlikely.

Monitoring and Reporting

The Eglin AFB will train personnel to conduct aerial surveys for protected species. The aerial survey/monitoring team would consist of an observer and a pilot familiar with flying transect patterns. A helicopter provides a preferable viewing platform for detection of protected marine species. The aerial observer must be experienced in marine mammal surveying and be familiar with species that may occur in the area. The observer would be responsible for relaying the location (latitude and longitude), the species if known, and the number of animals sighted. The aerial team would also identify large schools of fish, jellyfish aggregations, and any large accumulation of Sargassum that could potentially drift into the ZOI. Standard line-transect aerial surveying methods would be used. Observed marine mammals and sea turtles would be identified to species or the lowest possible taxonomic level possible.

The aerial and (potential) shipboard monitoring teams would have proper lines of communication to avoid communication deficiencies. Observers would have direct communication via radio with the lead scientist, who will review the range conditions and recommend a Go/No-Go decision to the Officer in Tactical Command, who makes the final Go/No-Go decision.

Specific stepwise mitigation procedures for SRI surf zone missions are outlined below. All ZOIs (mortality, injury, TTS) would be monitored.

Pre-mission Monitoring:

The purposes of pre-mission monitoring are to (1) evaluate the test site for environmental suitability of the mission (e.g., relatively low numbers of marine mammals, etc.) and (2) verify that the ZOI is free of visually detectable marine mammals and other living marine resources. On the morning of the test, the lead scientist would confirm that the test site can support the mission and that the weather is adequate to support observations.

(1) One Hour Prior to Mission

Approximately one hour prior to the mission, or at daybreak, the appropriate vessel(s) would be on-site near the

location of the earliest planned mission point. Personnel onboard the vessel would assess the suitability of the test site, based on visual observation of marine mammals. This information would be relayed to the Lead Scientist.

(2) Fifteen Minutes Prior to Mission

Aerial monitoring would commence at the test site 15 minutes prior to the start of the mission. The entire ZOI would be surveyed by flying transects through the area. Shipboard personnel would also monitor the area as available. All marine mammal sightings would be reported to the Lead Scientist, who would enter all pertinent data into a sighting database.

(3) Go/No-Go Decision Process

The Lead Scientist would record sightings and bearing for all protected species detected. This would depict animal sightings relative to the mission area. The Lead Scientist would have the authority to declare the range fouled and request a hold until monitoring indicates that the ZOI is and will remain clear of detectable animals.

The mission would be postponed if any marine mammal or sea turtle is visually detected within the ZOI for Level B behavioral harassment. The delay would continue until the marine mammal or sea turtle is confirmed to be outside the ZOI for Level B behavioral harassment on its own.

In the event of a postponement, pre-mission monitoring would continue as long as weather and daylight hours allow. Aerial monitoring is limited by fuel and the on-station time of the monitoring aircraft.

Post-mission monitoring:

Post-mission monitoring is designed to determine the effectiveness of pre-mission mitigation by reporting any sightings of dead or injured marine mammals or sea turtles. Post-detonation monitoring would commence immediately following each detonation and continue for 15 minutes. The helicopter would resume transects in the area of the detonation, concentrating on the area down current of the test site.

The monitoring team would attempt to document any marine mammals or turtles that were found dead or injured after the detonation, and, if practicable, recover and examine any dead animals. The species, number, location, and behavior of any animals observed by the observation teams would be documented and reported to the Lead Scientist.

Post-mission monitoring activities would also include coordination with marine animal stranding networks. The NMFS maintains stranding networks along coasts to collect and circulate information about marine mammal and sea turtle standings.

In addition, NMFS proposes to require Eglin to monitor the target area for impacts to marine mammals and to report on its activities. NMFS' Biological Opinion on this action has recommended certain monitoring measures to protect marine life. NMFS proposes to require the same requirements under the IHA:

(1) Eglin will develop and implement a marine species observer-training program in coordination with NMFS. This program will primarily provide expertise to Eglin's testing and training community in the identification of marine mammals and other protected marine species during surface and aerial mission activities in the GOM. Additionally, personnel involved in the surf zone and amphibious vehicle and weapon testing/training would participate in the proposed species observation training. Observers would receive training in protected species survey and identification techniques through a NMFS-approved training program.

(2) Eglin would track its use of the surf zone and amphibious vehicle and weapon testing/training for test firing missions and protected resources (marine mammal/sea turtle) observations, through the use of an observer training sheet.

(3) A summary annual report of marine mammal/sea turtle observations and surf zone and amphibious vehicle and weapon testing/training activities would be submitted to the NMFS Southeast Regional Office (SERO) and the Headquarters Office of Protected Resources by January 31 of each year.

(4) If a dead or injuried marine mammal is observed before or after testing, a report must be made to the NMFS by the following business day.

(5) Any unauthorized takes of marine mammals (i.e., injury or mortality) must be immediately reported to the NMFS representative and to the respective stranding network representative.

ESA

On March 18, 2005, the U.S. Air Force (USAF), Eglin AFB, requested initiation of formal consultation on all potential environmental impacts to ESA-listed species from all Eglin AFB mission activities on SRI and within the surf zone near SRI. These missions include the surf zone detonation and amphibious vehicle and weapon testing/training that are the subject of this proposed IHA. On October 12, 2005, NMFS issued a Biological Opinion, concluding that the surf zone and amphibious vehicle and weapon testing/training are unlikely to jeopardize the continued existence of species listed under the ESA that are within the jurisdiction of NMFS or destroy or adversely modify critical habitat. Eglin AFB also consulted with the FWS for the SRI programmatic program regarding ESA-listed species and critical habitat under FWS jurisdiction. On December 1, 2005, FWS issued a Biological Opinion and concluded that the proposed mission activities are not likely to adversely affect these ESA-listed species based on Eglin's commitment to incorporate measures to avoid and minimize impacts to these species.

NEPA

In March, 2005, the USAF prepared the *Santa Rosa Island Mission Utilization Plan Programmatic Environmental Assessment* (SRI Mission PEA). NMFS reviewed this PEA and determined that it satisfies, in large part, the standards under the Council on Environmental Quality's regulations and NOAA Administrative Order 216–6 for implementing the procedural provisions of the NEPA (40 CFR sec. 1508.3). NMFS adopted the PEA but supplemented the PEA with its own cumulative impacts analysis to better ascertain the cumulative effects of past, present, and reasonably foreseeable activities conducted within and around Santa Rosa Island, and issued a finding of no significant impact on December 14, 2006. On May 9, 2007, Eglin AFB submitted additional information to ensure the most recent analysis of military activities was available for consideration in re-assessing the cumulative impacts associated with the proposed issuance of this IHA. NMFS is reviewing this additional information on cumulative environmental impacts to determine whether a supplemental analysis specific to cumulative impacts is warranted, and, if so, would either adopt the AF information as a supplement to the (2005 EA and 2007 SEA?) or will prepare its own supplemental EA to update the cumulative impacts analysis before making a determination on the issuance of an IHA and rulemaking. A copy of Eglin's PEA and related information for this activity are available upon written request (see **ADDRESSES**).

Preliminary Conclusions

NMFS has preliminarily determined that the surf zone and amphibious vehicle and weapon testing/training that are proposed by Eglin AFB off the coast of SRI, is unlikely to result in the mortality or injury of marine mammals and, would result in, at worst, a

temporary modification in behavior by marine mammals. While behavioral modifications may be made by these species as a result of these surf zone detonation and amphibious vehicle training activities, any behavioral change is expected to have a negligible impact on the affected species. Also, given the infrequency of these testing/training missions (maximum of once per year for surf zone detonation and maximum of twice per year for amphibious assault training involving live fire), there is no potential for long-term displacement or long-lasting behavioral impacts of marine mammals within the proposed action area. In addition, the potential for temporary hearing impairment is very low and would be mitigated to the lowest level practicable through the incorporation of the mitigation and monitoring measures proposed in this document.

Proposed Authorization

NMFS proposes to issue an IHA to Eglin AFB for conducting surf zone and amphibious vehicle and weapon testing/training off the coast of SRI in the northern GOM provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed IHA and Eglin's application for incidental take regulations (see **ADDRESSES**). NMFS requests interested persons to submit comments, information, and suggestions concerning both the request and the structure and content of future regulations to allow this taking. NMFS will consider this information in developing proposed regulations to govern the taking.

Dated: March 21, 2008.

Helen Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–6441 Filed 3–27–08; 8:45 am]

BILLING CODE 3510–22–S

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 17 April 2008, 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, March 21, 2008.

Thomas Luebke,

Secretary.

[FR Doc. E8–6231 Filed 3–27–08; 8:45 am]

BILLING CODE 6330–01–M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (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 collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before April 28, 2008.

FOR FURTHER INFORMATION OR A COPY CONTACT: Gary Martinaitis, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5209; Fax: (202) 418–5527; e-mail: *gmartinaitis @cftc.gov* and refer to OMB Control No. 3038–0013.

SUPPLEMENTARY INFORMATION:

Title: Exemptions from Speculative Limits (OMB Control No. 3038–0013). This is a request for extension of a currently approved information collection.

Abstract: Commission regulations 1.47, 1.48, and 150.3(b) require limited information from traders whose commodity futures and options positions exceed federal speculative position limits. The regulations are designed to assist in the monitoring of compliance with speculative position limits adopted by the Commission. These regulations are promulgated pursuant to the Commission's rulemaking authority contained in sections 4a(a), 4i, and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6a(1), 6i, and 12a(5).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the referenced CFTC regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on January 22, 2008 (73 FR 3705).

Burden statement: The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Regulations (17 CFR)	Estimated number of respondents	Reports annually by each respondent	Total annual responses	Estimated number of hours per response	Annual burden
Rule 1.47 and 1.48	7	2	14	3	42
Part 150	2	1	2	3	6

There are no capital costs or operating and maintenance costs associated with this collection.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0013 in any correspondence.

Gary Martinaitis, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: March 25, 2008.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E8–6490 Filed 3–27–08; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027]

Federal Acquisition Regulation; Information Collection; Value Engineering Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning value engineering requirements. A request for public comments was published in the **Federal Register** at 72 FR 62445, on November 5, 2007. No comments were received. The clearance currently expires on May 31, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before April 28, 2008.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VPR), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Contract Policy Division, GSA (202) 501–4082.

SUPPLEMENTARY INFORMATION:

A. Purpose

Value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Respondents: 400.

Responses Per Respondent: 4.

Annual Responses: 1,600.

Hours Per Response: 30.

Total Burden Hours: 48,000.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VPR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

Dated: March 24, 2008

Al Matera,

Director,Office of Acquisition Policy.

[FR Doc. E8–6374 Filed 3–27–08; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on the National Nuclear Security Administration Strategic Plan for Advanced Computing will meet in closed session on April 16–17, 2008; in the Washington DC metro area. The exact meeting location is still to be determined.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting, the task force shall conduct an evaluation of the strategic plan for advanced computing of the National Nuclear Security Administration and assess the impact of using the planned capability for other National Security issues.

The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the April 16–17, 2008 meeting are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below, at any point; however, if a written statement is not received at least 10 calendar days prior to the meeting that is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: Major Charles Lominac, USAF, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–

3140, via e-mail at *charles.lominac@osd.mil*, or via phone at (703) 571–0081.

Dated: March 20, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–6421 Filed 3–27–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Potable Water Supply for Washington Parish Reservoir, Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The study area comprises Washington Parish in southeast Louisiana. Washington Parish currently consumes approximately 40 million gallons of water daily, 70 percent of which is supplied by groundwater. Decreasing groundwater levels (quantity) and groundwater quality, in combination with forecasted growth within the Parish require alternative water supplies to be developed. The purpose of the project is to identify a new water supply to address the current and future potable water demands of Washington Parish. The Local Project Sponsor is the Washington Parish Reservoir Commission.

DATES: A public scoping meeting will be held on April 10, 2008 at 5:30 p.m.

ADDRESSES: The public scoping meeting will be held in Bogalusa, LA at the Bogalusa City Hall, 202 Arkansas Avenue, Bogalusa, LA 70427.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft EIS should be directed to: Karen Dove-Jackson at (601) 631–7136, Vicksburg District, Corps of Engineers, 4155 Clay Street, CEMVK–OD–FE, Vicksburg, MS 39183–3435.

SUPPLEMENTARY INFORMATION: Pursuant to Louisiana House Bill 216, 2003 Regular Session, the Louisiana Legislature created the Washington Parish Reservoir Commission as a State Entity. This law gives the Washington Parish Reservoir Commission the power to obtain land needed for the reservoir pursuant to the State of Louisiana's principle of eminent domain, and in accordance with the Louisiana Laws and Revised Statutes for this principle.

1. The Washington Parish Reservoir Commission completed a site selection study (January 2005) to determine a recommended best source of future potable water for Washington Parish. The study concluded that creation of a surface water reservoir by damming Bogalusa Creek was the most desirable. The Washington Parish Reservoir Commission subsequently completed a preliminary engineering report (December 2006) that presented preliminary design, planning level costs estimates, and preliminary construction plans for a water supply reservoir. Based upon review of the site selection report, the Corps concluded that the proposed project had the potential for significant impacts to the human and natural environment. The National Environmental Policy Act (NEPA) requires the preparation of an EIS for proposals that are subject to federal funding, control, responsibility and permitting, and which have the potential for significant impacts. The proposed project would affect wetlands, which are regulated by the Corps, and require a permit to comply with Section 404 of the Clean Water Act. Because the proposed project would require federal involvement, it is subject to NEPA. Preliminary alternatives being considered include construction of a new surface water supply reservoir, construction of distribution systems to make available existing surface water supplies, and increased use of groundwater.

2. The Southern Hills Aquifer system supplies Washington Parish with potable water. The Southern Hills Aquifer system is one of the most heavily pumped aquifers in Louisiana, supplying 290 million gallons per day for consumption. Recent studies indicate that the Southern Hills Aquifer system is supplying more water annually than it can sustain, and water levels in the aquifer are dropping as much as one foot annually. In addition to aquifer water levels, the water quality of the aquifer is also declining.

3. A public scoping meeting will be held (see **DATES** and **ADDRESSES**). Significant issues identified during this scoping process will be analyzed in depth in the Draft EIS.

4. Upon completion, the Draft EIS will be distributed for agency and public review and comment. Additionally, a public meeting will be held to present results of the Draft EIS evaluations and the recommended plan.

5. The Draft EIS is estimated to be completed in September 2008.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–6447 Filed 3–27–08; 8:45 am]

BILLING CODE 3710–PU–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Proposed Sierra Vista Specific Plan Project, Corps Permit Application Number 200601050

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Sierra Vista Landowner Group proposes to implement a large-scale, mixed-use, mixed-density master planned community with residential, commercial, office, public/quasi-public, and open space land uses, and parks. The Sierra Vista Specific Plan would include approximately 1,148 acres of residential uses; 281 acres of commercial, office, and commercial-mixed uses; 162 acres of parks and paseos; 83 acres of public/quasi-public land uses; 31 acres of urban reserve; and 190 acres of roadways and landscape corridors. The Specific Plan would also include 244 acres of open space; of these, 38 acres would be graded as part of the project and the remaining 206 acres would be preservation areas.

The Specific Plan would include 9,995 dwelling units (in a mix of low, medium, and high densities) and approximately 2,419,113 square feet of retail and office uses. The project would also provide four elementary schools, one middle school, and a fire station. The proposed project is expected to generate about 25,219 new residents and 5,821 jobs. It is anticipated that construction would begin in spring 2010. The duration of construction would depend on market conditions; full buildout would likely be completed within 20 years from construction commencement.

The proposed project site is approximately 2,138 acres and contains 51.87 acres of waters of the United States. The project, as proposed, would result in direct impacts to approximately 37.74 acres of waters of the United States. These acreages do not include indirect impacts from the proposed action or impacts anticipated to result from offsite infrastructure that may be determined to be required as part of the project through the Environmental Impact Statement (EIS) process.

DATES: A scoping meeting will be held on April 16, 2008 from 5 p.m. to 7 p.m.

ADDRESSES: The scoping meeting will be held at the City of Roseville Civic Center

(Meeting Rooms 1 and 2), 311 Vernon Street, Roseville, CA 95678.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Haley, (916) 557–7731, e-mail: *SierraVista@usace.army.mil*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit written comments on the permit application on or before April 29, 2008. Scoping comments should be submitted within the next 60 days, but may be submitted at any time prior to publication of the Draft EIS. To submit comments on this notice or for questions about the proposed action and the Draft EIS, please contact Nancy Haley, 1325 J Street, (Room 1480), Sacramento, CA 95814–2922. Please refer to Identification Number 200601050 in any correspondence.

The Sierra Vista Landowner Group consists of eleven property owners. Each property owner has filed an application for a Department of the Army permit under Section 404 of the Clean Water Act. Because these applications are interrelated, the Corps is considering them in a comprehensive and combined manner. The joint purpose of these applications is to construct a large-scale mixed-use, mixed-density master planned community. To comply with the National Environmental Policy Act (NEPA), the Corps has decided to prepare an EIS to assess the potential impacts to waters of the United States from these combined applications. No project alternatives have been defined to date. The proposed project and the alternatives to its proposed size, design, and location will be developed through the EIS process.

Perennial streams, including Curry Creek; perennial marshes; seasonal wetland swales; seasonal wetlands, including vernal pools; and ephemeral and intermittent streams are located throughout the proposed project site. Verified wetland delineations show that 51.87 acres of waters of the United States occur on the proposed project site. The proposed project will result in direct impacts to approximately 37.74 acres of waters of the United States and will avoid approximately 14.13 acres of these waters of the United States for construction of the project. These acreages do not include indirect impacts from the proposed action or impacts anticipated to result from offsite infrastructure that may be determined to be required as part of the project through the EIS process.

The proposed site for the Sierra Vista Specific Plan Area is in unincorporated Placer County, CA, immediately west and south of the City of Roseville's existing city limits. The majority of the proposed project site is within the City of Roseville's Sphere of Influence (SOI), and approximately 447 acres of the proposed project site are situated west of the City's SOI boundary.

The proposed project site is approximately 6 miles west of Interstate 80 and State Route 65, 10 miles northeast of the City of Sacramento, 10 miles east of State Route 99, 5 miles west of downtown Roseville, and 4 miles east of the Sutter County line. The proposed project site is west of Fiddyment Road, north of Baseline Road to approximately 1/2 mile west of the Baseline Road intersection with Watt Avenue, and south of the West Roseville Specific Plan area.

The project site for the EIS does not include one 40-acre parcel situated within the Sierra Vista Specific Plan area. This parcel is owned by a nonparticipating landowner, and the parcel is not included in the proposed action subject to this NEPA process. At such a time as the owner of the 40-acre parcel decides to develop that property, a separate environmental review would be required.

The Corps' public involvement program includes several opportunities to provide oral and written comments on the Sierra Vista Specific Plan project through the EIS drafting process. Affected federal, state, and local agencies, Indian tribes, and other interested private organizations and parties are invited to participate. Significant issues to be analyzed in depth in the EIS include impacts to waters of the United States, including vernal pools and other wetlands; agricultural resources; cultural resources; threatened and endangered species; transportation; air quality; surface water and groundwater; hydrology and water quality; socioeconomic effects; and aesthetics.

Vernal pool fairy shrimp (*Branchinecta lynchi*) have been identified as occupying certain areas on the project site during past surveys. Some of these areas are proposed by the Applicant for impact. The Corps will initiate formal consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act for proposed impacts to vernal pool fairy shrimp. USFWS may also consider adding additional federally listed species to the formal consultation process.

No known historic resources on the project site have been listed on or determined eligible for listing on the National Register of Historic Places (NFP) or the California Register of Historical Resources (CRHR). However, the Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the NHPA as outlined in the Corps' Interim Guidance to 33 CFR Part 325 Appendix C.

It is anticipated that the Draft EIS will be made available to the public between April and October 2009.

Dated: March 28, 2008.

James A. Porter,

Lieutenant Colonel, U.S. Army, Deputy District Engineer.

[FR Doc. E8–6444 Filed 3–27–08; 8:45 am]

BILLING CODE 3710–EH–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearing for the Draft Environmental Impact Statement for the Proposed Homeporting of Additional Surface Ships at Naval Station Mayport, Florida

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 Code of Federal Regulations Parts 1500–1508 the U.S. Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency (EPA) a Draft Environmental Impact Statement (DEIS) on March 28, 2008, which evaluates the potential environmental consequences of homeporting additional surface ships at Naval Station (NAVSTA) Mayport, Florida. A Notice of Intent for this DEIS was published in the **Federal Register** on November 14, 2006 (FR14NO06–25).

A public hearing will be held to provide information and receive oral and written comments on the DEIS. A preferred alternative has not been selected or identified in the DEIS. The Navy seeks comments from the public or interested parties regarding the sufficiency of the DEIS and the choice of a preferred alternative. Federal, state, and local agencies and interested individuals are invited to be present or represented at the hearing.

Date and Address: One public hearing will be held. The hearing will be preceded by an open house session to allow interested individuals to review information presented in the DEIS DON representatives will be available during the open house session to provide clarification as necessary related to the DEIS. The open house session will occur from 4:30 p.m. to 6:30 p.m.

followed by the formal public hearing from 6:30 p.m. to 8:30 p.m. The public hearing is scheduled for the following date and location: Wednesday, April 16, 2008 at the Florida Community College, Deerwood Center, B1204 9911 Old Baymeadows Road, Jacksonville, FL 32256.

FOR FURTHER INFORMATION CONTACT: Mr. Will Sloger, Naval Facilities Engineering Command Southeast, P.O. Box 190010, North Charleston, South Carolina 29419–9010; telephone: 843–820–5797.

SUPPLEMENTARY INFORMATION: The DON has prepared and filed with the EPA the DEIS for homeporting additional surface ships at Naval Station (NAVSTA) Mayport, Florida, in accordance with requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. sections 4321–4345) and its implementing regulations (40 CFR Parts 1500–1508). A Notice of Intent for this DEIS was published in the **Federal Register** on November 14, 2006 (FR14NO06–25). The DON is lead agency for the proposed action with the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency serving as cooperating agencies.

The purpose of the proposed action is to ensure effective support of Fleet operational requirements through efficient use of waterfront and shore side facilities at NAVSTA Mayport. The Navy needs to utilize the available facilities at NAVSTA Mayport, both pierside and shoreside, in an effective and efficient manner, thereby minimizing new construction.

This DEIS reviews and assesses 12 action alternatives and the No Action alternative. The 12 action alternatives incorporate various types and numbers of ships including those types currently homeported at NAVSTA Mayport: Cruisers, destroyers, and frigates, as well as additional types of ships, including amphibious assault ships, amphibious transport dock ships, dock landing ships, and a nuclear powered aircraft carrier.

Depending on the action alternative, the proposed action may include dredging and disposal of dredged material, maintenance facilities improvements, utilities upgrades, wharf improvements, personnel support improvements, parking facilities and traffic improvements, or construction of nuclear propulsion plant maintenance facilities.

The EIS addresses any potential environmental impacts associated with: Earth resources, land use, water resources, air quality, noise, biological resources, cultural resources, traffic, socioeconomics, general services, utilities, and environmental health and safety. The analyses include direct and indirect impacts, and account for cumulative impacts from other foreseen Federal activities.

The proposed action includes only required activities necessary to prepare and operate NAVSTA Mayport for the proposed homeporting and does not include actions at other Navy bases. Several alternatives could be implemented as early as 2009; others would not be fully implemented until 2014. A preferred alternative has not been selected or identified in the DEIS. The Navy seeks comments from the public or interested parties regarding the sufficiency of the DEIS and the choice of a preferred alternative.

The Navy conducted the scoping process to identify community concerns and local issues that should be addressed in the EIS. Federal, state, and local agencies and interested parties provided written comments to the Navy and identified specific issues or topics of environmental concern that should be addressed in the EIS. The Navy considered these comments in determining the scope of the EIS.

The Draft EIS has been distributed to various Federal, State, and local agencies, as well as other interested individuals and organizations. In addition, copies of the Draft EIS have been distributed to the following libraries for public review:

1. Beaches Library, 600 3rd Street, Neptune Beach, FL 32266;
2. Pablo Creek Library, 13295 Beach Blvd. Jacksonville, FL 32246;
3. Regency Square Library, 9900 Regency Square Blvd, Jacksonville, FL 32225;
4. Main Library, 303 N. Laura Street, Jacksonville, FL 32202;
5. Public Library 25 N. 4th Street, Fernandina Beach, FL 32034.

An electronic copy of the Draft EIS is also available for public viewing at: *http://www.MayportHomeportingEIS.com.* Requests for single copies of the DEIS (printed or on CD-ROM) or its Executive Summary may be made online at: *http://www.MayportHomeportingEIS.com* or by writing to the address at the end of this notice.

Federal, State, and local agencies, as well as interested parties are invited and encouraged to be present or represented at the hearings. Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the Draft EIS and will be responded to in the Final EIS. Equal weight will be given to both oral and written statements.

In the interest of available time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a longer statement is to be presented, it should be summarized at the public hearing and the full text submitted in writing either at the hearing, or mailed to Commander, Southern Division Naval Facilities Engineering Command, Attn: Mr. Will Sloger (Code ES12), P.O. Box 190010, North Charleston, South Carolina 29419–9010, telephone: 843–820–5797.

All written comments postmarked by May 12, 2008, will become a part of the official public record and will be responded to in the Final EIS.

Dated: March 25, 2008.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–6446 Filed 3–27–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities

AGENCY: U.S. Department of Education, President's Board of Advisors on Historically Black Colleges and Universities.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

DATES: Monday, April 14, 2008.

Time: 9 a.m.–2 p.m.

ADDRESSES: The Board will meet in the: IES Board Room, Suite 100, 80 F Street, NW., Washington, DC 20202, Phone: 202–219–2253.

FOR FURTHER INFORMATION CONTACT: Leonard L. Haynes III, Executive Director, White House Initiative on Historically Black Colleges and Universities, 1990 K Street, NW., Washington, DC 20006; telephone: (202) 502–7549, fax: 202–502–7852.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and

Universities is established under Executive Order 13256, dated February 12, 2002 and Executive Order 13316 dated September 17, 2003. The Board is established (a) to report to the President annually on the results of the participation of historically black colleges and universities (HBCUs) in federal programs, including recommendations on how to increase the private sector role in strengthening these institutions, with particular emphasis given to enhancing institutional planning and development; strengthening fiscal stability and financial management; and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions; (b) to advise the President and the Secretary of Education (Secretary) on the needs of HBCUs in the areas of infrastructure, academic programs, and faculty and institutional development; (c) to advise the Secretary in the preparation of an annual Federal plan for assistance to HBCUs in increasing their capacity to participate in Federal programs; (d) to provide the President with an annual progress report on enhancing the capacity of HBCUs to serve their students; and (e) to develop, in consultation with the Department of Education and other Federal agencies, a private sector strategy to assist HBCUs.

Agenda

The purpose of the meeting is to receive and deliberate on policy issues pertinent to the Board and the nation's HBCUs and to discuss relevant issues to be addressed in the Board's annual report. This meeting will also provide the Board with a forum to vote and approve action items regarding implementation of Presidential Executive Order 13256.

Additional Information

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, or material in alternative format) should notify ReShone Moore at (202) 502–7893, no later than Thursday, April 10, 2008. We will attempt to meet requests for accommodations after this date, but, cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

An opportunity for public comment is available on Monday, April 14, 2008, between 1:45 p.m.–2 p.m. Individuals who wish to provide comments will be allowed three to five minutes to speak. Those members of the public interested in submitting written comments may do so by submitting it to the attention of Leonard L. Haynes, 1990 K Street, NW., Washington, DC by Thursday, April 10, 2008.

Records are kept of all Board proceedings and are available for public inspection at the office of the White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006, Monday–Friday during the hours of 8 a.m. to 5 p.m.

Electronic Access to this Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the internet at the following site: *http://www.ed.gov/news/fedregister/index.html.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC area at 202–512–1530.

Diane Auer Jones,

Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education.

[FR Doc. E8–6482 Filed 3–27–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services: Overview Information; Projects With Industry (PWI) Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.234S.

DATES: *Applications Available:* March 28, 2008.

Deadline for Transmittal of Applications: May 27, 2008.

Deadline for Intergovernmental Review: July 28, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The PWI program creates and expands job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process. Projects identify competitive job and career opportunities and the skills needed to perform those jobs, create practical settings for job readiness and training programs, and provide training, job placements, and career advancement services.

Statutory Requirements: Each grantee under the PWI program must—

a. Provide for the establishment of a business advisory council (BAC), which must be comprised of representatives of private industry, business concerns, organized labor, individuals with disabilities and their representatives, and a representative of the appropriate designated State unit. The BAC must (1) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment board for the community under section 118(b)(1)(B) of the Workforce Investment Act of 1998; (2) identify the skills necessary to perform the jobs and careers identified; and (3) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities (see 29 U.S.C. 795(a)(2)(A));

b. Provide job development, job placement, and career advancement services (see 29 U.S.C. 795(a)(2)(B));

c. To the extent appropriate, provide for—

1. Training in realistic work settings to prepare individuals with disabilities for employment and career advancement in the competitive labor market (see 29 U.S.C. 795(a)(2)(C)(i)); and

2. To the extent practicable, the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities under this program. However, a project may not be required to provide for this modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101–12213 (see 29 U.S.C. 795(a)(2)(C)(ii)); and

d. Provide individuals with disabilities with support services as may be required to maintain the employment and career advancement for which the individuals have received training under this program (see 29 U.S.C. 795(a)(2)(D)).

Priorities: This competition uses a competitive preference priority and an invitational priority. In accordance with 34 CFR 75.105(b)(2)(ii), the competitive preference priority is from the Education Department General Administrative Regulations (34 CFR 75.225(c)(2)).

Competitive Preference Priority: For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this

competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to the application that meets this priority.

This priority is:

Novice Applicant. The applicant must be a novice applicant. Novice applicant means any applicant for a grant from the Department that—

1. Has never received a grant or subgrant under the PWI program;

2. Has never been a member of a group application, submitted in accordance with CFR 75.127 through 75.129, that received a grant under the PWI program; and

3. Has not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications under the PWI program.

Invitational Priority: For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105 (c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Faith-based and Community Organizations. The Secretary is especially interested in applications in which the applicant proposes to—

1. Contact faith-based and community organizations to determine whether such organizations will participate in the project by providing services or placement opportunities, as appropriate and

2. Engage such organizations to provide services and placement opportunities to the project, as appropriate.

Program Authority: 29 U.S.C. 795.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, and 99. (b) The regulations for this program in 34 CFR part 379 and part 369.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $18,900,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2009 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000–$350,000.

Estimated Average Size of Awards: $300,000.

Estimated Number of Awards: 63.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Employers, nonprofit agencies or organizations, designated State units, labor unions, community rehabilitation program providers, trade associations, Indian tribes, tribal organizations, and other agencies or organizations, including faith-based and community organizations, with the capacity to create and expand job and career opportunities for individuals with disabilities.

Grant awards will be made only to organizations that provide job and career opportunities for individuals with disabilities within the State in which the organization is located or a contiguous State.

2. *Cost Sharing or Matching:* Cost sharing of at least 20 percent of the total cost of the project is required of grantees under the PWI program. (see 29 U.S.C. 795(c))

3. *Other:* In order to receive a continuation award under this program, an applicant receiving a grant under this program must comply with the provisions of 34 CFR 75.253(a), including making substantial progress toward meeting the objectives in its approved application. In assessing substantial progress, the Department will consider whether the grantee has served the number of individuals with disabilities it projected it would serve in its application. In addition, the grantee must submit data in accordance with 34 CFR 379.54 showing that it has met the program compliance indicators established under 34 CFR 379.51. Grantees must meet each of the indicators in order to receive a continuation award as provided in 34 CFR 379.50.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA number: 84.234S.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Alternative Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

3. *Submission Dates and Times:*

Applications Available: March 28, 2008.

Deadline for Transmittal of Applications: May 27, 2008.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 28, 2008.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this

competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the PWI Program, CFDA Number 84.234S, must be submitted electronically using the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the PWI Program at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.234, not 84.234S).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your

application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Kerrie Clark, U.S. Department of Education, 400 Maryland Avenue, SW., room 5048, Potomac Center Plaza (PCP), Washington, DC 20202–2800. FAX: (202) 245–7281.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:
U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.234S), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier:
U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.234S), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.234S), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 379.30 and 34 CFR 379.31 and are listed in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award under this program are as follows:

a. The equitable distribution of projects among the States; and

b. The past performance of the applicant in carrying out a similar PWI project under previously awarded grants, as indicated by factors such as compliance with grant conditions, soundness of programmatic and financial management practices, and meeting the compliance indicators and other requirements for continuation of funding.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results

Act of 1993 (GPRA), the Department has established five performance measures for the PWI program. The measures are: Percentage of individuals served who were placed in competitive employment; cost per placement; average increase in weekly earnings experienced by individuals placed in competitive employment; percentage of participants exiting the program who are placed into competitive employment; and cost per participant. Each grantee must submit an annual performance report documenting its success in addressing these performance measures, as well as the compliance indicators required by the program regulations in 34 CFR part 379, subpart F.

In addition, the PWI program is part of the Administration's job training and employment common measures initiative. The common measures for job training and employment programs targeting adults are—entered employment (percentage of individuals employed in the first quarter after program exit); retention in employment (percentage of individuals employed in the first quarter after exit that were still employed in the second and third quarters after program exit); earnings increase (percentage change in earnings pre-registration to post-program and first quarter after exit to third quarter after exit); and efficiency (annual cost per participant). The Department is currently working toward implementation of these common measures. Each grantee will be required to collect and report data for the common measures when implemented.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Kerrie Clark, U.S. Department of Education, 400 Maryland Avenue, SW., room 5048, PCP, Washington, DC 20202–2800. Telephone: (202) 245–7281 or e-mail: *kerrie.clark@ed.gov.*

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 25, 2008.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–6453 Filed 3–27–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC08–550–001, FERC–550]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

March 24, 2008.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice.

SUMMARY: In compliance with the requirements of Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of November 15, 2007 (72 FR 64200) and has noted this fact in its submission to OMB.

DATES: Comments on the collection of information are due by April 30, 2008.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include the OMB Control No. (1902–0089) as a point of reference. The Desk Officer may be reached by telephone at 202–395–7345. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–34, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC08–550–001.

Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at (*http://www.ferc.gov/help/submission-guide/electronic-media.asp*). To file the document electronically, access the Commission's website and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *fercolinesupport@ferc.gov* or toll-free at (866) 208–3676. or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. *Collection of Information:* FERC–550 ''Oil Pipeline Rates: Tariff Filings''.
2. *Sponsor:* Federal Energy Regulatory Commission.
3. *Control No.* 1902–0089.

The Commission is now requesting that OMB approve with a three-year extension of the expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* The filing requirement provides the basis for analysis of all rates, fares, or charges whatsoever demanded, charged or collected by any common carrier or carriers in connection with the transportation of crude oil and petroleum products and is used by the Commission for determining the just and reasonable rates that should be charged by the regulated pipeline company. Based on this analysis, a recommendation is made to the Commission to take action whether to suspend, accept or reject the proposed rate. The data required to be filed for pipeline rates and tariff filings is specified by 18 Code of Federal Regulations (CFR) Chapter I, Parts 341–348.

Jurisdiction over oil pipelines as it relates to the establishment of rates or charges for the transportation of oil by pipeline or the establishment or valuations for pipelines, was transferred from the Interstate Commerce Commission (ICC) to FERC, pursuant to sections 306 and 402 of the Department of Energy Organization Act (DOE Act).

5. *Respondent Description:* The respondent universe currently comprises on average 200 respondents subject to the Commission's jurisdiction. The Commission estimates that it will receive annually on average 3 filings per year per respondent (includes tariff changes and rate change filings).

6. *Estimated Burden:* 6,600 total hours, 200 respondents (average per year), 3 responses per respondent, and 11 hours per response (average).

7. *Estimated Cost Burden to respondents:* The estimated total cost to respondents is $401,026. (6,600 hours ÷ 2080 hours per year × $126,384.)

Statutory Authority: Part I, Sections 1, 6, and 15 of the Interstate Commerce Act (ICA), (Pub. L. 337, 34 Stat. 384.) Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172, and Executive Order No. 12009.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6414 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–89–000; PF08–4–000]

Williston Basin Interstate Pipeline Company; Notice of Application

March 21, 2008.

Take notice that on March 12, 2008, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506–5601, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate new natural gas facilities, the Sheyenne Expansion Project, consisting of compression, piping, and measurement facilities, located in various counties in North Dakota, all as more fully set forth in the application which is on file with the Commission and open for public inspection. 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.

Specifically, Williston Basin's proposed Sheyenne Expansion Project consists of: (i) The installation of a new 1,590 horsepower turbine-driven compressor unit, Unit #4, at the Bismarck Compressor Station, along with station piping modifications and a new gas cooler, located in Burleigh County, North Dakota; (ii) construction of the new Steele Compressor Station, located in Kidder County, North Dakota, consisting of one 1,750 horsepower electric-driven reciprocating compressor unit; (iii) install a control valve at the Cleveland Junction and a suction control valve for the Cleveland Compressor Station, located in Stutsman County, North Dakota; and (iv) construction of an approximately 6,400 foot, 8-inch diameter steel transmission lateral, the Casselton Ethanol Plant Lateral, and a measurement station, located in Cass County, North Dakota. Williston Basin estimates the cost of construction to be $7,487,160. Williston Basin states that the project would increase firm capacity into Williston Basin's subsystem by 9.65 MMcf/d, with approximately 96 per cent of the additional capacity for the Tharaldson ethanol plant.

Any questions regarding this Application should be directed to Keith Tiggelaar, Director of Regulatory Affairs, Williston Basin Interstate Pipeline Company, P.O. Box 5601, Bismarck, North Dakota 58506–5601or by telephone at (701) 530-1560 or e-mail at *keith.tiggelaar@wbip.com.*

On November 15, 2007, the Commission staff granted Williston Basin's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF08–4–000 to staff activities involving the Williston Basin's expansion project. Now, as of the filing of Williston Basin's application on March 12, 2008, the NEPA Pre-Filing Process for this project has ended. From this time forward, Williston Basin's proceeding will be conducted in Docket No. CP08–89–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the 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: April 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6312 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–13–000]

Floridian Natural Gas Storage Company, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Floridian Natural Gas Storage Project

March 21, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Draft Environmental Impact Statement (EIS) for the natural gas facilities proposed by the Floridian Natural Gas Storage Company, LLC (FGS) under the above-referenced docket. FGS's proposed Floridian Natural Gas Storage Project (Project) would be located approximately two miles north of the unincorporated municipality of Indiantown in Martin County, Florida.

The Draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that the proposed Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service are cooperating agencies for the development of this EIS. A cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The general purpose of the proposed Project is to respond to the growing demand for natural gas and natural gas infrastructure in the United States, and, more specifically, in Florida. The Project would enhance access to additional, competitively-priced supplies of natural gas by providing liquefaction, storage, and vaporization services to customers in Florida and the southeastern United States.

The Draft EIS addresses the potential environmental effects of construction and operation of the facilities listed below. FGS proposes to construct and operate:

- An approximately 53.1 acre liquefied natural gas storage facility;
- An approximately 4-mile-long, 12-inch-diameter receiving pipeline to interconnect with and receive natural gas from the Gulfstream and/or Florida Power & Light (FPL) lateral pipelines;
- An approximately 4-mile-long, 24-inch-diameter sendout pipeline that would parallel the 12-inch pipeline and interconnect with and deliver natural gas from the storage facility to the Gulfstream and the FPL lateral pipelines;
- Interconnection points with the Gulfstream pipeline at milepost (MP) 4.05 and with the FPL lateral at MP 4.18; and
- A metering and regulating station.

Dependent upon Commission approval, FGS proposes to have the facilities installed and operational within 36 months of commencing construction; however, based on market conditions at the time of construction, the storage facility construction may be separated into two phases.

The Draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the Draft EIS are available from the Public Reference Room identified above. In addition, CD–ROM copies of the Draft EIS have been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project. Hard-copies of the Draft EIS have also been mailed to those who requested that format during the scoping and comment periods for the proposed Project.

Comment Procedures and Public Meetings

Any person wishing to comment on the Draft EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that the Commission receives your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received and properly recorded.

- Send an Original and two copies of your comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20002.
- Reference Docket No. CP08–13–000.
- Label one copy of the comments for the attention of Gas Branch 3.
- Mail your comments so that they will be received in Washington, DC on or before May 5, 2008.

The Commission strongly encourages electronic filing of any comments, interventions or protests to this

proceeding. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the link to ''Documents and Filings'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''Quick Comment'' option available, which is an easy method for interested persons to submit text only comments on a project. The Quick Comment User Guide can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf*. Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket or project number(s).

In lieu of or in addition to sending written comments, you are invited to attend the public comment meeting the FERC will conduct in the Project area to receive comments on the Draft EIS. The meeting is scheduled for Wednesday, April 16, 2008 at 7 p.m. (EST) at the Indiantown Civic Center, 15675 SW., Osceola Street, Indiantown, FL 34956 (772–597–2886).

Interested groups and individuals are encouraged to attend and present oral comments on the Draft EIS. Transcripts of the meetings will be prepared and placed in the public file. After the comments are reviewed, significant new issues are investigated, and modifications are made to the Draft EIS, a Final EIS will be published and distributed by the FERC staff. The Final EIS will contain the staff's responses to timely comments received on the Draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision. Anyone may intervene in this proceeding based on this Draft EIS. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''eLibrary link,'' select ''General Search'' and enter the project docket number excluding the last three digits (i.e., CP08–13) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or TTY (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6311 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–398–000; CP07–399–000; CP07–400–000; CP07–401–000; CP07–402–000]

Gulf Crossing Pipeline Company, LLC; Gulf South Pipeline Company, L.P.; Notice of Availability of the Final Environmental Impact Statement for the Proposed Gulf Crossing Project

March 21, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this final Environmental Impact Statement (EIS) for the natural gas pipeline facilities proposed by Gulf Crossing Pipeline Company, LLC (Gulf Crossing) and Gulf South Pipeline Company, L.P. (Gulf South) under the above-referenced dockets. Gulf Crossing and Gulf South's (the Companies) Gulf Crossing Project (Project) would be located in various counties and parishes in Oklahoma, Texas, Louisiana, and Mississippi.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. Based on the analysis included in the final EIS, the FERC staff concludes that approval of the proposed Project with appropriate mitigating measures as recommended, would have limited adverse environmental impacts.

The purpose of the proposed Project is to transport up to 1.73 billion cubic feet per day of natural gas from production fields in eastern Texas and southern Oklahoma to Gulf Coast market hubs that would service the eastern United States. The final EIS addresses the potential environmental effects of construction and operation of the facilities listed below.

Gulf Crossing proposes to construct and operate:

- Approximately 356.3 miles of 42-inch-diameter natural gas transmission pipeline extending east-southeast from Grayson County, Texas and Bryan County, Oklahoma to Madison Parish, Louisiana;
- Four new compressor stations: the Sherman, Paris, Mira, and Sterlington Compressor Stations located in Grayson and Lamar County, Texas and Caddo and Ouachita Parish, Louisiana, respectively, totaling 100,734 horsepower;
- Seven new metering and regulating stations; and
- Other appurtenant ancillary facilities including, mainline valves (MLV), pig launcher and receiver facilities.

Gulf South proposes to construct and operate:

- Approximately 17.8 miles of 42-inch-diameter pipeline loop extending southeast from Hinds County, Mississippi to Simpson County, Mississippi;
- Addition of 30,000 horsepower to its recently approved Harrisville Compressor Station; and
- Other appurtenant ancillary facilities including MLV, pig launcher and receiver facilities.

The final EIS also evaluates alternatives to the proposal, including alternative energy sources, system alternatives, alternative sites for compressor stations, and alternative pipeline routes. Dependent upon Commission approval, Gulf South proposes to complete construction and begin operating the proposed Project by October 2008.

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

The final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the final EIS are available from the Public Reference Room identified above. In addition, CD copies of the final EIS have been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project. Hard-copies of the final EIS have also been mailed to those who requested that format during the scoping and comment periods for the proposed Project.

Additional information about the proposed Project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*).

To access information via the FERC website click on the ''eLibrary'' link then click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field (e.g CP07–398). Be sure you have selected an appropriate date range. The ''eLibrary'' link provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. For assistance with ''eLibrary'', please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''Documents and Filings'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''Quick Comment'' option available, which is an easy method for interested persons to submit text only comments on a project. The Quick-Comment User Guide can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf*. Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket or project number(s).

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to these documents. To learn more about eSubscription and to sign-up for this service please go to *http://www.ferc.gov/esubscribenow.htm*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6315 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–95–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

March 24, 2008.

Take notice that on March 18, 2008, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP08–95–000, a prior notice request pursuant to sections 157.205, 157.208, 157.210, and 157.211 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to install and operate the East Leg I Project, located within the state of Iowa, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, Northern proposes to install and operate: (i) Approximately one mile of a 30-inch diameter mainline extension to the existing Ogden-Waterloo D-Line, located in Boone and Story Counties, Iowa; (ii) approximately five miles of a 6-inch diameter branch line loop on the existing 4-inch diameter Clarksville branch line, located in Bremer and Butler Counties, Iowa; (iii) approximately two miles of an 8-inch diameter greenfield branch line, located in Butler County, Iowa; (iv) a new meter station, the Hawkeye Shell Rock Meter Station, located in Butler County, Iowa; and (v) appurtenant section 2.55(a) facilities. Northern estimates the cost of construction to be $6,898,319. Northern states that the modifications proposed are necessary to meet the Hawkeye Shell Rock and Aquila, Inc. requests for firm capacity totaling 12.5 MMcf/d, effective September 1, 2008 and November 1, 2008, respectively.

Any questions regarding the application should be directed to Michael T. Loeffler, Senior Director, Certificates and External Affairs, Northern Natural Gas Company, 1111 South 103rd Street, Omaha, Nebraska 68124, call (402) 398–7103 or Donna Martens, Senior Regulatory Analyst, at (402) 398–7138.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 C.F.R. 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6417 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 25, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP06–231–006, RP06–365–004.

Applicants: Norstar Operating, LLC v.

Description: Columbia Gas Transmission Corporation submits Substitute Fifth Revised Sheet 406 et al. under FERC Gas Tariff, Second Revised Volume 1, to become effective June 1, 2007.

Filed Date: 03/24/2008.

Accession Number: 20080325–0251.

Comment Date: 5 p.m. Eastern Time on Monday, April 07, 2008.

Docket Numbers: RP08–276–000.

Applicants: CenterPoint Energy Gas Transmission Co.

Description: CenterPoint Energy Gas Transmission Company submits Fifteenth Revised Sheet 17 et al. to FERC Gas Tariff, Sixth Revised Volume, effective May 1, 2008.

Filed Date: 03/20/2008.

Accession Number: 20080320–0319.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 01, 2008.

Docket Numbers: RP08–277–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: East Tennessee Natural Gas LLC submits Second Revised Sheet 177 et al. to FERC Gas Tariff, Third Revised Volume 1, to become effective April 20, 2008.

Filed Date: 03/20/2008.

Accession Number: 20080321–0062.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 01, 2008.

Docket Numbers: RP08–278–000.

Applicants: El Paso Natural Gas Company.

Description: El Paso Natural Gas Company submits Fourth Revised Sheet 237 et al. to FERC Gas Tariff, Second Revised Volume 1A, to become effective April 21, 2008.

Filed Date: 03/20/2008.

Accession Number: 20080321–0136.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 01, 2008.

Docket Numbers: RP08–279–000.

Applicants: Great Lakes Gas Transmission Limited Partnership.

Description: Great Lakes Gas Transmission Limited Partnership submits Thirty-Fourth Revised Sheet 1000 to FERC Gas Tariff, Original Volume 2, to become effective April 20, 2008.

Filed Date: 03/20/2008.

Accession Number: 20080321–0137.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 01, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–6425 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

March 24, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–56–000.

Applicants: Benton County Wind Farm LLC; Benton County Holding Company LLC; General Electric Capital Corporation; Aircraft Services Corporation.

Description: Benton County Wind Farm LLC *et al.* submits an application for authorization for the transfer of certain passive membership interest in Benton County from upstream owner, Benton County Holdings.

Filed Date: 03/18/2008.

Accession Number: 20080321–0060.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 8, 2008.

Docket Numbers: EC08–59–000.

Applicants: Harbinger Capital Partners Master Fund I; Harbinger Capital Partners Special Situation.

Description: Harbinger Capital Partners Master Fund I, Ltd *et al.* section 203 Application for approval of the acquisition of shares in excess of 10% of the outstanding voting securities of Mirant Corp.

Filed Date: 03/21/2008.

Accession Number: 20080321–5041.

Comment Date: 5 p.m. Eastern Time on Friday, April 11, 2008.

Docket Numbers: EC08–60–000.

Applicants: Solios Power LLC; Solios Asset Management LLC.

Description: Application for Authorization for Dispositions of Jurisdictional Facilities, Request for Blanket Authorization for Future Dispositions, and Request for Expedited Action.

Filed Date: 03/20/2008.

Accession Number: 20080324–0004.

Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–1551–019; ER01–615–015; ER07–965–001.

Applicants: Public Service Company of New Mexico; EnergyCo Marketing and Trading, LLC.

Description: Public Service Company of New Mexico's Amendment to Change in Status Filing.

Filed Date: 03/20/2008.

Accession Number: 20080320–5051.

Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Docket Numbers: ER98–1643–012.
Applicants: Portland General Electric Company.
Description: Portland General Electric Company submits Original Sheet 1 *et al.* to FERC Electric Tariff, Sixth Revised Volume 11 pursuant to the requirements of Order 697.
Filed Date: 03/20/2008.
Accession Number: 20080324–0002.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Docket Numbers: ER08–75–000; ER08–75–001; ER08–75–002.
Applicants: Del Light Inc.
Description: Del Light Inc. withdraws its application.
Filed Date: 03/19/2008.
Accession Number: 20080320–0220.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 9, 2008.

Docket Numbers: ER08–374–002.
Applicants: Atlantic Path 15, LLC.
Description: Atlantic Path 15, LLC submits corrected Appendix I to their FERC Electric Tariff First Revised Volume 1 reflecting the Transmission Revenue Balancing Account Adjustment.
Filed Date: 03/20/2008.
Accession Number: 20080324–0003.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Docket Numbers: ER08–463–001.
Applicants: American Electric Power Service Corporation.
Description: Southwestern Electric Power Company submits filing in compliance with the Commission's Letter Order of 2/29/08, a Notice of Cancellation revised to comply with Order 614,65 etc.
Filed Date: 03/20/2008.
Accession Number: 20080321–0090.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.
Docket Numbers: ER08–651–001.
Applicants: AmerenEnergy Marketing Company.
Description: Ameren Energy Marketing Company provides notice to the Commission that the final form of the Confirmation Agreement for the request for proposals for capacity for the planning year June 1, 2008 through May 31, 2009.
Filed Date: 03/20/2008.
Accession Number: 20080321–0091.
Comment Date: 5 p.m. Eastern Time on Monday, March 31, 2008.

Docket Numbers: ER08–653–001.
Applicants: Union Electric Company.
Description: Union Electric Company provides notice to the Commission that the final form of the Confirmation Agreement for the request for proposals for capacity for the planning year June 1, 2008 through May 31, 2009 etc.
Filed Date: 03/20/2008.
Accession Number: 20080321–0092.
Comment Date: 5 p.m. Eastern Time on Monday, March 31, 2008.

Docket Numbers: ER08–682–000.
Applicants: Idaho Power Company.
Description: Idaho Power Company submits an errata to their 3/17/08 compliance filing by submitting additional tariff sheet, Second Revised Sheet 113 to FERC Electric Tariff, First Revised Volume 6.
Filed Date: 03/20/2008.
Accession Number: 20080321–0024.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Docket Numbers: ER08–688–000.
Applicants: Duke Energy Indiana, Inc.
Description: Duke Energy submits updated summary schedules for the Transmission and Local Facilities Agreement for the Calendar Year 2006 between Duke Energy and Indiana Municipal Power Agency.
Filed Date: 03/19/2008.
Accession Number: 20080321–0085.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 9, 2008.

Docket Numbers: ER08–689–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits an executed First Revised Network Integration Transmission Service Agreement between Entergy Service, Inc. and the City of Benton, Arkansas.
Filed Date: 03/19/2008.
Accession Number: 20080321–0086.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 9, 2008.

Docket Numbers: ER08–690–000.
Applicants: Entergy Services, Inc.
Description: Entergy Operating Companies submits an executed Network Integration Transmission Service Agreement between Entergy Service, Inc and the City of West Memphis *et al.*
Filed Date: 03/19/2008.
Accession Number: 20080321–0087.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 9, 2008.

Docket Numbers: ER08–691–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits revisions to the PJM Open Access Transmission Tariff and Amended and Restated Operating Agreement.
Filed Date: 03/19/2008.
Accession Number: 20080321–0088.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 9, 2008.

Docket Numbers: ER08–692–000.
Applicants: Mountain Wind Power II, LLC.
Description: Petition of Mountain wind Power II, LLC for order accepting Market-Based Rate Tariff for filing and granting Waivers and Blanket Approvals re Mountain Wind Power, II, LLC.
Filed Date: 03/20/2008.
Accession Number: 20080321–0089.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.
Docket Numbers: ER08–694–000.
Applicants: Potomac Electric Power Company.
Description: Potomac Electric Power Company submits an executed Construction Agreement with Southern Maryland Electric Cooperative.
Filed Date: 03/21/2008.
Accession Number: 20080324–0001.
Comment Date: 5 p.m. Eastern Time on Friday, April 11, 2008.

Docket Numbers: ER08–695–000; EC08–57–000.
Applicants: New York Independent System Operator, Inc.
Description: Initial tariff compliance filing of the New York Independent System Operator Inc implementing New York City ICAP Market Mitigation Measures.
Filed Date: 03/20/2008.
Accession Number: 20080321–0138.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at: *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–6426 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–96–000]

Arlington Storage Company, LLC; Notice of Filing

March 24, 2008.

Take notice that on March 14, 2008, Arlington Storage Company, LLC (ASC), Two Brush Creek Boulevard, Kansas City, Missouri 64112, filed an application, pursuant to Section 7(c) of the Natural Gas Act (NGA) and Parts 157 and 284 of the Commission's Rules and Regulations, for a certificate of public convenience and necessity authorizing ASC to develop and operate a depleted reservoir of natural gas project in Steuben County, New York known as the Thomas Corners Project (Project). The application is on file with the Commission and open for public inspection. 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.

The Project will involve conversion of the depleted Thomas Corners Field in the Town of Bath in Steuben County, New York, into an underground gas storage facility. The Project will have a working gas storage capacity of 7.0 Bcf and interconnections with the interstate pipeline systems of Tennessee Gas Pipeline Company (TGP) and Columbia Gas Transmission Corporation (Columbia). ASC also proposes to install and operate an interconnection and metering facilities connecting to a local distribution company, Corning Natural Gas Company (Corning). ASC requests authority to charge market-based rates for the Project and proposes to commence construction in October 2008.

Any questions regarding the application are to be directed to William R. Moler, Senior Vice President, Midstream Operations, Arlington Storage Company, Two Brush Creek Boulevard, Kansas City, Missouri 64112; phone number (816) 329–5344 or by e-mail at *bmoler@inergyservices.com.*

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.

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: April 14, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6415 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–194–000; ER08–194–001; ER08–194–002]

Duquesne Light Company; Notice of Filing

March 21, 2008.

Take notice that on March 18, 2008, the PJM Power Providers Group, tendered for filing an Emergency Request for Ruling regarding the treatment of the capacity resources in the Duquesne zone for purposes of the upcoming Reliability Pricing Model.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 26, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6313 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–561–000]

Benton County Wind Farm LLC; Notice of Issuance of Order

March 24, 2008.

Benton County Wind Farm LLC (Benton County) filed an application for market-based rate authority, with an accompanying market-based rate tariff. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Benton County also requested waivers of various Commission regulations. In particular, Benton County requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Benton County.

On March 18, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Benton County, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is April 17, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Benton County is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Benton County, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Benton County's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at: *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6416 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–425–000; ER08–425–001]

Energy Exchange Direct, LLC; Notice of Issuance of Order

March 21, 2008.

Energy Exchange Direct, Inc. (Energy Exchange) filed an application for market-based rate authority, with an accompanying tariff The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Energy Exchange also requested waivers of various Commission regulations. In particular, Energy Exchange requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Energy Exchange.

On March 20, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the request for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Energy Exchange, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is April 21, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Energy Exchange is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Energy Exchange, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Energy Exchange's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6314 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

March 21, 2008.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are 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.

Exempt:

Docket number	Date received	Presenter or requester
1. CP98–150–000	2–26–08	Hon. Michael A. Arcuri.
2. CP98–150–000	3–4–08	Hon. Michael A. Arcuri.
3. CP06–54–000	3–17–08	Hon. Jodi Rell.
4. CP07–62–000	2–28–08	Hon. Barbara A. Mikulski; Hon. Benjamin L. Cardin.
5. CP07–208–000	3–5–08	Hon. Robert J. Bischoff.
6. CP08–31–000	3–4–08	Hon. Andrew E. Dinniman; Hon. Curt Schroeder.
7. EL08–34–000	3–11–08	Hon. Barbara A. Mikulski; Hon. Benjamin L. Cardin; Hon. Steny H. Hoyer; Hon. Wayne T. Gilchrist; Hon. Roscoe G. Bartlett; Hon. Albert R. Wynn; Hon. Elijah E. Cummings; Hon C.A. Dutch Ruppersberger; Hon. Christopher VanHollen; Hon. John P. Sarbannes.
8. EL08–35–000	2–25–08	Hon. Robert Menendez.
9. P–11858–000	3–18–08	Karen A. Goebel.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–6310 Filed 3–27–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0027, FRL–8548–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information Collection Request for Cooling Water Intake Structures New Facility Final Rule (Renewal); EPA ICR No. 1973.04, OMB Control No. 2040–0241

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on June 30, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 27, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2004–0027, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: owdocket@epa.gov.*
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: #2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. 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–OW–2004–0027. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Janelle Christian, Water Permits Division, Office of Wastewater Management, Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–9954; fax number: 202–564–9541; e-mail address: *christian.janelle@epa.gov*.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2004–0027, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are new facilities that are point sources (i.e., subject to an NPDES permit) that use or propose to use a cooling water intake structure (CWIS), have at least one cooling water intake structure that uses at least 25 percent (measured on an average monthly basis) of the water withdrawn for cooling purposes, withdraw the water from surface waters, and have a design intake flow greater than two million gallons per day (MGD). Generally, facilities that meet these criteria fall into two major groups: New power producing facilities and new manufacturing facilities. Power producers affected by the final rule are likely to be both utility and nonutility power producers since they typically have large cooling water requirements. EPA identified four categories of manufacturing facilities that tend to require large amounts of cooling water: paper and allied products, chemical and allied products, petroleum and coal products, and primary metals. However, the New Facility Rule is not limited to manufacturers in these sectors; any new manufacturer that meets the criteria above is subject to the rule.

Title: Information Collection Request for Cooling Water Intake Structures New Facility Final Rule (Renewal).

ICR numbers: EPA ICR No. 1973.04, OMB Control No. 2040–0241.

ICR status: This ICR is currently scheduled to expire on June 30, 2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The section 316(b) New Facility Rule requires the collection of information from new facilities that use a CWIS and meet the other eligibility requirements. Section 316(b) of the CWA requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of CWISs at that facility reflect the best technology available (BTA) for minimizing adverse environmental impact. See 66 FR 65256. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance to cooling water intake structures) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The rule establishes standard requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities. These requirements seek to minimize the adverse environmental impact associated with the use of CWISs.

Burden Statement: The annual average reporting and record keeping burden for the collection of information by facilities responding to the section 316(b) New Facility Rule is estimated to

be 1,885 hours per respondent (i.e., an annual average of 113,084 hours of burden divided among an anticipated annual average of 60 facilities). The State reporting and record keeping burden for the review, oversight, and administration of the rule is estimated to average 111 hours per respondent (i.e., an annual average of 5,125 hours of burden divided among an anticipated 46 States on average per year). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 68 facilities and 46 States and Territories.

Frequency of response: Annual reports and application every 5 years.

Estimated total average number of responses for each respondent: 5.3 for facilities (317 annual average responses for an average of 60 facility respondents) and 6.1 for States and Territories (280 annual average responses for an average of 46 State respondents).

Estimated total annual burden hours: 118,209 (113,084 for facilities and 5,125 for States and Territories).

Estimated total annual costs: $8.5 million per year. This includes an estimated burden cost of $6.7 and an estimated cost of $1.8 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is an increase of 41,941 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase is due to the addition of the newly built facilities, as well as the continued performance of annual activities by facilities that received their permit during the previous ICR approval periods. In addition, this ICR includes additional repermitting burden and costs which were not in the currently approved ICR (EPA ICR Number: 1973.03) because more facilities are entering the renewal phase of their permits.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: March 20, 2008.

James A. Hanlon,

Director, Office of Wastewater Management.

[FR Doc. E8–6408 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6697–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 6, 2007 (72 FR 17156).

Draft EISs

EIS No. 20070367, ERP No. D–AFS–A65177–00

National Forest System Land Management Planning, Implementation, Proposed Land Management Planning Rule at 36 CFR Part 219 to Finish Rulemaking.

Summary: EPA expressed environmental concerns about annual monitoring, and how the proposed rule would ensure that it would be conducted. In addition, the final EIS should clarify under what circumstances the public will receive notification for changes in monitoring plans/strategy.

Rating EC2.

EIS No. 20070550, ERP No. D–FHW–F40441–MN

US–14 Reconstruction Project, Improvement to Truck Highway 14 from Front Street in New Ulm to Nicollet County Road 6 in North Mankato Brown and Nicollet Counties, MN.

Summary: EPA expressed environmental concerns about impacts to riparian forested wetlands and surface water quality, and requested additional information on mitigation areas and the corridor preservation plan.

Rating EC2.

EIS No. 20070555, ERP No. D–DHS–K80050–CA

U.S. Border Patrol San Diego Sector, Proposed Construction, Operation, and Maintenance of Tactical Infrastructure, San Diego County, CA.

Summary: EPA expressed environmental objections because of the proposed filling of two riparian corridors and has concerns about erosion impacts. EPA recommended avoiding fill in these canyons, avoiding fence construction on steep slopes, and alternatives to pedestrian fencing across streams.

Rating EO2.

EIS No. 20080025, ERP No. D–FTA–G59004–TX

Northwest Corridor Light Rail Transit Line (LRT) to Irving /Dallas/Fort Worth International Airport, Construction, Dallas County, TX.

Summary: EPA does not object to the proposed action.

Rating LO.

EIS No. 20080031, ERP No. D–AFS–F65069–MN

Glacier Project, To Maintain and Promote Native Vegetation, Communities that are Diverse, Productive, Healthy, Implementation, Superior National Forest, Kawishiwi Ranger District, St. Louis and Lake Counties, MN.

Summary: EPA does not object to the action alternatives proposed.

Rating LO.

EIS No. 20070450, ERP No. DS–WPA–J08026–00

Big Stone II Power Plant and Transmission Project, Addresses the Impacts of Changes to the Proposed Action relative to Cooling Alternatives and the Use of Groundwater as Backup Water Source, U.S. Army COE Section 10 and 404 Permits, Grant County, SD and Big Stone County, MN.

Summary: EPA expressed environmental concerns about ground water impacts, and requested a detailed assessment of the wetland and stream-crossing impacts of the transmission line corridors and how mercury emissions will be addressed.

Rating EC2.

EIS No. 20070547, ERP No. DS–COE–G39044–TX

Central City Project, Proposed Modification to the Authorized Projects which provides Flood Damage Reduction, Habitat Improvement, Recreation and Urban Revitalization, Upper Trinity River Central City, Upper Trinity River Basin, Trinity River, TX.

Summary: No formal comment letter was sent to the preparing agency.

Rating NC.

Final EISs

EIS No. 20080036, ERP No. F–GSA–J80047–CO

Denver Federal Central Site Plan Study, Master Site Plan, Implementation, City of Lakewood, Jefferson County, CO.

Summary: EPA's previous concerns have been resolved; therefore, EPA does not object to the proposed action.

EIS No. 20080056, ERP No. F–AFS–L65530–AK

Tonga's Land and Resource Management Plan, Plan Amendment, Implementation, Tonga's National Forest, AK.

Summary: The final EIS addressed EPA's concerns; therefore, EPA does not object to the project.

Dated: February 25, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–6422 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6697–3]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 03/17/2008 Through 03/21/2008

Pursuant to 40 CFR 1506.9.

EIS No. 20080101, Final EIS, FHW, ID, ID–75 Timmerman to Ketchum—US–20 to Saddle Road, Preferred Alternative is 2, Increase Roadway and Transportation Safety, Cities of Bellevue, Hailey, Ketchum and the City of Sun Valley, Blaine County, ID, *Wait Period Ends:* 04/28/2008, *Contact:* Peter J. Hartman 208–334–9180.

EIS No. 20080102, Final EIS, BLM, 00, Yuma Field Office (YFO) Resource Management Plan, Provide Direction Managing Public Lands, Implementation, Yuma, La Paz and Maricopa Counties, AZ and Imperial and Riverside Counties, CA, *Wait Period Ends:* 04/28/2008, *Contact:* Brenda Hudgens-Williams 202–452–5112.

EIS No. 20080103, Draft EIS, USN, FL, Mayport Naval Station Project, Proposed Homeporting of Additional Surface Ships, Several Permits, Mayport, FL, *Comment Period Ends:* 05/12/2008, *Contact:* Erica Evans 703–412–7542.

EIS No. 20080104, Final EIS, JUS, NV, Las Vegas Detention Facility, Proposed Contractor-Owned/Contractor-Operated Detention Facility, Implementation, Nevada Area, *Wait Period Ends:* 04/28/2008, *Contact:* Scott P. Stermer 202–353–4601.

EIS No. 20080105, Draft EIS, AFS, CA, Orleans Community Fuels Reduction and Forest Health Project, To Manage Forest Stands to Reduce Hazardous Fuel Conditions, Orleans Ranger District, Six Rivers National Forest, Humboldt County, CA, *Comment Period Ends:* 05/13/2008, *Contact:* William Rice 530–627–3291.

EIS No. 20080106, Draft EIS, AFS, CO, Long Draw Reservoir Project, Re-Issue a Special-Use-Authorization to Water Supply and Storage to Allow the Continued Use of Long Draw Reservoir and Dam, Arapaho and Roosevelt National Forests and Pawnee National Grassland, Grand and Larimer Counties, CO, *Comment Period Ends:* 05/12/2008, *Contact:* Ken Tu 970–295–6623.

EIS No. 20080107, Final Supplement, NOA, 00, Atlantic Mackerel, Squid and Butterfish, Fishery Management Plan, Amendment #9, Implementation, Essential Fish Habitat (EFH), Exclusive Economic Zone (EEZ), *Wait Period Ends:* 04/28/2008, *Contact:* Patricia A. Kurkul 978–281–9250.

EIS No. 20080108, Revised Final EIS, WAP, CA, Sacramento Area Voltage Support Project, Revision to FSEIS Filed February 2008, Selected Preferred Alternative B, Proposal to Build a Double-Circuit 230-kV Transmission Line, Placer, Sacramento and Sutter Counties, CA, *Wait Period Ends:* 04/28/2008, *Contact:* Catherine Cunningham 720–962–7260.

EIS No. 20080109, Final EIS, AFS, OR, Mt. Hood National Forest and Columbia River Gorge National Scenic Area, Site-Specific Invasive Plant Treatments, Forest Plan Amendments #16, Mt. Hood National Forest and Columbia River Gorge National Scenic Area, Clackamas, Hood River, Multnomah and Wasco Counties, OR, *Wait Period Ends:* 04/28/2008, *Contact:* Jennie O'Connor 503–668–1645.

EIS No. 20080110, Final EIS, BIA, CA, Scotts Valley Band of Pomo Indians, Proposed 29.87 Acre Fee-to-Trust Transfer and Casino Project, Contra Costa County, *Comment Period Ends:* 04/28/2008, *Contact:* John Rydzik 916–978–6042.

EIS No. 20080111, Draft EIS, COE, 00, PROGRAMMATIC—Hydropower Rehabilitations, Dissolved Oxygen and Minimum Flow Regimes at Wolf Creek Dam, Kentucky and Center Hill and Dale Hollow Dams, Tennessee, Implementation, *Comment Period Ends:* 05/12/2008, *Contact:* Chip Hall 615–736–7666.

EIS No. 20080112, Draft Supplement, NOA, CA, Channel Islands National Marine Sanctuary Management Plan, Supplement/Replace Information, Implementation, Santa Barbara and Ventura Counties, CA , *Comment Period Ends:* 05/30/2008, *Contact:* Chris Mobley 805–966–7107 Ext 465.

EIS No. 20080113, Draft EIS, FRC, FL, Floridian Natural Gas Storage Project, Construction and Operation, Liquefied Natural Gas (LNG) Storage and Natural Gas Transmission Facilities, Martin County, FL, *Comment Period Ends:* 05/12/2008, *Contact:* Andy Black 1–866–208–3372.

EIS No. 20080114, Draft EIS, BPA, WA, Lyle Falls Fish Passage Project, To Improve Fish Passage to Habitat in the Upper Part of the Watershed, Located on the Lower Klickitat River, Klickitat County, WA, *Comment Period Ends:* 05/12/2008, *Contact:* Carl Keller 503–230–7692.

EIS No. 20080115, Draft EIS, UAF, FL, Eglin Air Force Base Program, Base Realignment and Closure (BRAC) 2005 Decisions and Related Action, Implementation, FL, *Comment Period Ends:* 05/12/2008, *Contact:* Mike Spaits 850–882–2878.

EIS No. 20080116, Final EIS, FRC, 00, Gulf Crossing Project, Construction and Operation of Natural Gas Pipeline to Facilitate the Transport of up to 1.73 Billion Cubic Feet Per Day of Natural Gas, Locate in various

Counties and Parishes in OK, TX, LA and MS, *Wait Period Ends:* 04/28/2008, *Contact:* Andy Black 1–866–208–3372.

Amended Notices

EIS No. 20070524, Draft EIS, BLM, 00, PROGRAMMATIC EIS—Oil Shale and Tar Sands Resource Management (RMP) Amendments to Address Land Use Allocations in Colorado, Utah and Wyoming, *Comment Period Ends:* 04/28/2008, *Contact:* Michael Nedd 202–208–4201. Revision of FR Notice Published 12/21/2007: Extending Comment Period from 3/20/2008 to 04/28/2008.

Dated: March 25, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–6424 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0164; FRL–8355–6]

Notice of Filing of a Pesticide Petition for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 28, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0164 and the pesticide petition number (*PP 7F7310*), by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0164. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347–8920; e-mail address: *kausch.jeannine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing notice of the filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petition described in this notice contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available on-line at *http://www.regulations.gov*.

New Exemption from Tolerance

PP 7F7310. BioNext sprl, Passage des deportes, 2, B-5030 Gembloux, Belgium (submitted by SynTech Global, LLC, P.O. Box 640, Hockessin, DE 19707), proposes to establish an exemption from the requirement of a tolerance for residues of the microbial pesticide, *candida oleophila strain O* in or on the food commodities apples and pears. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 19, 2008.

Janet L. Andersen,

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

[FR Doc. E8–6413 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8548–4]

State Cost Share Requirement for Leaking Underground Storage Tank (LUST) Prevention Assistance Agreements and Authority To Provide LUST Prevention Assistance Agreements to Tribes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: By this notice, the Environmental Protection Agency (EPA), Office of Underground Storage Tanks (OUST) is announcing that states receiving leaking underground storage tank (LUST) prevention assistance agreements must meet a twenty-five (25) percent cost share requirement. In addition, EPA is announcing the authority to provide assistance agreements to tribes using LUST prevention funding for the development and implementation of programs to manage underground storage tanks (USTs) in Indian Country.

FOR FURTHER INFORMATION CONTACT: Lynn DePont, Office of Underground Storage Tanks (5401P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 603–9900; fax (703) 603–0175; *depont.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

This notice applies to states and tribes that are eligible to receive leaking underground storage tank (LUST) prevention assistance agreements. This financial assistance program is not eligible for inclusion in Performance Partnership Grants under 40 CFR 35.133.

II. Background

On August 8, 2005, President Bush signed the Energy Policy Act of 2005, which amended Subtitle I of the Solid Waste Disposal Act (SWDA). SWDA Section 9011 authorizes the use of the Leaking Underground Storage Tank (LUST) Trust Fund for eligible prevention activities, including inspections, additional measures to protect groundwater, delivery prohibition, operator training, and for implementation of the UST program in Indian Country. In fiscal year 2008, Congress appropriated LUST Trust Fund money for these prevention activities for the first time. Since this is a new use for the LUST Trust Fund money, EPA is developing program guidance and revised the Catalog of Federal Domestic Assistance (CFDA) to provide information regarding state and tribal LUST prevention assistance agreements. (See *http://12.46.245.173/pls/portal30/CATALOG.PROGRAM_TEXT_RPT.SHOW?p_arg_names=prog_nbr&p_arg_values=66.805*.)

By this notice, EPA is announcing a cost share requirement for states receiving LUST prevention funding and announcing the authority to provide LUST prevention funding to tribes.

III. Cost Share Requirement for States Receiving LUST Prevention Assistance Agreements

When receiving an assistance agreement awarded under Section 9011 and other applicable provisions of Subtitle I of the SWDA, states are required to share twenty-five (25) percent of the total project period costs. This requirement is consistent with the cost share requirement contained in 40 CFR 35.335 for release prevention and detection grants funded with State and Tribal Assistance Grant (STAG) appropriations under Section 2007(f)(2) of the SWDA. States may meet the cost share requirement by any means authorized by the cost share provision of 40 CFR 31.24. Consistent with 40 CFR 35.735, there is no cost share requirement for LUST prevention cooperative agreements for tribes or intertribal consortia awarded pursuant to annual appropriation acts.

IV. Authority To Provide LUST Prevention Assistance Agreements to Tribes

EPA's fiscal year 2008 Appropriations Act authorizes EPA to use LUST prevention appropriations for financial assistance to tribes for the development

and implementation of programs to manage underground storage tanks in Indian Country. This authority is consistent with EPA's existing authority to provide UST assistance agreements to tribes with STAG appropriations, as found in Public Law 105–276 (112 Stat. 2461, 2499; 42 U.S.C. 6908a).

Dated: March 20, 2008.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E8–6400 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0191; FRL–8358–3]

Pesticide Program Dialogue Committee, Pesticide Registration Improvement Act Process Improvement Workgroup; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Pesticide Program Dialogue Committee (PPDC), Pesticide Registration Improvement Act (PRIA) Process Improvement Workgroup will hold its tenth public meeting on April 29, 2008. An agenda for this meeting is being developed. The agenda will include recent process improvements to implement the Pesticide Registration Improvement Renewal Act (PRIA 2), and will be posted on EPA's website. The workgroup is developing advice and recommendations on topics related to EPA's registration and as of this meeting, registration review process.

DATES: The meeting will be held on Tuesday, April 29, 2008, from 1 p.m. to 4 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Elizabeth Leovey, Immediate Office (7501P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7328; fax number: (703) 308–4776; e-mail address: *leovey.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who are concerned about implementation of the PRIA 2, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Federal Food, Drug, and Cosmetic Act (FFDCA). Other potentially affected entities may include but are not limited to agricultural workers and farmers; pesticide industry trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. Since other entities may also be interested, the Agency has not attempted to describe all specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0191. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

EPA's Office of Pesticide Programs (OPP) is entrusted with the responsibility of ensuring the safety of the American food supply, protection and education of those who apply or are exposed to pesticides occupationally or through use of products, and the general protection of the environment and special ecosystems from potential risks posed by pesticides. The PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, for a 2–year-term and has been renewed every 2 years since that time. The PPDC provides advice and recommendations to OPP on a broad range of pesticide regulatory, policy, and program implementation issues that are associated with evaluating and reducing risks from the use of pesticides. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest and consumer groups; farm worker organizations; pesticide user, grower and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations. Copies of the PPDC charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request. Copies of the minutes of past meetings of this workgroup are available on the internet at *http://www.epa.gov/pesticides/ppdc/pria/index.html*.

III. How Can I Request to Participate in this Meeting?

This meeting will be open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting by giving a copy of the statement to the person listed under **FOR FURTHER INFORMATION CONTACT**. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit I.B.1. Do not submit any information in your request that is considered CBI.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

List of Subjects

Environmental protection, PPDC.

Dated: March 21, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E8–6410 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0162; FRL–8355–5

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any currently registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before May 27, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0162, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0162. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8920; e-mail address: *kausch.jeannine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA received the application as follows to register a pesticide product containing an active ingredient not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Product Containing a New Active Ingredient not Included in any Previously Registered Product

File Symbol: 84863–R. *Applicant*: BioNext sprl, Passage des deportes, 2, B–5030 Gembloux, Belgium, submitted by SynTech Global, LLC, P.O. Box 640, Hockessin, DE 19707. *Product name*: NEXY. Biofungicide. *Active ingredient*: Candida oleophila strain O at 57%. *Proposal classification/Use*: Post-harvest control of grey and blue mold on apples and pears.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: March 19, 2008.

Janet L. Andersen,

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

[FR Doc. E8–6266 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1026; FRL–8354–5]

Registration Review; Biopesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open a registration review docket for thyme herbs and ground sesame plant. These pesticides do not currently have any active federally registered pesticide products and are not, therefore, scheduled for review under the registration review program.

DATES: Comments must be received on or before May 27, 2008.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III. A., by one of the following methods:

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

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

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

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: For information about the pesticides included in this document, contact the specific Regulatory Action Leader (RAL) as identified in the table in Unit III.A. for the pesticide of interest.

For general questions on the registration review program, contact Peter Caulkins, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6550; fax number: (703) 308–8090; e-mail address: *caulkins.peter@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be periodically reviewed. The goal is a review of a pesticide's registration every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is periodically reviewing pesticide registrations to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. The implementing regulations establishing the procedures for registration review appear at 40 CFR part 155. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE 1.—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Pesticide Docket ID Number	[RAL], Telephone Number, E-mail Address
Bacillus subtilis, Case no. 6012	EPA–HQ–OPP–2007–1026	Susanne Cerrelli, (703) 308-8077, *cerrelli.susanne*@epa.gov

EPA is also announcing that it will not be opening a docket for registration review case 6060, thyme herbs and ground sesame plant because these pesticides are not included in any products actively registered under FIFRA section 3. The last federally registered thyme herbs (PC Code 128894) and ground sesame plant (PC Code 128970) products were cancelled for non-payment of the required annual maintenance fees of 2005 and 2006, respectively (August 3, 2005; 70 FR 44637; FRL–7726–4 and August 2, 2006; 71 FR 43748; FRL–8079–6).

Products containing either thyme herbs or ground sesame stalk as the active ingredient, when in accordance with all of the criteria of 40 CFR 152.25(f), are 'minimum risk pesticides' exempt from the requirements of FIFRA. The Federal Food, Drug, and Cosmetics Act (FFDCA) coverage necessary for any 40 CFR 152.25(f)-compliant thyme herbs or ground sesame plant food-use product is provided by the exemption from the requirement of a tolerance under 40 CFR 180.950 for spices and herbs, and by the sesame stalks tolerance exemption under 40 CFR 180.1087. The tolerance exemption under 40 CFR 180.950 was established in 2002, and that at 40 CFR 180.1087 was reassessed in 2002; both have been determined to meet the safety standards of the FFDCA, as amended by the FQPA of 1996.

The Agency requires no further risk assessments or submission of data for the uses of thyme herbs and ground sesame plant when these active ingredients are used in a manner compliant with 40 CFR 152.25(f).

The Agency will take separate actions to cancel any remaining FIFRA section 24(c) Special Local Needs registrations with these or any other active ingredient in this docket and to propose revocation of any affected tolerances that are not supported for import purposes only.

B. Docket Content

1. *Review dockets*. The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

i. An overview of the registration review case status.

ii. A list of current product registrations and registrants.

iii. **Federal Register** notices regarding any pending registration actions.

iv. **Federal Register** notices regarding current or pending tolerances.

v. Risk assessments.

vi. Bibliographies concerning current registrations.

vii. Summaries of incident data.

viii. Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

i. To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

ii. The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

iii. Submitters must clearly identify the source of any submitted data or information.

iv. Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

v. As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 19, 2008.

Janet L. Andersen,

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

[FR Doc. E8–6394 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8548–6]

Science Advisory Board Staff Office; Request for Nominations of Experts to Augment the Science Advisory Board Homeland Security Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office is requesting public nominations of experts in microbiology. Nominees with appropriate expertise will be considered for service on the SAB Homeland Security Advisory Committee (HSAC) to provide consultative advice on a *Draft Federal Inter-agency Anthrax Technical Assistance Document.*

DATES: Nominations for the specific microbiological expertise noted below should be submitted by April 18, 2008.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding how to submit nominations may contact Ms. Vivian Turner, Designated Federal Officer, by telephone: (202) 343–9697 or e-mail at: *turner.vivian@epa.gov.* The SAB Mailing address is: U.S. EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB as well as any updates concerning this request for nominations may be found on the SAB Web Site at *http://www.epa.gov/sab.*

Technical Contact: For questions and information concerning the draft technical documents and background information, contact Captain Colleen Petullo at (702) 784–8004, or *petullo.colleen@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA's Office of Solid Waste and Emergency Response (OSWER) is charged with preserving and restoring the land by using innovative waste management practices and cleaning up contaminated properties to reduce risks posed by of harmful substances. EPA has a major role in reducing the risk to human health and the environment posed by accidental or intentional releases of harmful substances. For Emergency Preparedness, Response and Homeland Security, EPA works closely with sixteen other Federal agencies on the National Response Team (NRT). EPA's OSWER, on behalf of the NRT, is requesting the Science Advisory Board (SAB) to conduct a consultation on the *Draft Federal Inter-Agency Anthrax Technical Assistance Document* (TAD). The TAD is an interim technical resource document developed in response to the 2001 anthrax incidents. The NRT requested that the Weapons of Mass Destruction (WMD) Subcommittee to the Science and Technology Committee revise the TAD based on consultative advice from the SAB.

The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. In response to the OSWER request, the SAB Homeland Security Advisory Committee (HSAC) will conduct this consultation and provide scientific and technical advice to the EPA Administrator through the chartered SAB on scientific matters pertaining to EPA's mission in

protecting against the environmental and health consequences of terrorism. There is a need to supplement the HSAC expertise with microbiologists. Accordingly, the SAB is seeking nominations of nationally and internationally recognized microbiologists with specialized expertise in bacteriology of aerobic gram positive rod endospore formers (i.e., *Bacillus anthracis*). Individuals should possess extensive expertise in genomic and strain analysis and expertise in method development for Weapons of Mass Destruction emergency responders.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate individuals qualified in the area of microbiology as described above. Self-nominations are also requested. Nominations may be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board which can be accessed through a link on the blue navigational bar on the SAB Web Site at: *http://www.epa.gov/sab.* Please follow the instructions for submitting nominations carefully, and include all of the information requested on that form. The nominating form requests contact information of the person making the nomination; contact information for the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations. Anyone unable to submit nominations using the electronic form, or who may have questions concerning the nomination process or any other aspect of this notice may contact Ms. Vivian Turner, DFO, at the contact information above. Nominations should be submitted in time to arrive no later than April 18, 2008.

The approved policy used by the SAB Staff Office in its selection process is described in the Overview of the Panel Formation Process at the Environmental Protection Agency, Science Advisory Board (EPA–SAB–EC–COM–02–010), on the SAB Web Site at: *http://yosemite.epa.gov/sab/sabproduct.nsf/19EDA5C43A43D86A852571AE006390EC/$File/ecm02003.pdf.* The SAB Staff Office will acknowledge receipt of nominations and inform nominees of the panel for which they have been nominated. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast''), the SAB Staff Office will develop a smaller subset (known as the ''Short List'') for more detailed consideration. The Short List will be posted on the SAB Web Site at: *http://www.epa.gov/sab* and will include the nominee's name and biographical sketch. Public comments on the Short List will be accepted for 21 calendar days. During this comment period, the public will be requested to provide information, analysis or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates for the panel. For the SAB, a balanced panel is characterized by inclusion of nominees who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List will be considered in the selection of the panel members, along with information provided by nominees and information independently gathered by SAB Staff (e.g., financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating Short List nominees include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively on committees.

Dated: March 21, 2008.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–6405 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 14, 2008.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Timothy A. Tierney, Madison, Wisconsin, as an individual, and as part of a group with Mark R. Tierney, Superior, Wisconsin, and David S. Tierney, Eden Prairie, Minnesota; to acquire control of Superior Bancorporation LTD, Superior, Wisconsin, and thereby indirectly acquire control Community Bank, Superior, Wisconsin.

Board of Governors of the Federal Reserve System, March 25, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–6361 Filed 3–27–08; 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 April 23, 2008.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Hazen Bancorporation, Inc., Hazen, North Dakota; to increase its ownership to 19.20 percent of the voting shares of North Star Holding Company, Inc., Jamestown, North Dakota, and thereby indirectly acquire Unison Bank, Jamestown, North Dakota and Unison Bank, Mesa, Arizona (a de novo bank).

2. McIntosh County Bank Holding Company, Inc., Ashley, North Dakota; to acquire additional shares and maintain 33.33 percent of the voting shares of North Star Holding Company, Inc., Jamestown, North Dakota, and thereby indirectly acquire Unison Bank, Jamestown, North Dakota and Unison Bank, Mesa, Arizona.

3. North Star Holding Company, Inc., Jamestown, North Dakota; to acquire 100 percent of the voting shares of Unison Bank, Mesa, Arizona (a de novo bank).

4. Wishek Bancorporation, Inc., Wishek, North Dakota; to acquire, through its ownership of North Star Holding Company, Inc., Jamestown, North Dakota, shares of Unison Bank, Mesa, Arizona (a de nova bank).

Board of Governors of the Federal Reserve System, March 24, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–6288 Filed 3–27–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 25, 2008 .

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045-0001:

1. Banco do Brasil, S.A., Brasilia, Brazil; to acquire, Banco do Brasil, Federal Savings Bank, New York, New York, and thereby engage in operating a savings association and engage in trust company functions to Section 225.28(b)(4) and (5) of Regulation Y.

Board of Governors of the Federal Reserve System, March 25, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–6360 Filed 3–27–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''Commission'' or ''FTC'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend through July 31, 2011, the current Paperwork Reduction Act clearance for information collection requirements contained in its Funeral Industry Practice Rule (''Funeral Rule'' or ''Rule''). That clearance expires on July 31, 2008.

DATES: Comments must be submitted on or before May 27, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Paperwork Comment: FTC File No. P084401'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room H-135 (Annex S), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, the comment must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.''[1]

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

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

copies of the proposed information requirements for the Funeral Rule should be addressed to Craig Tregillis, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H-288, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580, (202) 326-2970.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Funeral Rule, 16 CFR Part 453 (OMB Control Number 3084-0025).

The FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Funeral Rule ensures that consumers who are purchasing funeral goods and services have accurate information about the terms and conditions (especially prices) for such goods and services. The Rule requires that funeral providers disclose this information to consumers and maintain records to facilitate enforcement of the Rule.

The estimated burden associated with the collection of information required by the Rule is 20,300 hours for recordkeeping, 101,389 hours for disclosures, and 40,600 hours for training, for a total of 162,000 hours (rounded to the nearest thousand). This estimate is based on the number of funeral providers (approximately 20,300),[2] the number of funerals annually (approximately 2.4 million),[3] and the time needed to fulfill the information collection tasks required by the Rule.

Recordkeeping: The Rule requires that funeral providers retain copies of price lists and statements of funeral goods and services selected by consumers. Based on a maximum average burden of one hour per provider per year for this task, the total burden for the 20,300 providers is 20,300 hours. This estimate is lower than FTC staff's 2005 estimate of 21,500 hours due to a decrease in the number of funeral providers.

Disclosure: The Rule requires that funeral providers: (1) maintain current price lists for funeral goods and services, (2) provide written documentation of the funeral goods and services selected by consumers making funeral arrangements, and (3) provide information about funeral prices in response to telephone inquiries.

1. Maintaining current price lists requires that funeral providers revise their price lists from time to time throughout the year to reflect price changes. Staff estimates, consistent with its current clearance, that this task requires a maximum average burden of two and one-half hours per provider per year for this task. Thus, the total burden for 20,300 providers is 50,750 hours.

2. Staff retains its 2005 estimate that 13% of funeral providers prepare written documentation of funeral goods and services selected by consumers specifically due to the Rule's mandate. The original rulemaking record indicated that 87% of funeral providers provided written documentation of funeral arrangements, even absent the Rule's requirements.[4]

According to the rulemaking record, the 13% of funeral providers who did not provide written documentation prior to enactment of the Rule are typically the smallest funeral homes. The written documentation requirement can be satisfied through the use of a standard form (an example of which the FTC has provided to all funeral providers in its compliance guide).[5] Based on an estimate that these smaller funeral homes arrange, on average, approximately twenty funerals per year and that it would take each of them about three minutes to record prices for each consumer on the standard form, FTC staff estimates that the total burden associated with the written documentation requirement is one hour per provider not already in compliance, for a total of 2,639 hours [(20,300 funeral providers x 13%) x (20 statements per year x 3 minutes per statement)].

3. The Funeral Rule also requires funeral providers to answer telephone inquiries about the provider's offerings or prices. Information received in 2002 from the industry indicates that only about 12% of funeral purchasers make telephone inquiries, with each call lasting an estimated ten minutes.[6] Thus, assuming that the average purchaser who makes telephone inquiries places one call per funeral to determine prices, the estimated burden is 48,000 hours (2.4 million funerals per year x 12% x 10 minutes per inquiry). This burden likely will decline over time as consumers increasingly rely on the Internet for funeral price information.

In sum, the burden due to the Rule's disclosure requirements totals 101,389 hours (50,750 + 2,639 + 48,000).

Training: In addition to the recordkeeping and disclosure-related tasks noted above, funeral homes may also have training requirements specifically attributable to the Rule. While staff believes that annual training burdens associated with the Rule should be minimal because Rule compliance is generally included in continuing education requirements for licensing and voluntary certification programs, staff estimates that, industry-wide, funeral homes should incur no more than 40,600 hours related to training specific to the Rule each year. This estimate is consistent with staff's assumption for the current clearance that an ''average'' funeral home consists of approximately five employees (full-time and part-time employment combined), but with no more than four

[2] The estimated number of funeral providers is from data provided on the National Funeral Directors Association (''NFDA'') website (see *www.nfda.org/careers.php*), which was accessed in March 2008.

[3] The estimated number of funerals annually is taken from the National Center for Health Statistics, *http://www.cdc.gov/nchs/*. According to NCHS, 2,448,017 deaths occurred in the United States in 2005, the most recent year for which final data is available. *See* National Vital Statistics Reports, vol. 56, no. 10 ''Deaths: Final Data for 2005,'' *available athttp://www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56_10.pdf*.

[4] The original version of the Funeral Rule required that funeral providers retain a copy of and give each customer a separate ''Statement of Funeral Goods and Services Selected.'' The 1994 amendments to the Rule eliminated that requirement, allowing instead for such disclosures to be incorporated into a written contract, bill of sale, or other record of a transaction that providers use to memorialize sales agreements with customers.

[5] The FTC has provided its compliance guide to all funeral providers at no cost, and additional copies are available on the FTC website, *www.ftc.gov*, or by mail.

[6] No more recent information has thus far been obtainable; the Commission invites submission of more recent data or studies on this subject.

of them having tasks specifically associated with the Funeral Rule. Staff retains its estimate that each of the four employees (three directors and a clerical employee) per firm would each require one-half hours, at most, per year, for such training. Thus, total estimated time for training is 40,600 hours (4 employees per firm x ½ hour x 20,300 providers).

Estimated annual cost burden: $3,524,000 in labor costs and $1,226,000 in non-labor costs.

Labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below are averages.

Clerical personnel, at an estimated hourly rate of $13, can perform the recordkeeping tasks required under the Rule. Based on the estimated hour burden of 20,300 hours, the estimated cost burden for recordkeeping is $263,900 ($13 per hour x 20,300 hours).

The two and one-half hours required of each provider, on average, to update price lists should consist of approximately one and one-half hours of managerial or professional time, at $27.50 per hour, and one hour of clerical time, at $13 per hour, for a total of $54.25 per provider[7] [($27.50 per hour x 1.5 hours) + ($13.00 per hour x 1 hour)]. Thus, the estimated total cost burden for maintaining price lists is $1,101,275 ($54.25 per provider x 20,300 providers).

The cost of providing written documentation of the goods and services selected by the consumer is 2,639 hours of managerial or professional time at approximately $27.50 per hour, or $72,572.50 (2,639 hours x $27.50 per hour).

The cost of responding to telephone inquiries about offerings or prices is 48,000 hours of managerial or professional time at $27.50 per hour, or $1,320,000 (48,000 hours x $27.50 per hour).

The cost of training licensed and non-licensed funeral home staff to comply with the Funeral Rule is two hours per funeral home, with four employees of varying ranks each spending one-half hour on training. Consistent with estimates in the current clearance, the Commission is assuming that three funeral directors, at hourly wages of $27.50, $20, and $15, respectively, as well as one clerical or administrative staff member, at $13 per hour, require such training, for a total burden of 40,600 hours (20,300 funeral homes x 2 hours total per establishment), and $766,325 [($27.50 + $20 + $15 + $13) x ½ hour per employee x 20,300 funeral homes].

The total labor cost of the three disclosure requirements imposed by the Funeral Rule is $2,493,847.50 ($1,101,275 + $72,572.50 + $1,320,000). The total labor cost for recordkeeping is $263,900. The total labor cost for disclosures, recordkeeping and training is $3,524,000 ($263,900 for recordkeeping + $766,325 for training + $2,493,847.50 for disclosures), rounded to the nearest thousand.

Capital or other non-labor costs: The Rule imposes minimal capital costs and no current start-up costs. The Rule first took effect in 1984 and the revised Rule took effect in 1994, so funeral providers should already have in place capital equipment to carry out tasks associated with Rule compliance. Moreover, most funeral homes already have access, for other business purposes, to the ordinary office equipment needed for compliance, so the Rule likely imposes minimal additional capital expense.

Compliance with the Rule, however, does entail some expense to funeral providers for printing and duplication of price lists. Assuming that two price lists per funeral/cremation are created by industry to adhere to the Rule, 4,800,000 copies per year are made for a total cost of $1,200,000 (2,400,000 funerals per year x 2 copies per funeral x $.25 per copy). In addition, the estimated 2,639 providers not already providing written documentation of funeral arrangements apart from the Rule will incur additional printing and copying costs. Assuming that those providers use the standard two-page form shown in the Compliance Guide, at twenty-five cents per page, at an average of twenty funerals per year, the added cost burden would be $26,390 (2,639 providers x 20 funerals per year x 2 pages per funeral x $.25). Thus, estimated non-labor costs are $1,226,000, rounded to the nearest thousand.

William Blumenthal

General Counsel

[FR Doc. E8–6451 Filed 3–27–08: 8:45 am]

BILING CODE 6750–01–S

[7] National Compensation Survey: Occupational Wages in the United States, June 2006, U.S. Department of Labor, Bureau of Labor Statistics (June 2007) (''BLS National Compensation Survey'') (citing the mean hourly earnings for funeral directors as $22.11/hour), available at *http://www.bls.gov/ncs/ocs/sp/ncbl0910.pdf.* As in the past, staff has increased this figure on the assumption that the owner or managing director, who would be paid at a slightly higher rate, would be responsible for making pricing decisions. Clerical estimates are derived from the above source data, applying roughly a mid-range of mean hourly rates for potentially applicable clerical types, e.g., bookkeeping, file clerks, new accounts clerks, data entry.

GENERAL SERVICES ADMINISTRATION

[GSA–2008–N01]

Multiple Award Schedule Advisory Panel

AGENCY: Office of the Administrator, General Services Administration

ACTION: Notice, establishment of an Advisory Panel.

Establishment of Advisory Panel

This notice is published in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92—463), and advises of the establishment of the GSA Multiple Award Schedule Advisory Panel (MAS). The Administrator of General Services has determined that the establishment of the Panel is necessary and in the public interest.

Purpose of the Advisory Panel

The Panel will be used to provide advice and recommendations to the General Services Administration that ensures that the Government obtains the lowest overall price for products and services and promotes fair award and administration of MAS contract awards. Specifically, the panel will review the MAS policy statements, implementing regulations, solicitation provisions and other related documents regarding the structure, use, and pricing for the MAS contract awards.

FOR FURTHER INFORMATION CONTACT: The Office of the Administrator is the office within GSA that is sponsoring this panel. For additional information, please contact Ms. Pat Brooks, Designated Federal Officer, Multiple Award Schedule Advisory Panel, U.S. General Services Administration, 2011 Crystal Drive, Suite 911, Arlington, VA. 22202, (703) 605–3406 or email at *mas.advisorypanel@gsa.gov.*

Dated: March 24, 2008

David A. Drabkin,

Acting Chief Acquisition Officer.

[FR Doc. E8–6547 Filed 3–27–08; 12:56 pm]

BILLING CODE 6820–EP–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, HHS.

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 on (202) 690–5683. 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: Evaluation of the Parents Speak-Up National Campaign: Youth Survey OMB No. 0990–New—Office of Adolescent Pregnancy Program.

Abstract: The Evaluation of the Parents Speak-Up National Campaign (PSUNC): Youth Survey is designed to evaluate the Parents Speak-Up National Campaign, a campaign designed to encourage parents to talk with their children about sexual activity. The campaign includes paid and public service announcement (PSA)-type spots, as well as a Web site, 4parents.gov. As the campaign aims to increase parent-child communication about sex, the purpose of this information collection is to measure youth self-reported communication with parents, their related attitudes and beliefs about sex, and determine whether their parents' exposure to PSUNC affects the youth reports of communication. Parents of the youth in this study are participating in an OMB-approved, randomized controlled study of the behavioral effects of PSUNC message exposure.

This collection is follow-up of youth aged 13–15 whose parents participated in the parent efficacy study for the campaign. We are requesting a 2 year clearance.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response (in hours)	Total burden hours
Youth Survey	13–15 year old youth	760	1	20/60	253

Terry Nicolosi,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E8–6398 Filed 3–27–08; 8:45 am]

BILLING CODE 4150–30–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Program Office on Vaccine Financing

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Program Office (NVPO) will convene a meeting of the Vaccine Finance Working Group and is inviting input from stakeholders on this issue. The meeting will be open to the public.

DATES: The meeting will be held on Tuesday, April 29, 2008 and Wednesday, April 30, 2008. The meeting will be held from 9 a.m. to 5 p.m. on both days.

ADDRESSES: Hilton Washington DC/Rockville Hotel and Executive Meeting Center; 1750 Rockville Pike, Rockville, MD 20852–1699.

FOR FURTHER INFORMATION CONTACT: Angela Shen, National Vaccine Program Office, Department of Health and Human Services, Room 443-H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 260–1587, or e-mail *angela.shen@hhs.gov.*

SUPPLEMENTARY INFORMATION: NVPO has responsibility for coordinating and ensuring collaboration among the many Federal agencies involved in vaccine and immunization activities. The NVPO provides leadership and coordination among Federal agencies, as they work together to carry out the goals of the National Vaccine Plan. The National Vaccine Plan provides a framework, including goals, objectives, and strategies, for pursuing the prevention of infectious diseases through immunizations. NVPO periodically convenes working groups to address specific issues and topics that impact vaccine and immunization.

The Vaccine Finance Working Group was established to address issues related to vaccine financing in the United States. The Working Group has developed a draft white paper with a number of policy options to be considered for presentation to the National Vaccine Advisory Committee (NVAC) for discussion. NVPO has charged the Vaccine Finance Working Group to obtain input from stakeholders whose viewpoints and interests can help shape an understanding of the issues that are relevant to the challenges in creating optimal approaches to vaccine financing in both the public and private sectors.

The two-day meeting is scheduled to be held to provide an opportunity for vaccine financing stakeholders to discuss and make comments on the draft white paper and to solicit input, in particular, regarding the conclusions and options made by the working group that are contained in the draft document. A wide range of stakeholders representing health care providers, employers, payers, health insurers, vaccine manufacturers and distributors, consumers, and other interested parties within the public health community are invited to attend the meeting. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to meeting

participants should submit materials to the NVPO staff person designated as the contact for additional information. All materials should be submitted to the designated point of contact no later than close of business April 21, 2008. Pre-registration is required for public comment. Any individual who wishes to participate in the public comment session should e-mail *angela.shen@hhs.gov* or call 202–690–5566.

There is limited space available for the public to attend this meeting. However, it is desired that the public participate in the discussions, as well. Registration is required to attend the meeting; registration information can be found at: *https://nvpo.constellagroup.com.* Registration for the meeting will be accepted until April 5, 2008. Registration after that date will be on the basis of space availability. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person.

Dated: March 24, 2008.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. E8–6433 Filed 3–27–08; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[ATSDR–241]

Public Comments and Revised Final Criteria for Removing Chemicals From Future Editions of CDC's National Report on Human Exposure to Environmental Chemicals

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

SUMMARY: On Tuesday, May 16, 2006, CDC published draft criteria for removing chemicals from future releases of *CDC's National Report on Human Exposure to Environmental Chemicals* (the ''Report'') (See FR, Vol. 71, No. 94, p. 28346–7). This and previous notices related to the ''Report'' are at *http://www.cdc.gov/exposurereport/chemical_nominations.htm.* The proposed criteria provided that a chemical may be removed from the ''Report'' if (1) a new replacement chemical (i.e., a metabolite) is more representative of exposure than is the chemical currently measured; or (2) after three survey periods (or not less than 6 years), detection rates for all chemicals within a methodological and chemically related group are less than 5 percent for all population subgroups (i.e., two sexes, three race/ethnicity groups, and three age groups); or (3) after three survey periods (or not less than 6 years), levels of chemicals within a methodological and chemically related group are unchanged or declining in all the specific subgroups as documented in the ''Report.''

Using these criteria, CDC would have continued to measure the chemical and not remove it from the ''Report'' if it met either of two proposed exceptions to these criteria: (a) It is a chemical for which there is an established biomonitoring threshold (e.g., CDC's level of concern for blood lead levels in children) or any chemical for which there is widespread public health concern (e.g., mercury) or (b) three survey periods (or not less than 6 years) have passed, constituting the minimum time before a chemical could be removed; a longer period may be necessary to account for the half-life of a particular chemical or to account for a recent change (e.g., the removal of a chemical from commerce) that would necessitate monitoring of the population. In that notice, CDC pointed out that the criteria for removing a chemical from the ''Report'' are not corollaries of the criteria for adding chemicals to the ''Report.''

Summary of Public Comments

CDC received 31 public comments on the criteria cited above and describes below the comments received and CDC's responses to those comments. Comments are grouped in the following categories: Removal process, criterion 1, criterion 2, criterion 3, and exceptions ''a'' and ''b.''

General Informational Comments Related to Process and Procedure

CDC received several public comments about how the process of removing chemicals from the ''Report'' would be implemented. These generally pertained to (1) concurrence on the scientific basis for exposure assessment; (2) analytical cost considerations as secondary; (3) description of the policy basis for the process; (4) consideration of and suggestions for alternative approaches to limited sample volumes; and (5) affirmation of decision procedures, transparency, and public notification.

CDC responses to general informational comments:

Understanding exposures through biomonitoring can help scientists focus research on those chemicals found in people's bodies and target the appropriate levels of exposure. The ''Report'' provides unique exposure assessment information and not assessment of health risk. However, the biomonitoring data in the ''Report'' can facilitate and complement the risk-assessment process. For some chemicals, such as lead and mercury, risks have become better characterized when biomonitoring levels have become the benchmark to which the risks are tied. CDC considers the public health utility and quality of biomonitoring information to be the primary consideration, with cost of analysis as an important, but secondary, consideration (See **Federal Register** Vol. 67, No. 34 March 20, 2002, pages 12996–7).

The policy basis for the development of criteria for removing chemicals from the ''Report'' was developed in consideration of sound science and resource utilization. With guidance from a Work Group that was convened at the direction of the Board of Scientific Counselors of the National Center for Environmental Health and the Agency for Toxic Substances and Disease Registry (NCEH/ATSDR), the proposed criteria were established, and comments from the public were solicited through the **Federal Register** notice published in May 2006 (Vol. 71, No. 94, p. 28346–7).

As currently described, only one of the three criteria needs to apply to delist a chemical. That is, the three criteria apply independently—no combinations of criteria are necessary to qualify a chemical for removal from the ''Report.'' When chemicals published in the ''Report'' meet a criterion for removal, they will be deleted from future reports. The Division of Laboratory Sciences (DLS) at NCEH will make these decisions using the finalized criteria only and will post the names of the removed chemicals on its Web site: *http://www.cdc.gov/exposurereport.*

Two commenters provided helpful suggestions for maintaining flexibility in applying the removal process and suggested alternative plans for optimal use of samples. For those chemicals requiring large amounts of sample volume to detect the chemicals, alternatives such as less frequent sampling or pooled analyses are appropriate alternatives. CDC has actively researched these alternatives and will continue to weigh the relative cost-benefit of other approaches in addressing the issue of limited sample volume. Such approaches could include less frequent sampling, pooling of samples, and development of more sensitive analytical methods. For difficult decisions, the NCEH/ATSDR

Board of Scientific Counselors will be consulted for advice on the use of alternative approaches.

This process of announcing draft criteria and requesting comment on the criteria was the first step in ensuring transparency. Commenters' involvement in this process is evidence of CDC's efforts to involve multiple groups with varied viewpoints. CDC will announce the process for both nominating and removing chemicals from the ''Report'' in a future **Federal Register** notice. When chemicals are removed through this process, announcements will be made on CDC's Web site (*http://www.cdc.gov/exposurereport*). Descriptions of ongoing activities related to the ''Report'' have been provided in public meetings with advisory groups, in regional and national conferences, through publication of introductory material in the ''Report'' itself, in previous **Federal Register** announcements, and in postings of these materials on the CDC Web site.

Specific comments related to Criterion 1: If a new replacement chemical (i.e., a metabolite) is more representative of exposure than the chemical currently being measured.

Two specific comments and one general comment were received.

CDC Responses related to Criterion 1:

The first comment recommends a phased overlap in the analysis of the previously measured chemical with the replacement chemical. CDC agrees with this recommendation, which would occur naturally in the course of the scientific accrual of knowledge and measurements about the new replacement chemical. Both old and replacement chemicals may exist in the ''*Report*'' simultaneously until such knowledge and experience are accrued.

The second comment requested a wording change in criterion 1 from ''(i.e., a metabolite)'' to ''(i.e., a metabolite or other chemical).'' The wording change is accepted.

A general comment was made that the meaning of the phrase ''is more representative of exposure'' can be inferred. CDC notes that a replacement chemical is more representative of exposure when the measured concentration of the replacement chemical accounts for a greater fraction of the dose or has pharmacokinetic characteristics that decrease the variability in exposure estimation (such as longer persistence in the body).

Revised draft Criterion 1: If a new replacement chemical (i.e., a metabolite or other chemical) is more representative of exposure than the chemical currently being measured.

Specific comments related to Criterion 2: If after three survey periods (or not less than 6 years), detection rates for all chemicals within a methodologically and chemically related group are less than 5 percent for all population subgroups (e.g., two sexes, three race/ethnicity groups, and three age groups).

CDC received six overlapping comments from different commenters on the description or discussion of the following: (1) The requirement of a 5% detection rate for all population subgroups to meet the criterion; (2) the adequate number of survey periods applicable to the criterion; (3) the definition of ''methodological and chemically related group''; and (4) the application of the criterion to the entire group versus individual chemicals in the group to achieve cost savings.

CDC Responses Related to Criterion 2

(1) *The requirement of a 5% detection rate.* Not removing a chemical from the ''Report'' until all reported subgroups have fallen below the 5% detection rate is a conservative approach, allowing continued population monitoring even though some subgroups would no longer meet that criterion. A 5% detection rate allows an estimate of the 95th percentile for a population group. The 95th percentile is extremely useful for characterizing levels of unusual exposure in a population. If removal of a chemical from the ''Report'' resulted by meeting this criterion, but there were known exposures to special groups that are of public health interest, targeted monitoring studies could be recommended. CDC may be able to assist some states or other agencies in biomonitoring of special groups with unusual potential for exposure or who potentially may be at more risk for adverse health effects.

(2) *The adequate number of survey periods applicable to the criterion.* No absolute guide governs the number of survey periods necessary for inclusion in this criterion. CDC considered three survey periods because this number was the minimum number of survey point estimates from which trends might be calculated. Still, environmental conditions and releases of chemicals may change human exposures over time, and for some persistent chemicals—that is, persistent either in the body or in the environment—the 6-year period would be too short to measure a meaningful change. Thus, to accommodate these situations, CDC added exemption ''b.'' CDC has also rephrased the following statement to address reassessment of a chemical removed from the ''Report'' under either criterion 2 or 3: ''For a chemical that meets criterion 2 or 3, the chemical would be removed from the 'Report' for two future survey periods (4 years) and then measured again in the following survey period (2 years). If either criterion 2 or 3 is still satisfied for this 12-year period (i.e., three initial 2-year survey periods, two intervening 2-year survey periods, final 2-year survey period), then the chemical would be removed from the 'Report' and not reinstated unless the chemical once again met the criteria for inclusion in the 'Report.' ''

(3) *The definition of ''methodologically and chemically related group.''* Often, many similar chemicals are measured together in the same analytical procedure on a single preparation of an individual specimen. This is possible because the chemicals share similar physical/chemical properties and because of recent advances in separation and detection technologies (e.g., chromatography followed by mass spectrometry). Such chemicals were previously referred to as belonging to a ''methodologically and chemically related group.'' Because of issues in the following discussion, the terminology and definition have been changed to the following: A ''method-related group'' is defined as a group of chemicals that are (1) measured together using a single analytical method; (2) structurally similar; (3) typically generated together from exposure sources (e.g., dioxin congeners, furan congeners, polyaromatic hydrocarbons); and (4) typically assessed for health risk together as a group.

Commenters asked whether a chemical satisfying this criterion should be measured in subsequent reports (as CDC intends) only because other chemicals in the ''methodologically and chemically related group'' were being reported. CDC seeks to balance both the scientific importance and cost of measuring specific chemicals. In regard to scientific importance, scientists who consider the aggregate effect of certain chemical groups (e.g., molar sums or toxic equivalents [TEQs]) may need to know whether a component chemical of a group was not detected and noncontributory as opposed to not measured. CDC would continue to measure a chemical in a method-related group that met this criterion for removal where it would be helpful for risk assessment of the entire group of chemicals (e.g., dioxins).

(4) *The application of the criterion to the entire group versus individual chemicals in the group to achieve cost savings.*

Commenters asked whether there would not be some cost savings by not

measuring a chemical that met a criterion for removal among the multiple chemicals measured in such an assay. Removing one of a group of related chemicals (e.g., PCBs) from the ''Report'' although it alone meets a criterion, would generate little additional savings. The relative cost savings are in direct proportion to the number of chemicals in a multichemical analysis. Removing 1 of 26 chemicals (e.g., PCB congeners) would save only about 4% of the post-instrumental analysis labor and cost of standards but would result in little or no savings in all other costs such as labor, supplies, sample preparation, and instrument analysis. Thus, if cost impact were minimal, CDC would continue to measure a chemical in a method-related group that met this removal criterion.

A commenter requested the addition of ''mode of action'' to the definition of a chemically and methodologically related group. Because ''mode of action'' may involve chemicals of different structural classes and different analytical methods, CDC chose not to add this descriptor to the current definition of a method-related group.

Revised draft Criterion 2: If, after three survey periods (a period of not less than 6 years), detection rates for all chemicals within a method-related group are less than 5 percent for all population subgroups (e.g., two sexes, three race/ethnicity groups, and the age groups used in the ''Report'').

Specific comments related to Criterion 3: If, after three survey periods (or not less than 6 years), levels of chemicals within a methodologically and chemically related group are unchanged or declining in all the specific subgroups as documented in the ''Report.''

Comments addressed the following: (1) No change or declining levels over three survey periods is not synonymous with lessened health concerns, (2) the criterion does not address unforeseen increases in chemicals after their removal from the ''Report,'' (3) whether new demographic groups might be added in the future and whether criterion 3 would also apply to these new demographic groups (e.g., people aged 60 years and older), and (4) further definition of unchanged or declining levels is required.

CDC Responses related to Criterion 3:

(1) *No change or declining levels over three survey periods is not synonymous with lessened health concerns.* CDC agrees that the phrase ''no change over a 6-year period'' is not synonymous with a lessened concern for certain chemicals with possible heath risks. If, however, there is public health concern about a particular chemical, exception ''a'' would apply. If 6 years or three survey periods is not long enough to evaluate a persistent chemical, exception ''b'' would apply. In addition, a chemical previously removed from the ''Report'' could reappear in the ''Report'' if that chemical again met the inclusion criteria for selecting chemicals for the ''Report.'' (see **Federal Register**, Vol. 71, No. 94, May 16, 2006, pages 28346–7).

(2) *The criterion does not address unforeseen increases in levels of chemicals after their removal from the ''Report.''* CDC agrees that criterion 3 would not address situations involving an unforeseen rise in the level of a chemical after its removal from future monitoring by the ''Report.'' As it did for criterion 2 (stated above), CDC will include the following language: ''For a chemical that meets criterion 2 or 3, the chemical would be removed from the 'Report' for two future survey periods (4 years) and then measured again in the following survey period (2 years). If either criterion 2 or 3 is still satisfied for this 12-year period (i.e., three initial 2-year survey periods, two intervening 2-year survey periods, final 2-year survey period), then the chemical would be removed from the 'Report' and not reinstated unless the chemical once again met the criteria for inclusion in the 'Report.'''

(3) *Whether new demographic groups might be added in the future and whether criterion 3 would also apply to these new demographic groups (e.g., people aged 60 years and older).* As is also stated above for Criterion 2, Criterion 3 would apply to all subgroups—listed age groups, both sexes, and three race/ethnicities-for which statistically sufficient data are reported. In other words, if all but one subgroup satisfied the criterion, it would be important to continue measuring the chemical. In answer to the possibility of additional subgroups in a future ''Report,'' CDC does intend to divide the 20 and older age group into two groups: 20–59 years and 60 years and older. If past and additional (new) demographic groups all satisfy the criterion, the chemical could be removed. Other than this older age group, NHANES sampling design and statistical considerations make it unlikely that demographic groups will be added.

(4) *Further definition of unchanged or declining levels is required.* CDC agrees that the phrase ''unchanged or declining'' needs further definition. CDC has revised the wording of this criterion by adding the following: ''Evidence that chemical levels are unchanged or declining would be the absence of a statistically significant ($p < 0.05$) positive slope of mean (or geometric mean) levels of the chemical over the time period.''

Revised draft Criterion 3: If after three survey periods (a period of not less than 6 years), levels of chemicals within a method-related group are unchanged or declining in all the demographic subgroups documented in the ''Report.'' Evidence that chemical levels are unchanged or declining would be the absence of a statistically significant ($p < 0.05$) positive slope of mean (or geometric mean) levels of the chemical over the time period.

Specific comments related to Exceptions ''a'' and ''b'': (a) It is a chemical for which there is an established biomonitoring health threshold (e.g., CDC's level of concern for blood lead levels in children) or any chemical for which there is widespread public health concern (e.g., mercury), or (b) three survey periods (or not less than 6 years) have passed, which constitute the minimum time before a chemical could be removed; a longer period may be necessary to account for the half-life of a particular chemical or to account for a recent change (e.g., the removal of a chemical from commerce) that would necessitate monitoring of the population.

Comments addressed the following: (1) the meaning of the phrase ''widespread public health concern'' in exception ''a,'' and (2) the rationale for exception ''b.''

CDC Responses related to Exceptions ''a'' and ''b'':

(1) *The meaning of the phrase ''widespread public health concern'':* A commenter stated that ''widespread health concern'' was broad and vague and wished to know what constituted ''widespread concern'' as well as the process used to determine ''widespread concern.'' CDC will change the sentence in exception ''a'' that contains the phrase ''widespread public health concern'' to ''The chemical has an established federal biomonitoring health threshold (e.g., CDC's level of concern for blood lead levels in children) or after consultation with relevant federal agencies, CDC learns that a federal agency considers the chemical of sufficient priority to warrant continued monitoring.''

(2) *The rationale for exception ''b.'' A commenter stated that* ''* * * this exception appears to provide the CDC with a sensible amount of flexibility; the commenter urges CDC to provide the rationale for applying this exception.'' To better explain exception ''b,'' CDC will use the following wording: ''The chemical has a long half-life (e.g., DDE),

which would require additional time to track changes reliably in population levels, or recent changes in exposure sources indicate that future levels are likely to increase.'' Chemicals with long half-lives in the body or persistence in the environment may not decline appreciably within shorter time frames such as 6 years, and longer periods of monitoring may be necessary to assess whether exposure levels are changing.

Revised draft exceptions: (a) The chemical has an established federal biomonitoring health threshold (e.g., CDC's level of concern for blood lead levels in children) or after consultation with relevant federal agencies, CDC learns that a federal agency considers the chemical of sufficient priority to warrant continued monitoring; or (b) the chemical has a long half-life (e.g., DDE), which would require additional time to track changes reliably in population levels, or recent changes in exposure sources indicate that future levels are likely to increase.

Summary of Revised Draft Criteria

As stated, CDC now publicly announces the final criteria for removing chemicals from future releases of the ''Report.'' These criteria will become part of a combined process for nominating candidate chemicals for inclusion in or removal from the ''Report.'' The process will include (a) nominations from the public of candidate chemicals to include in or remove from the ''Report,'' (b) an external scoring of nominations in accordance with the published nomination and removal criteria, and (c) assistance from the Board of Scientific Counselors of CDC's National Center for Environmental Health/Agency for Toxic Substances and Disease Registry in reviewing plans for including or removing chemicals and identifying alternatives for monitoring specific at-risk population subgroups. This combined process will occur periodically (e.g., every 6 years). Note that the criteria for selecting and removing chemicals apply only to chemicals published in the ''Report''—not to those merely nominated.

The final removal criteria are as follows: A chemical will be removed from the ''Report'' if it meets any one of the following three criteria and does not meet either of the exceptions to those criteria. Accordingly, a chemical will be removed if (1) a new replacement chemical (i.e., a metabolite or other chemical) is more representative of exposure than the chemical currently measured; or (2) if after three survey periods (a period of not less than 6 years), detection rates for all chemicals within a method-related group are less than 5 percent for all population subgroups (i.e., two sexes, three race/ethnicity groups, and the age groups used in the ''Report'') or; (3) if after three survey periods (a period of not less than 6 years), levels of chemicals within a method-related group are unchanged or declining in all the demographic subgroups documented in the ''Report.'' Evidence that chemical levels are unchanged or declining would be the absence of a statistically significant ($p < 0.05$) positive slope of mean (or geometric mean) levels of the chemical over the time period.

For a chemical that meets criterion 1, the chemical would be removed from future reports and would be replaced with the new chemical that better reflects exposure.

For a chemical that meets criterion 2 or 3, the chemical would be removed from the ''Report'' for two future survey periods (4 years) then measured again in the following survey period (2 years). If either criterion 2 or 3 is still satisfied for this 12-year period (three initial 2-year survey periods, two intervening 2-year survey periods, final 2-year survey period), then the chemical would be removed from the ''Report'' and not reinstated unless the chemical once again met the criteria for inclusion in the ''Report.''

A chemical would continue to be measured and not be removed from the ''Report'' if it met either of two exceptions to the above-cited revised draft criteria: (a) The chemical has an established federal biomonitoring health threshold (e.g., CDC's level of concern for blood lead levels in children) or after consultation with relevant federal agencies CDC learns that a federal agency considers the chemical of sufficient priority to warrant continued monitoring; or (b) the chemical has a long half-life (e.g., DDE), which would require additional time to track changes reliably in population levels, or recent changes in exposure sources indicate that future levels are likely to increase.

FOR FURTHER INFORMATION CONTACT: Dorothy Sussman, Telephone 770–488–7950.

SUPPLEMENTARY INFORMATION: CDC publishes the ''Report'' under authorities 42 U.S.C. 241 and 42 U.S.C. 242k. The ''Report'' provides ongoing assessment using biomonitoring of the exposure of the noninstitutionalized, civilian population to environmental chemicals. Biomonitoring assesses human exposure to chemicals by measuring the chemicals or their metabolites in human specimens such as blood or urine. For the ''Report,'' the term *environmental chemical* means a chemical compound or chemical element present in air, water, soil, dust, food, or other environmental medium. The ''Report'' provides exposure information about participants in an ongoing national survey known as the National Health and Nutrition Examination Survey (NHANES). This survey is conducted by CDC's National Center for Health Statistics; measurements are conducted by CDC's National Center for Environmental Health. The first ''Report,'' published in March 2001, gave information about levels of 27 chemicals found in the U.S. population; the second ''Report'' was published in January 2003, and it contained exposure information on 116 chemicals, including the 27 chemicals in the first ''Report.'' The third ''Report'' was published in July 2005, and it contained exposure information on 148 chemicals, including data on the chemicals published in the second ''Report.'' Copies of the third ''Report'' can be obtained in the following ways: Access *http://www.cdc.gov/exposurereport*, send an e-mail to *cdcinfo@cdc.gov*, or telephone 1–800–CDC–INFO.

Dated: March 25, 2008.

Kenneth Rose,

Director, Office of Policy, Planning, and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. E8–6350 Filed 3–27–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2276–FN]

Medicare and Medicaid Programs; Approval of the Community Health Accreditation Program for Continued Deeming Authority for Home Health Agencies

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final Notice.

SUMMARY: This final notice announces our decision to approve the Community Health Accreditation Program (CHAP) for recognition as a national accreditation program for home health agencies (HHAs) seeking to participate in the Medicare or Medicaid programs.

DATES: *Effective Date:* This final notice is effective March 31, 2008 through March 31, 2012.

FOR FURTHER INFORMATION CONTACT:

Cindy Melanson, (410) 786–0310.
Patricia Chmielewski (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a home health agency (HHA) provided certain requirements are met. Sections 1861(o), 1891, 1895 and 1861(m) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as an HHA. Under this authority, the minimum requirements that an HHA must meet to participate in Medicare are set forth in regulations at 42 CFR part 484 and 409, which determine the basis and scope of HHA-covered services, and the conditions for Medicare payment for home health care. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488.

Generally, to enter into an agreement with the Medicare program, an HHA must first be certified by a State survey agency as complying with conditions or requirements set forth in part 484 of our regulations. Then, the HHA is subject to regular surveys by a State survey agency to determine whether it continues to meet those requirements. However, there is an alternative to surveys by State agencies.

Section 1865(b)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we may ''deem'' those provider entities as having met the requirements. Accreditation by an accreditation organization is voluntary and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, a provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A, must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning re-approval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accreditation organizations to reapply for continued approval of deeming authority every 6 years, or sooner as we determine. The Community Health Accreditation Program's (CHAP) term of approval as a recognized accreditation program for HHAs expires March 31, 2008.

II. Deeming Applications Approval Process

Section 1865(b)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of an application to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish an approval or denial of the application.

III. Proposed Notice

On October 26, 2007, we published a proposed notice (72 FR 60853) announcing CHAP's request for re-approval as a deeming organization for HHAs. In the proposed notice, we detailed our evaluation criteria. Under section 1865(b)(2) of the Act and our regulations at § 488.4 (Application and reapplication procedures for accreditation organizations), we conducted a review of CHAP's application in accordance with the criteria specified by our regulation, which include, but are not limited to the following:

- An onsite administrative review of CHAP's (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of CHAP's HHA accreditation standards to our current Medicare HHA conditions for participation.
- A documentation review of CHAP's survey processes to:

++ Determine the composition of the survey team, surveyor qualifications, and the ability of CHAP to provide continuing surveyor training.

++ Compare CHAP's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ Evaluate CHAP's procedures for monitoring providers or suppliers found to be out of compliance with CHAP program requirements. The monitoring procedures are used only when the CHAP identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).

++ Assess CHAP's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ Establish CHAP's ability to provide us with electronic data in ASCII-comparable code and reports necessary for effective validation and assessment of CHAP's survey process.

++ Determine the adequacy of staff and other resources.

++ Review CHAP's ability to provide adequate funding for performing required surveys.

++ Confirm CHAP's policies with respect to whether surveys are announced or unannounced.

++ Obtain CHAP's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(b)(3)(A) of the Act, the October 26, 2007 proposed notice (72 FR 60853) also solicited public comments regarding whether CHAP's requirements met or exceeded the Medicare conditions of participation for HHAs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between CHAP's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared the standards contained in CHAP's accreditation requirements for HHAs and its survey process in CHAP's Application for Renewal of Deeming Authority for HHA Facilities with the Medicare HHA conditions for participation and our State Operations Manual. Our review and evaluation of CHAP's deeming application, which were conducted as described in section III of this final notice, yielded the following:

- In order to meet the requirements at § 484.36(c)(2), CHAP added language to its standards to address that home health aide services must be ordered by the physician in the plan of care.
- In order to ensure compliance with its own policies and procedures related to surveyors and meet the requirements

of § 488.4(a)(4), CHAP developed a Personnel Audit Tool that will be used bi-annually.

- CHAP developed policies and procedures to address potential conflict of interest issues that may result for CHAP surveyors who also act as consultants.
- In order to comply with the requirements of § 488.4(a)(3)(iv), CHAP revised its process for notifying facilities of accreditation-related decisions and developed a tracking system to ensure that deficiencies cited are appropriately addressed.
- CHAP added language to their Complaint Policies and Procedures to meet CMS requirements at 42 CFR 488.4(a)(6). This new language provides increased clarity for the prioritization of complaints, time frames for investigative site visits and/or other required activities.
- CHAP revised its complaint policies to be consistent with CMS policies listed in Section 5010 of the State Operations Manual ''(Management of Complaints and Incidents'').
- CHAP updated its list of conditions surveyed during a standard survey to include the requirements of § 484.11 and § 484.55.
- In accordance with § 488.9, CMS will conduct a follow-up corporate site visit in 1 year, to assess CHAP's compliance with its own policies and procedures.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that CHAP's requirements for HHAs meet or exceed our requirements. Therefore, we approve CHAP as a national accreditation organization for HHAs that request participation in the Medicare program, effective March 31, 2008 through March 31, 2012.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplemental Medical Insurance Program)

Dated: January 25, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services

[FR Doc. E8–5073 Filed 3–27–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2277–FN]

Medicare and Medicaid Programs; Approval of the Joint Commission for Continued Deeming Authority for Home Health Agencies

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final Notice.

SUMMARY: This final notice announces our decision to approve The Joint Commission for recognition as a national accreditation program for home health agencies (HHAs) seeking to participate in the Medicare or Medicaid programs.

DATES: *Effective Date:* This final notice is effective March 31, 2008 through March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Cindy Melanson, (410) 786–0310. Patricia Chmielewski (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a home health agency (HHA) provided certain requirements are met. Sections 1861(o) , 1891, 1895 and 1861(m) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as an HHA. Under this authority, the minimum requirements that an HHA must meet to participate in Medicare are set forth in regulations at 42 CFR part 484 and part 409, which determine the basis and scope of HHA-covered services, and the conditions for Medicare payment for home health care. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488.

Generally, to enter into an agreement with the Medicare program, an HHA must first be certified by a State survey agency as complying with conditions or requirements set forth in part 484 of our regulations. Then, the HHA is subject to regular surveys by a State survey agency to determine whether it continues to meet those requirements.

There is an alternative to surveys by State agencies. Section 1865(b)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we may ''deem'' those provider entities as having met the requirements. Accreditation by an accreditation organization is voluntary and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning re-approval of accrediting organizations are set forth at section § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accreditation organizations to reapply for continued approval of deeming authority every 6 years, or sooner as we determine. The Joint Commission's term of approval as a recognized accreditation program for HHAs expires March 31, 2008.

II. Deeming Applications Approval Process

Section 1865(b)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days after the date of receipt of an application to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish in the **Federal Register**, a final notice of approval or denial of the application.

III. Provisions of the Proposed Notice

On October 26, 2007, we published in the **Federal Register**, a proposed notice (72 FR 60855) announcing The Joint Commission's request for re-approval as

a deeming organization for HHAs. In the proposed notice, we detailed our evaluation criteria. Under section 1865(b)(2) of the Act and our regulations at § 488.4 (Application and reapplication procedures for accreditation organizations), we conducted a review of The Joint Commission's application in accordance with the criteria specified by our regulation, which include, but are not limited to the following:

• An onsite administrative review of The Joint Commission's (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.

• A comparison of The Joint Commission's HHA accreditation standards to our current Medicare HHA conditions for participation.

• A documentation review of The Joint Commission's survey processes to:

++ Determine the composition of the survey team, surveyor qualifications, and the ability of The Joint Commission to provide continuing surveyor training.

++ Compare The Joint Commission's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ Evaluate The Joint Commission's procedures for monitoring providers or suppliers found to be out of compliance with The Joint Commission program requirements. The monitoring procedures are used only when The Joint Commission identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).

++ Assess The Joint Commission's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ Establish The Joint Commission's ability to provide us with electronic data in ASCII-comparable code and reports necessary for effective validation and assessment of The Joint Commission's survey process.

++ Determine the adequacy of staff and other resources.

++ Review The Joint Commission's ability to provide adequate funding for performing required surveys.

++ Confirm The Joint Commission's policies with respect to whether surveys are announced or unannounced.

++ Obtain The Joint Commission's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(b)(3)(A) of the Act, the October 26, 2007 proposed notice (72 FR 60855) also solicited public comments regarding whether The Joint Commission's requirements met or exceeded the Medicare conditions of participation for HHAs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between the Joint Commission's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared the standards contained in The Joint Commission's Comprehensive Accreditation Manual for Home Care and its survey process in The Joint Commission's Application for Continued Home Health Deeming Authority with the Medicare HHA conditions for participation and our State Operations Manual (SOM). Our review and evaluation of The Joint Commission's deeming application, which were conducted as described in section III of this final notice, yielded the following:

• To meet the requirements for initial home health certification surveys listed in the SOM at 2200A5, The Joint Commission revised its standards to reflect the requirement that HHAs must have provided care to a minimum of ten patients and at least seven of the ten patients are receiving care at the time of the initial survey.

• To meet the requirements for initial certification surveys listed in the SOM at 2200A5, The Joint Commission revised it standards to reflect the requirement that HHAs must provide nursing and at least one other therapeutic service.

• To meet the requirements listed in the SOM at 2200C4, The Joint Commission updated its home care surveyor activity guide to reflect that all patients (private pay and Medicare beneficiaries) are included in the clinical record review or selection of home visits for a Medicare certification survey.

• To meet the requirements of § 488.28(a), The Joint Commission will no longer issue supplemental findings for HHAs seeking deemed status. All deficiencies identified during a certification survey will be cited as requirements for improvement which the HHA will be required to submit a written plan of correction.

• To meet the requirements at 488.8(a)(3), The Joint Commission has agreed to provide CMS with a copy of its most current accreditation survey along with any other related information that CMS requires, including corrected action plans, when requested.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that The Joint Commission's requirements for HHAs meet or exceed our requirements. Therefore, we approve The Joint Commission as a national accreditation organization for HHAs that request participation in the Medicare program, effective March 31, 2008 through March 31, 2014.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplemental Medical Insurance Program)

Dated: January 25, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E8–5074 Filed 3–27–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage

for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Cell Line PE, Developed From Mouse Skin Tumors, Demonstrates Unique Qualities

Description of Technology: Available for licensing is the mouse skin tumor cell line PE. These skin tumor cells were isolated from papilloma cells induced by chemical carcinogens. The PE cell lines differ from normal keratinocytes in their ability to maintain a proliferating population under conditions favoring terminal differentiation, their consistent proliferative response to phorbol esters under these same conditions, and their reduced sensitivity to phorbol ester-induced terminal differentiation. All of these properties should provide a growth advantage to these cells during tumor promotion. The PE cell line is one of the studied cell lines.

Applications: The PE cell lines could be used for assays for cancer treatment and prevention or study of several aspects of cutaneous biology.

PE cells could be used in the cosmetic industry to study response to cosmaceuticals or fragrances.

PE cells also demonstrated robust expression of phase 2 detoxification enzymes in response to a variety of inducing agents.

Advantage: The various properties of papilloma cells (PE cell line) differ from keratinocytes which will provide a growth advantage to the PE cell lines during tumor promotion.

Market: In the U.S., there was an estimated 59,940 new cases of melanoma cancer in 2007 and an estimated 8,110 melanoma deaths in 2007. There were nearly one million cases of non-melanoma skin cancers diagnosed in the U.S. in 2007.

Cosmetics industry is a $30 billion industry with a 20% annual growth rate.

Inventors: Stuart H. Yuspa and Henry Hennings (NCI).

Publication: SH Yuspa *et al.* Cultivation and characterization of cells derived from mouse skin papillomas induced by an initiation-promotion protocol. Carcinogenesis 1986 Jun;7(6):949–958.

Patent Status: HHS Reference No. E–100–2008/0—Research Tool. Patent protection is not being sought for this technology.

Availability: Available for non-exclusive licensing.

Licensing Contact: Adaku Nwachukwu, J.D.; 301–435–5560; *madua@mail.nih.gov*.

Mucin Binding Lectin Imaging Agents for Colonic Polyp Imaging

Description of Technology: Available for licensing and commercial development is an imaging agent specific for colonic polyps that overexpress glycoprotein α-L-fucose containing mucins. Colon cancer is the second leading cause of cancer related deaths in the United States. The legume protein *Ulex* europaeus agglutinin I (UEA–1) has shown high specificity to α-L-fucose glycoproteins. Colonic mucosal neoplasia and/or polyps with high surface expression of α-L-fucosyl terminal residues can be specifically targeted with UEA–1 contrast agents. In one example, a computer tomography (CT) agent made from Iodine-127 (^{127}I) labeled UEA–1 (I–UEA–1) and encapsulated into polymeric liposome nanoparticles was used to image murine colonic polyps. Ideally, the inventors envision a contrast agent that can be administered orally (e.g., liquid or pill form) and that would eliminate a patient's need to drink harsh enema/contrast solutions prior to CT imaging.

Applications: Colon cancer; Cancer Imaging; Contrast Agents; CT colonography

Inventors: Ronald M. Summers, Jianwu Xie, Celeste Roney (CC).

Relevant Publications:

1. J Xie *et al.* Oral contrast enhanced MicroCT virtual colonoscopy of APC knockout mouse colon polyp model. Gastroenterology. 2007 Apr;132(4), Suppl. 1, Abstract No. M1063, pp A-353–A-354.
2. C Roney *et al.* Glycoprotein expression by adenomatous polyps of the colon. SPIE 2008 (in press).
3. SD O'Connor *et al.* Oral contrast adherence to polyps on CT colonography. J Comput Assist Tomogr. 2006 Jan–Feb;30(1):51–57.

Patent Status: U.S. Provisional Application filed 15 Feb 2008 (HHS Ref. No. E–254–2007/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301–435–5010; *shmilovm@mail.nih.gov*.

N–Acetyl Mannosamine as a Therapeutic Agent

Description of Technology: N–Acetyl Mannosamine is a precursor for the synthesis of sugar molecules known as sialic acids which play an important role in specific biological processes such as cellular adhesion, cellular communication and signal transduction. Lack of sialic acids also play an important role in disease processes such as cancer, inflammation and immunity.

This invention relates to methods of administering N–Acetyl Mannosamine or its derivative (to produce sialic acid in patients who are deficient in the sugar molecule) to treat muscular atrophy including hereditary inclusion body myopathy (HIBM) and distal myopathy with rimmed vacuoles (Nonaka myopathy). Certain kidney conditions such as those arising from hyposialytion of kidney membranes may be treated by this method as well.

Applications: Treatment of rare diseases such as HIBM and Nonaka myopathy.

Treatment of kidney conditions involving sialic acid deficiencies resulting in proteinuria and hematuria.

May be useful in treating other diseases involving sialic acid deficiencies.

Publication: B Galeano *et al.* Mutation in the key enzyme of sialic acid biosynthesis causes severe glomerular proteinuria and is rescued by N–acetylmannosamine. J Clin Invest. 2007 Jun;117(6):1585–1594.

Inventors: Marjan Huizing *et al.* (NHGRI).

Patent Status: U.S. Provisional Application No. 60/932,451 filed 31 May 2007 (HHS Reference No. E–217–2007/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301–435–4521; *Fatima.Sayyid@nih.hhs.gov*.

Collaborative Research Opportunity: The National Human Genome Research Institute, Medical Genetics Branch, Cell Biology of Metabolic Disorders unit is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize N–acetylmannosamine as a therapeutic agent. Please contact Marjan Huizing at 301–402–2797or *mhuizing@mail.nih.gov* for more information.

Nitrite Adjunctive Therapy to Enhance Efficacy of Reperfusion Therapy for Acute Myocardial Infarction

Description of Technology: The treatment of coronary heart disease is a multi-billion dollar market. In the case of acute myocardial infarction (MI), more commonly known as a heart attack, the patient receives a number of

diagnostic tests to determine the type and location of the heart damage. Most patients with ST segment elevation are treated with percutaneous coronary intervention (PCI) or thrombolysis. While current therapies, that attempt to reestablish the blood flow and limit ischemia, can be effective, practical delays between symptom presentation and intervention compromise the amount of myocardial salvage. Moreover, the elapsed time prior to PCI is closely related to the clinical outcome. This has resulted in a mortality rate of 7% after MI and nearly all patients suffer from some degree of myocardial necrosis. However, the use of adjunctive pharmacological therapies can improve myocardial salvage following acute percutaneous reperfusion of an acute MI and substantially impact cardiac function.

This technology is a method of using nitrite as an adjunctive therapy to enhance efficacy of reperfusion therapy for acute MI. Evidence suggests that anion nitrite (NO_2) is a physiological signaling molecule with roles in intravascular endocrine nitric oxide (NO) transport, hypoxic vasodilation, signaling, and cytoprotection. In addition, nitrite has the characteristics of an ideal adjunctive therapy that now appears ready for translation to human clinical trials. The benefits of nitrite therapy include (1) Significant cardioprotection after prolonged ischemia, (2) simple administration, (3) low dose for pharmacological action, (4) short half-life (5) minimal side effects, (6) low expense, (7) rapid onset of action. Additionally, the therapy utilizes a cardioprotective mechanism that is not dependent on vasodilation or pressure rate changes. The use and dosing protocols of nitrite, as described by this technology, could limit MI and apoptosis in the reperfusion phase of injury and provide a remarkable degree of cardioprotection.

Applications: Treatment or amelioration of myocardial salvage following acute percutaneous reperfusion of an acute MI.

Development Status: Clinical Development.

Inventors: Mark T. Gladwin *et al.* (NHLBI).

Relevant Publications:

1. MT Gladwin, JH Shelhamer, AN Schechter, ME Pease-Fye, MA Waclawiw, JA Panza, FP Ognibene, RO Cannon 3rd. Role of circulating nitrite and S–nitrosohemoglobin in the regulation of regional blood flow in humans. Proc Natl Acad Sci U S A. 2000 Oct 10;97(21):11482–11487.

2. RO Cannon 3rd, AN Schechter, JA Panza, FP Ognibene, ME Pease-Fye, MA Waclawiw, JH Shelhamer, MT Gladwin. Effects of inhaled nitric oxide on regional blood flow are consistent with intravascular nitric oxide delivery. J Clin Invest. 2001 Jul;108(2):279–287.

Patent Status: U.S. Provisional Application No. 60/911,026 filed 10 Apr 2007 (HHS Reference No. E–023–2007/0–US–01)

Licensing Status: Available for licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301–435–4521; *Fatima.Sayyid@nih.hhs.gov*.

Collaborative Research Opportunity: The NHLBI Pulmonary and Vascular Medicine Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize nitrite adjunctive therapy to enhance efficacy of reperfusion therapy for acute myocardial infarction. Please contact Dr. Mark Gladwin at 301–435–2310 for more information.

Compositions and Methods for Increasing Recombinant Protein Yields Through the Modification of Cellular Properties

Description of Technology: This technology relates to compositions and methods for improving the growth characteristics of cells engineered to produce biologically active products such as antibodies or glycosylated proteins. Featured is a method that uses gene candidates (e.g., cdkl3, siat7e, or lama4), or their expressed or inhibited products in cell lines, such as Human Embryonic Kidney (including HEK–293), HeLa, or Chinese Hamster Ovary (CHO). The gene expression modulates growth characteristics, such as adhesion properties, of the cell lines thereby increasing recombinant protein yields and reducing product production costs.

Applications: This technology may be used to improve production of therapeutic and/or diagnostic compounds, including therapeutic proteins or monoclonal antibodies from mammalian cells. Optimization of mammalian cells for use as expression systems in the production of biologically active products is very difficult. For certain applications, anchorage-independent cell lines may be preferred, whereas for other applications, a cell line that adheres to a surface, e.g., is anchorage-dependent, may be preferable. This technology provides a method for identifying a gene whose expression modulates such cellular adhesion characteristics. This method thus leads to an increase in the expression or yield of polypeptides, including therapeutic biologicals, such as antibodies, cytokines, growth factors, enzymes, immunomodulators, thrombolytics, glycosylated proteins, secreted proteins, and DNA sequences encoding such polypeptides and a reduction in the associated costs of such biological products.

Advantages: This technology offers the ability to improve yields and reduce the cost associated with the production of recombinant protein products through the selection of cell lines having: Altered growth characteristics; altered adhesion characteristics; altered rate of proliferation; improvement in cell density growth; improvement in recombinant protein expression level.

Market: Biopharmaceuticals, including recombinant therapeutic proteins and monoclonal antibody-based products used for in vivo medical purposes and nucleic acid based medicinal products now represent approximately one in every four new pharmaceuticals on the market. The market size has been estimated at $33 billion in 2004 and is projected to reach $70 billion by the end of the decade. The list of approved biopharmaceuticals includes recombinant hormones and growth factors, mAB-based products and therapeutic enzymes as well as recombinant vaccines and nucleic acid based products.

Mammalian cells are widely used expression systems for the production of biopharmaceuticals. Human embryo kidney (including HEK–293) and Chinese hamster ovary (CHO) are host cell of choice. The genes identified in this technology (e.g., cdkl3, sia7e, or lama4) can be used to modify these important cell based systems.

This technology is ready for use in drug/vaccine discovery, production and development. The technology provides methods for identification of specific gene targets useful for altering the production properties of either existing cell lines to improve yields or with new cell lines for the production of therapeutic and or diagnostic compounds from mammalian cells.

Companies that are actively seeking production platforms based on mammalian cell lines that offer high efficiency, high throughput systems for protein production or analysis at lower cost and ease of scale-up would be potential licensors of this technology.

Development Status: Late Stage—Ready for Production.

Inventors: Joseph Shiloach (NIDDK), Pratik Jaluria (NIDDK).

Related Publication: P Jaluria *et al.* Application of microarrays to identify and characterize genes involved in attachment dependence in HeLa cells. Metab Eng. 2007 May;9(3):241–251.

Patent Status: U.S. Provisional Application No. 60/840,381 filed 24 Aug 2006 (HHS Reference No. E–149–2006/0–US–01); PCT Application No. PCT/US2007/018699 filed 24 Aug 2007 (HHS Reference No. E–149–2006/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301–435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Diabetes and Digestive and Kidney Diseases, Biotechnology Core Laboratory, is seeking parties interested in collaborative research projects directed toward the use of this technology with cells for drug and vaccine production and development, including growth optimization, production and product recovery processes. For more information, please contact Dr. Joseph Shiloach, *josephs@intra.niddk.nih.gov*, or Rochelle S. Blaustein at *Rochelle.Blaustein@nih.gov*.

March 20, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–6316 Filed 3–27–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate proposals for support through the RAID program by making available to the research community, on a competitive basis, NCI new agent development contract resources for the preclinical development of drugs and biologics. The outcome of the evaluation will be a decision whether NCI should support the request and make available contract resources for support through the RAID program to the research community and NCI new agent development for the preclinical development of drugs and biologics. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Rapid Access to Intervention Development.

Date: May 2, 2008.

Time: 8:30 a.m.–5 p.m.

Agenda: To evaluate the Rapid Access to Intervention Development Portfolio.

Place: National Institutes of Health, Executive Plaza North, Conference Room G, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Phyllis G. Bryant, Executive Secretary, Program Analyst, Developmental Therapeutics Program, National Cancer Institute, NIH, 6130 Executive Boulevard, Rm. 8022, Bethesda, MD 20892, (301) 496–8720.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 20, 2008.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–6198 Filed 3–27–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Institutional Training Mechanism Review Committee.

Date: June 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Charles Joyce, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 20, 2008.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–6196 Filed 3–27–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel To Review Contract Proposals.

Date: April 16–17, 2008.

Time: 7:30 a.m. to 7 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Washington DC/Silver Spring; 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Brenda Lange-Gustafson, PhD, Scientific Review Officer, NIAID, DEA, Scientific Review Program, Room 3122, 6700–B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–3684, *bgustafson@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 20, 2008.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–6194 Filed 3–27–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Commission on Digestive Diseases, May 16, 2008, 4 p.m. to 7 p.m., Westin San Diego, 400 West Broadway, Topaz Room, San Diego, CA 92101 which was published in the **Federal Register** on March 19, 2008, 73 FR 14823.

The notice is being amended to correct the URL that was previously published to *http://www2.niddk.nih.gov/AboutNlDDK/CommitteesAndWorkingGroups/NCDD/default.htm.*

Dated: March 20, 2008.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–6195 Filed 3–27–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; LADU P01–A2 Teleconference.

Date: April 17, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2c212, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: William Cruce, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2c212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Cuervo P01–Al TC.

Date: May 8, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Room 20212, 7201 Wisconsin Avenue, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Bita Nakhai, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Bldg., 20212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Health, Aging and the Life-Course.

Date: June 24, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging; Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, PhD, DSC, National Institute on Aging, 7201 Wisconsin Avenue, Suite 20212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 20, 2008.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–6200 Filed 3–27–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

National Protection and Programs Directorate, Office of Infrastructure Protection; Submission for Review: CIKR Asset Protection Technical Assistance Program (CAPTAP) Survey, 1670—NEW

AGENCY: National Protection and Programs Directorate, Office of Infrastructure Protection, DHS.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on new information collection request 1670—NEW, CIKR Asset Protection Technical Assistance Program (CAPTAP) Survey. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until May 27, 2008. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESS: Comments and questions about this Information Collection Request should be forwarded to the Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Protection, Infrastructure Information Collection Division, Attn: Veronica Heller, Team Lead, Ballston One, 5th Floor, 4601 N. Fairfax Dr., Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Protection, Attn: Veronica Heller, *veronica.heller@hq.dhs.gov* or 703–235–3035. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including 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.

Analysis

Agency: Department of Homeland Security, National Protection and Programs; Directorate, Infrastructure Protection.

Title: CIKR Asset Protection Technical Assistance Program (CAPTAP) Survey.

OMB Number: 1670—NEW.

Frequency: Once.

Affected Public: State employees.

Number of Respondents: 250 per year.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 42 hours.

Total Burden Cost (capital/startup): $1,000.00.

Total Burden Cost (operating/maintaining): $1,250.00 (This is a shared cost which will diminish as more surveys use the system).

Description: The Constellation/Automated Critical Asset Management System (C/ACAMS) Program Management Office (PMO) uses the CAPTAP customer survey to determine levels of customers' satisfaction with the CAPTAP training and experience with the C/ACAMS tool. The survey supports data-based decision-making because it evaluates quantitative and qualitative data to identify improvements and identify significant issues based on customers' experience. Obtaining current fact-based actionable data about training and tool features allows the program to recalibrate its resources to address new or emerging issues.

Dated: March 18, 2008.

Matt Coose,

Acting Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E8–6324 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

National Protection and Programs Directorate, Office of Infrastructure Protection; Submission for Review: Protected Critical Infrastructure Information (PCII) Program Survey 1670—NEW

AGENCY: National Protection and Programs Directorate, Office of Infrastructure Protection, DHS.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on new information collection request 1670—NEW, Protected Critical Infrastructure Information (PCII) Program Survey. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until May 27, 2008. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Comments and questions about this Information Collection Request should be forwarded to the Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Protection, Infrastructure Information Collection Division, Attn: Veronica Heller, Team Lead, Planning and Policy Integration Team, Ballston One, 4601 N. Fairfax Dr., 5th Floor, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Protection, Attn: Veronica Heller, *veronica.heller@hq.dhs.gov* or 703–235–3035. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including 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.

Analysis

Agency: Department of Homeland Security, National Protection and Programs; Directorate, Infrastructure Protection.

Title: Protected Critical Infrastructure Information (PCII) Program Survey.

OMB Number: 1670—NEW.

Frequency: Once.

Affected Public: Federal, State, local, and tribal government employees and associated government contractors.

Number of Respondents: 400 per year.

Estimated Time Per Respondent: 8 minutes.

Total Burden Hours: 53 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintaining): None.

Description: The Protected Critical Infrastructure Information (PCII) Program Office (PO) uses the PCII program customer survey to determine levels of customers' satisfaction with PCII Officer and Authorized User training. The survey supports data-based decision-making because it evaluates quantitative and qualitative data to identify improvements and identify significant issues based on customers' experience. Obtaining current fact-based actionable data about training allows the program to recalibrate its resources to address new or emerging issues.

Dated: March 21, 2008.

Matt Coose,

Acting Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E8–6337 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

National Protection and Programs Directorate, Office of Infrastructure Protection; Submission for Review Integrated Common Analytical Viewer: GIS System Survey 1670—NEW

AGENCY: National Protection and Programs Directorate, Office of Infrastructure Protection, DHS.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on new information collection request 1670—NEW, Integrated Common Analytical Viewer: GIS System Survey. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), DHS is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until May 27, 2008. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Comments and questions about this Information Collection Request should be forwarded to the Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Protection, Infrastructure Information Collection Division, Attn: Veronica Heller, Team Lead, Ballston One, 5th Floor, 4601 N. Fairfax Dr., Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Protection, Attn: Veronica Heller, *veronica.heller@hq.dhs.gov* or 703–235–3035. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including 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.

Analysis

Agency: Department of Homeland Security, National Protection and Programs; Directorate, Infrastructure Protection.

Title: Integrated Common Analytical Viewer: GIS System Survey.

OMB Number: 1670—NEW.

Frequency: Once.

Affected Public: Federal, State, and local government employees and associated government contractors.

Number of Respondents: 200 per year.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 42 hours.

Total Burden Cost (capital/startup): $1,000.00.

Total Burden Cost (operating/maintaining): $1,250.00 annually (This is a shared cost which will diminish as other surveys use the system).

Description: The Integrated Common Analytical Viewer (iCAV) Program Management Office (PMO) uses the iCAV customer survey to determine levels of customers' satisfaction with the iCAV training experience. The survey supports data-based decision-making because it evaluates quantitative and qualitative data to identify improvements and identify significant issues based on customers' experience. Obtaining current fact-based actionable data about training and tool features allows the program to recalibrate its resources to address new or emerging issues.

Dated: March 21, 2008.

Matt Coose,

Acting Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E8–6344 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2008–0029]

The National Infrastructure Advisory Council

AGENCY: Directorate for National Protection and Programs, Department of Homeland Security.

ACTION: Committee Management; Notice of Federal Advisory Council Meeting.

SUMMARY: The National Infrastructure Advisory Council will meet on April 8, 2008 in Washington, DC. The meeting will be open to the public. Notice of this meeting was previously published in the **Federal Register** to permit timely solicitation of public comment. This notice provides the meeting location.

DATES: The National Infrastructure Advisory Council will meet Tuesday, April 8, 2008 from 1:30 p.m. to 4:30 p.m. Please note that the meeting may close early if the committee has completed its business. For additional information, please consult the NIAC Web site, *http://www.dhs.gov/niac*, or contact Tim McCabe by phone at 703–235–2888 or by e-mail at *timothy.mccabe@associates.dhs.gov*.

ADDRESSES: The meeting will be held at the Hamilton Crowne Plaza Hotel, 14th and K Street, NW., Washington, DC 20005. While we will be unable to accommodate oral comments from the public, written comments may be sent to Nancy Wong, Department of Homeland Security, Directorate for National Protection and Programs, Washington, DC 20528. Written comments should reach the contact person listed no later than April 1, 2008. Comments must be identified by DHS–2008–0029 and may be submitted by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *timothy.mccabe@associates.dhs.gov.* Include the docket number in the subject line of the message.
- Fax: 703–235–3055.
- Mail: Nancy Wong, Department of Homeland Security, Directorate for National Protection and Programs, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Infrastructure Advisory Council, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy Wong, NIAC Designated Federal Officer, Department of Homeland Security, Washington, DC 20528; telephone 703–235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The National Infrastructure Advisory Council shall provide the President through the Secretary of Homeland Security with advice on the security of the critical infrastructure sectors and their information systems.

The National Infrastructure Advisory Council will meet to address issues relevant to the protection of critical infrastructure as directed by the President. The April 8, 2008 meeting will also include final deliberations from one Working Group:

(1) The Insider Threat to Critical Infrastructures.

The Council will also hear status reports from its two new Working Groups:

(1) The Combined Topic Working Group, and

(2) The Critical Partnership Strategic Assessment Working Group.

Procedural

While this meeting is open to the public, participation in The National Infrastructure Advisory Council deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the NIAC Secretariat at 703–235–2888 as soon as possible.

Dated: March 14, 2008.

Nancy Wong,

Designated Federal Officer for the NIAC.

[FR Doc. E8–6347 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–16]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Continuum of Care Homeless Assistance Application

AGENCY: Office of the Assistant Secretary for Community Planning and Development.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 4, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: HUD Desk Officer, Office of Management and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Paperwork Reduction Act Compliance Officer, QDAM Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_Deitzer@hud.gov*, telephone (202) 402–8048. This is not a toll-free number. Copies of documentation submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection requirement as described below. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Consolidated Plan and Annual Performance Report.

Description of Information Collection: Information is to be used in the rating, ranking, and selection of proposals submitted to HUD by state and local governments, public housing authorities, and nonprofit organizations for awarded funds under the Continuum of Care Homeless Assistance programs.

OMB Control Number: 2506–0112.

Agency Form Numbers: HUD 40090–1, HUD 40090–2, HUD 40090–3a and HUD 40090–3b.

Members of Affected Public: Eligible applicants interested in applying for the Continuum of Care Homeless Assistance funds.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 469,700; the number of respondents is 700; the frequency of response for each form varies from weekly, quarterly and annually.

Status: This is a revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 21, 2008.

Lillian Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E8–6319 Filed 3–27–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–13]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and

unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Veronica Rines, Headquarters, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–ZS, Rm 8536, 2511 Jefferson Davis Hwy., Arlington, VA 22209; (703) 601–2545; *Air Force:* Ms. Kathryn Halvorson, Director, Air Force Real Property Agency, 1700 North Moore St., Suite 2300, Arlington, VA 22209–2802; (703) 696–5502; *Coast Guard:* Commandant, United States Coast Guard, Attn: Teresa Sheinberg, 2100 Second St., SW., Rm 6109, Washington, DC 20593–0001; (202) 267–6142; *Energy:* Mr. Mark Price, Department of Energy, Office of Engineering & Construction Management, MA–50, 1000 Independence Ave., SW., Washington, DC 20585; (202) 586–0072; *GSA:* Mr. John Smith, Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084; *Navy:* Mrs. Mary Arndt, Acting Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305. (These are not toll-free numbers.)

Dated: March 20 2008.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 03/28/2008

Suitable/Available Properties

Building

Hawaii

Bldg. 849
Bellows AFS
Bellows AFS HI
Landholding Agency: Air Force
Property Number: 18200330008
Status: Unutilized
Comments: 462 sq. ft., concrete storage facility, off-site use only

Nebraska

Environmental Chemistry
Branch Laboratory
420 South 18th St.
Omaha NE 68102
Landholding Agency: GSA
Property Number: 54200810010
Status: Excess
GSA Number: 7–D–NE–532
Comments: 11,250 sq. ft., needs repair, frequent basement flooding, requires large sump pumps, most recent use—laboratory

Suitable/Available Properties

Building

New York

Bldg. 240
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340023
Status: Unutilized
Comments: 39108 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 247
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340024
Status: Unutilized
Comments: 13199 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 248
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340025
Status: Unutilized
Comments: 4000 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 302
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340026
Status: Unutilized
Comments: 10288 sq. ft., presence of asbestos, most recent use—communications facility

Suitable/Available Properties

Land

Missouri

Communications Site
County Road 424
Dexter Co: Stoddard MO
Landholding Agency: Air Force
Property Number: 18200710001
Status: Unutilized
Comments: 10.63 acres

North Carolina

0.14 acres
Pope AFB
Pope AFB NC
Landholding Agency: Air Force
Property Number: 18200810001
Status: Excess
Comments: most recent use—middle marker, easement for entry

Texas

0.13 acres
DYAB, Dyess AFB
Tye Co: Taylor TX 79563
Landholding Agency: Air Force
Property Number: 18200810002
Status: Unutilized
Comments: most recent use—middle marker, access limitation

Suitable/Unavailable Properties

Building

Washington

22 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420001
Status: Unutilized
Comments: 1625 sq. ft., possible asbestos/ lead paint, most recent use—residential

Bldg. 404/Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420002
Status: Unutilized
Comments: 1996 sq. ft., possible asbestos/ lead paint, most recent use—residential

11 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420003
Status: Unutilized
Comments: 2134 sq. ft., possible asbestos/ lead paint, most recent use—residential

Bldg. 297/Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420004
Status: Unutilized
Comments: 1425 sq. ft., possible asbestos/ lead paint, most recent use—residential

Suitable/Unavailable Properties

Building

Washington

9 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420005
Status: Unutilized
Comments: 1620 sq. ft., possible asbestos/ lead paint, most recent use—residential

22 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420006
Status: Unutilized
Comments: 2850 sq. ft., possible asbestos/ lead paint, most recent use—residential

51 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420007
Status: Unutilized
Comments: 2574 sq. ft., possible asbestos/ lead paint, most recent use—residential

Bldg. 402/Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420008
Status: Unutilized
Comments: 2451 sq. ft., possible asbestos/ lead paint, most recent use—residential

Suitable/Unavailable Properties

Building

Washington

5 Bldgs./Geiger Heights
Fairchild AFB
222, 224, 271, 295, 260
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420009
Status: Unutilized
Comments: 3043 sq. ft., possible asbestos/ lead paint, most recent use—residential

5 Bldgs./Geiger Heights
Fairchild AFB
102, 183, 118, 136, 113
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420010
Status: Unutilized
Comments: 2599 sq. ft., possible asbestos/ lead paint, most recent use—residential

Land

South Dakota

Tract 133
Ellsworth AFB
Box Elder Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 18200310004
Status: Unutilized
Comments: 53.23 acres

Suitable/Unavailable Properties

Land

South Dakota

Tract 67
Ellsworth AFB
Box Elder Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 18200310005
Status: Unutilized
Comments: 121 acres, bentonite layer in soil, causes movement

Unsuitable Properties

Building

Alaska

Bldg. 9485
Elmendorf AFB
Elmendorf AK
Landholding Agency: Air Force
Property Number: 18200730001
Status: Unutilized
Reasons: Secured Area

Bldg. 12B
Integrated Support Command
Kodiak AK
Landholding Agency: Coast Guard
Property Number: 88200810003
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material, Extensive deterioration

Unsuitable Properties

Building

Alaska

Bldg. 554
Integrated Support Command
Kodiak AK
Landholding Agency: Coast Guard
Property Number: 88200810004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Arizona

Railroad Spur
Davis-Monthan AFB
Tucson AZ 85707
Landholding Agency: Air Force
Property Number: 18200730002
Status: Excess
Reasons: Within airport runway clear zone

California

Bldgs. 5001 thru 5082
Edwards AFB
Area A
Los Angeles CA 93524
Landholding Agency: Air Force
Property Number: 18200620002
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

California

Garages 25001 thru 25100
Edwards AFB
Area A
Los Angeles CA 93524
Landholding Agency: Air Force
Property Number: 18200620003
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 00275
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200730003
Status: Unutilized
Reasons: Extensive deterioration, Within airport runway clear zone, Secured Area

Bldgs. 02845, 05331, 06790
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200740001
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 07173, 07175, 07980
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200740002
Status: Unutilized
Reasons: Secured Area

Bldg. 5308
Edwards AFB
Kern CA 93523
Landholding Agency: Air Force
Property Number: 18200810003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Facility 100
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force

Property Number: 18200810004
Status: Excess
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 22176, 62507, 410363
Marine Corps Base
Camp Pendleton CA
Landholding Agency: Navy
Property Number: 77200810021
Status: Excess
Reasons: Extensive deterioration, Secured Area

Florida

Bldg. 01248
Cape Canaveral AFS
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18200740003
Status: Unutilized
Reasons: Secured Area

Bldg. 44426
Cape Canaveral AFS
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18200740004
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Florida

Bldg. 85406
Cape Canaveral AFS
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18200740005
Status: Unutilized
Reasons: Secured Area

Facility 70520, 10754
Cape Canaveral AFS
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18200810005
Status: Unutilized
Reasons: Secured Area

Georgia

6 Cabins
QSRG Grassy Pond Rec Annex
Lake Park GA 31636
Landholding Agency: Air Force
Property Number: 18200730004
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 101, 102, 103
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200810006
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Georgia

Bldgs. 330, 331, 332, 333
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200810007
Status: Excess
Reasons: Extensive deterioration

Hawaii

Bldg. 1815
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200730005
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 1028, 1029
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200740006
Status: Unutilized
Reasons: Secured Area

Bldgs. 1710, 1711
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200740007
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Louisiana

Barksdale Middle Marker
Bossier LA 71112
Landholding Agency: Air Force
Property Number: 18200730006
Status: Excess
Reasons: Extensive deterioration

Bldgs. 37, 89, 122
Naval Air Station
New Orleans LA 70143
Landholding Agency: Navy
Property Number: 77200810024
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 159, 418, 902
Naval Air Station
New Orleans LA 70143
Landholding Agency: Navy
Property Number: 77200810025
Status: Excess
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Maine

Facilities 1, 2, 3, 4
OTH–B Site
Moscow ME 04920
Landholding Agency: Air Force
Property Number: 18200730007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material

New Mexico

Bldg. 1016
Kirtland AFB
Bernalillo NM 87117
Landholding Agency: Air Force
Property Number: 18200730008
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

North Dakota

Bldgs. 1612, 1741
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Unsuitable Properties

Building

South Carolina

Bldgs. 19, 20, 23
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200730009
Status: Underutilized
Reasons: Secured Area

Bldgs. 27, 28, 29
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200730010
Status: Underutilized
Reasons: Secured Area

Bldgs. 30, 39
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200730011
Status: Underutilized
Reasons: Secured Area

Unsuitable Properties

Building

South Dakota

Bldg. 2306
Ellsworth AFB
Meade SD 57706
Landholding Agency: Air Force
Property Number: 18200740008
Status: Underutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Tennessee

4 Bldgs.
East TN Technology Park
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810007
Status: Excess
Directions: 1513, 1515, 1515E, 1515H
Reasons: Secured Area

24 Bldgs.
Naval Support Activity
Millington TN 38054
Landholding Agency: Navy
Property Number: 77200810022
Status: Excess
Directions: S202, S220, S220A, S221, S222, S223, S224, S225, S236, 246, 277, 278, 343, 360, 756, 891, 892, 893, 1279, 1674, 1675, 1723, 1724, 1829
Reasons: Secured Area

Unsuitable Properties

Building

Texas

Bldg. 1001
FNXC, Dyess AFB

Tye Co: Taylor TX 79563
Landholding Agency: Air Force
Property Number: 18200810008
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 3379, 3380
Naval Air Station
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200810023
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Virginia

Bldgs. 45, 46
Fort Myer
Fort Myer VA 22211
Landholding Agency: Army
Property Number: 21200810061
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Wyoming

Bldgs. 1525, 4303
F.E. Warren AFB
Laramie WY 82005
Landholding Agency: Air Force
Property Number: 18200730012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 00012
Cheyenne RAP
Laramie WY 82009
Landholding Agency: Air Force
Property Number: 18200730013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Within 2000 ft. of flammable or explosive material

Land

Florida

Defense Fuel Supply Point
Lynn Haven FL 32444
Landholding Agency: Air Force
Property Number: 18200740009
Status: Excess
Reasons: Floodway

[FR Doc. E8–6097 Filed 3–27–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Renewal of Information Collection; OMB Control Number 1040–0001, DOI Programmatic Clearance for Customer Satisfaction Surveys

AGENCY: Department of the Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Department of the Interior, DOI) have submitted a request to the Office of Management and Budget (OMB) to approve the information collection (IC) described below. This IC is scheduled to expire March 31, 2008. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC.

DATES: OMB has 60 days to review this request but may act after 30 days, therefore you should submit your comments on or before April 28, 2008.

ADDRESSES: You may submit your comments directly to the Desk Officer for the Department of the Interior (OMB #1040–0001), Office of Information and Regulatory Affairs, OMB, by electronic mail at *oira_docket@omb.eop.gov* or by fax at 202–395–6566. Please also send a copy of your comments to the Department of the Interior; Office of Policy Analysis; Attention: Don Bieniewicz; Mail Stop 3530; 1849 C Street, NW., Washington, DC 20240. If you wish to email comments, the email address is *Donald_Bieniewicz@ios.doi.gov*. Reference ''DOI Programmatic Clearance for Customer Satisfaction Surveys'' in your email subject line. Include your name and return address in your email message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Donald Bieniewicz on 202–208–5978.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Government Performance and Results Act of 1993 (GPRA) (Pub.L. 103–62) requires agencies to ''improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction.'' To fulfill this responsibility, DOI bureaus and offices must collect data from their respective user groups to better understand the needs and desires of the public and to respond accordingly. Executive Order 12862 ''Setting Customer Service Standards'' also requires all executive departments to ''survey customers to determine * * * their level of satisfaction with existing services.'' In addition, customer information helps us meet requirements of the Administration's Program Assessment Rating Tool (PART), the President's Management Agenda (PMA), and Interior's Citizen-Centered Customer Service Policy.

We use customer satisfaction surveys to help us fulfill our responsibilities to provide excellence in government by proactively consulting with those we serve. This programmatic clearance provides an expedited approval process for DOI bureaus and offices to conduct customer research through external surveys such as questionnaires and comment cards.

The proposed renewal covers all of the organizational units and bureaus in DOI. Information obtained from customers by bureaus and offices will be provided voluntarily. No one survey will cover all the topic areas; rather, these topic areas serve as a guide within which the bureaus and offices will develop questions. Questions may be asked in languages other than English (e.g., Spanish) where appropriate. Topic areas include:

(1) Delivery, quality and value of products, information, and services. Respondents may be asked for feedback regarding the following attributes of the information, service, and products provided:

(a) Timeliness.
(b) Consistency.
(c) Accuracy.
(d) Ease of Use and Usefulness.
(e) Ease of Information Access.
(f) Helpfulness.
(g) Quality.
(h) Value for fee paid for information/product/service.

(2) Management practices. This area covers questions relating to how well customers are satisfied with DOI management practices and processes, what improvements they might make to specific processes, and whether or not they feel specific issues were addressed and reconciled in a timely, courteous, and responsive manner.

(3) Mission management. We will ask customers to provide satisfaction data related to DOI's ability to protect, conserve, provide access to, provide scientific data about, and preserve natural, cultural, and recreational resources that we manage, and how well we are carrying out our trust responsibilities to American Indians.

(4) Rules, regulations, policies. This area focuses on obtaining feedback from customers regarding fairness, adequacy, and consistency in enforcing rules, regulations, and policies for which DOI is responsible. It will also help us understand public awareness of rules and regulations and whether or not they are explained in a clear and understandable manner.

(5) Interactions with DOI Personnel and Contractors. Questions will range from timeliness and quality of interactions to skill level of staff providing the assistance, as well as their courtesy and responsiveness during the interaction.

(6) General demographics. Some general demographics may be gathered to augment satisfaction questions so that we can better understand the customer and improve how we serve that customer. We may ask customers how many times they have used a service, visited a facility within a specific timeframe, their ethnic group, or their race.

All requests to collect information under the auspices of this proposed renewal will be carefully evaluated to ensure consistency with the intent, requirements, and boundaries of this programmatic clearance. Interior's Office of Policy Analysis will conduct an administrative and technical review of each specific request in order to ensure statistical validity and soundness. All information collections are required to be designed and deployed based upon acceptable statistical practices and sampling methodologies, and procedures that account for and minimize non-response bias, in order to obtain consistent, valid data and statistics that are representative of the target populations. After completion of its review, the Office of Policy Analysis will forward the specific request to OMB for expedited approval.

II. Data

OMB Control Number: 1040–0001.

Title: DOI Programmatic Clearance for Customer Satisfaction Surveys.

Form Number(s): None.

Type of Request: Extension of an approved collection.

Affected Public: DOI customers. We define customers as anyone who uses DOI resources, products, or services. This includes internal customers (anyone within DOI) as well as external customers (e.g., the American public, representatives of the private sector, academia, other government agencies). Depending upon their role in specific situations and interactions, citizens and DOI stakeholders and partners may also be considered customers. We define stakeholders to mean groups or individuals who have an expressed interest in and who seek to influence the present and future state of DOI's resources, products, and services. Partners are those groups, individuals, and agencies who are formally engaged in helping DOI accomplish its mission.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Estimated Annual Number of Respondents: 120,000. We estimate approximately 60,000 respondents will submit DOI customer satisfaction surveys and 60,000 will submit comment cards.

Estimated Total Annual Responses: 120,000.

Estimated Time Per Response: 15 minutes for a customer survey; 3 minutes for a comment card.

Estimated Total Annual Burden Hours: 18,000.

III. Request for Comments

On January 16, 2008, we published in the **Federal Register** (73 FR 2935) a request for public comments on this proposed renewal. We received one comment in general opposition to DOI conducting customer satisfaction surveys because they would be wasteful and accomplish nothing. Because such surveys are required by law and policy, and the comment provided no specifics, we have not modified the proposed renewal. The public now has a second opportunity to comment on this renewal. We invite comments concerning this IC 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 us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 25, 2008.

Benjamin Simon,

Acting Assistant Director, Office of Policy Analysis, U.S. Department of the Interior.

[FR Doc. E8–6399 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Environmental Impact Statement for the Scotts Valley Band of Pomo Indians' Proposed 29.87 Acre Fee-to-Trust Transfer and Gaming Development Project, Contra Costa County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), in cooperation with the Scotts Valley Band of Pomo Indians (Tribe), National Indian Gaming Commission (NIGC), Contra Costa County, and California Department of Transportation, intends to file a final Environmental Impact Statement (FEIS) with the U.S. Environmental Protection Agency for the proposed approval of a 29.87± acre fee-to-trust transfer and gaming development project in Contra Costa County, California, and that the FEIS is now available to the public. In addition to the trust acquisition for gaming purposes, the proposed action includes approval by the NIGC of a gaming management contract. The FEIS is part of the administrative process that evaluates tribal applications that seek to have the United States take land into trust pursuant to 25 U.S.C. 465 and 25 CFR part 151.

DATES: The Record of Decision on the proposed action will be issued on or after April 29, 2008. Any comments on the FEIS must be received by April 28, 2008.

ADDRESSES: You may mail or handcarry written comments to Amy Dutschke, Acting Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Room W–2820, Sacramento, California 95825. Please include your name, return address and the caption, ''FEIS Comments, Scotts Valley Fee-to-Trust and Gaming Development Project,'' on the first page of your written comments.

The FEIS will be available for review at the Richmond Public Library, Main Library, 325 Civic Center Plaza, Richmond, California 94804, and at the Contra Costa County Library, San Pablo Branch, 2300 El Portal Drive, Suite D, San Pablo, California 94806. General information for the Richmond Public Library can be obtained by calling (510) 620–6555 and for the Contra Costa County Library by calling (510) 374–3998.

If you would like to obtain a copy of the FEIS, please provide your name and

address in writing or by voicemail to John Rydzik, Chief of the Division of Environmental, Cultural Resource Management and Safety, at the BIA address above or at the telephone number provided below.

FOR FURTHER INFORMATION CONTACT: John Rydzik, (916) 978–6042.

SUPPLEMENTARY INFORMATION: The Tribe has asked the BIA to take 29.87± acres of land into trust on behalf of the Tribe, on which the Tribe proposes to develop a casino, parking structure and other facilities. The project site is located in unincorporated Contra Costa County, contiguous with the City of Richmond. Regional access to the project site would be from Richmond Parkway via Interstate 80.

Project alternatives considered in the FEIS include: (1) The preferred casino alternative; (2) a reduced casino; (3) a reduced casino and commercial development; (4) a retail/office development; and (5) no action. The preferred casino alternative includes a 225,000-square-foot casino complex and a five-level parking structure. The alternatives are intended to assist the review of the issues presented, but the Preferred Alternative does not necessarily reflect what the final decision will be, because a complete evaluation of the criteria listed in 25 CFR part 151 may lead to a final decision that differs from the Preferred Alternative and the other alternatives.

Environmental issues addressed in the FEIS include land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, environmental justice, transportation, land use, agriculture, public services, noise, hazardous materials, visual resources, cumulative effects, indirect effects and mitigation.

The BIA has afforded other government agencies and the public ample opportunity to participate in the preparation of this EIS. The BIA published a notice of intent to prepare an EIS for the proposed action in the **Federal Register** on July 20, 2004 (69 FR 43431). BIA also held a public scoping meeting on August 4, 2004, in the City of Richmond. A Notice of Availability for the Draft EIS was published in the **Federal Register** on February 28, 2006 (71 FR 10055). The document was available for public comment from February 28 to April 28, 2006, and a public hearing was held on March 15, 2006, in the City of Richmond.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the address shown in the **ADDRESSES** section, during regular business hours, 8 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 comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published in accordance with section 1503.1 of the Council of Environmental Quality regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), the Department of the Interior Manual (516 DM 1–6), and under the authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: March 5, 2008.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–6346 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grant Availability to Federally Recognized Indian Tribes for Projects Implementing Traffic Safety on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as authorized by the Secretary of Transportation, the Bureau of Indian Affairs (BIA) intends to make funds available to federally recognized Indian tribes on an annual basis for implementing traffic safety projects, which are designed to reduce the number of traffic crashes, death, injuries, and property damage within Indian Country. All project applications received will be reviewed and selected on a competitive basis. This notice informs Indian tribes that grant funds are available and that information packets are being mailed to all tribal leaders on the latest Tribal Leaders list that is compiled by the BIA. A copy of the Application Packet can also be obtained by contacting the BIA Indian Highway Safety Office.

DATES: Request for funds must be received by May 1, of each program year. Requests not in the office of the Indian Highway Safety Program by the close of the business day on May 1, will not be considered and will be returned unopened. The information packets will be distributed to tribal leaders by the end of January of each program year.

ADDRESSES: Each tribe must submit its request to the BIA Division of Safety and Risk Management, Attention: Indian Highway Safety Program Coordinator, 1011 Indian School, NW., Suite 331, Albuquerque, New Mexico 87104.

FOR FURTHER INFORMATION CONTACT: Tribes should direct questions to Patricia Abeyta, Coordinator, Indian Highway Safety Program, or to Paul Holley, Program Administrator, Bureau of Indian Affairs, 1011 Indian School, NW., Suite 331, Albuquerque, New Mexico 87104, telephone number 505–563–5371, or 505–563–5373.

Background

The Federal Aid Highway Act of 1973 (Pub. L. 93–87) provides for the U.S. Department of Transportation (DOT) funding to assist Indian tribes in implementing Highway Safety projects. The projects must be designed to reduce the number of motor vehicle traffic crashes and their resulting fatalities, injuries, and property damage on Indian reservations and within Indian communities. All federally recognized Indian tribes with qualifying Highway Safety projects are eligible to receive this assistance. All tribes receiving awards of program funds are reimbursed for eligible costs incurred under the terms of 23 U.S.C. 402 and subsequent amendments.

Responsibilities

For the purposes of application of the Act, Indian reservations are collectively considered a ''State'' and the Secretary of the Interior is considered the ''Governor of a State.'' The Secretary of the Interior delegated the authority to administer the programs for all the Indian nations in the United States to the Assistant Secretary—Indian Affairs. The Assistant Secretary—Indian Affairs further delegated the responsibility for administration of the Indian Highway Safety Program to the Central Office, Division of Safety and Risk Management (DSRM) located in Albuquerque, New Mexico. The Chief, DSRM, as Program Administrator of the Indian Highway Safety Program, has staff members available to provide program and technical assistance to Indian tribes.

The Indian Highway Safety Program maintains contact with the DOT with respect to program approval, funding and receiving technical assistance. The National Highway Traffic Safety Administration (NHTSA) is responsible for ensuring that the Indian Highway Safety Program is carried out in accordance with the 23 CFR part 1200 and other applicable Federal statutes and regulations.

National Priority Program Areas

The following highway safety program areas have been identified as priority program areas eligible for funding under 23 CFR 1205.3 on tribal lands.

a. Impaired driving;

b. Occupant protection;

c. Traffic records.

Other fundable program areas may be considered based upon well documented problem identification from the tribes.

Indian Highway Safety Program Funding Areas

Proposals are being solicited for the following program areas:

1. *Impaired Driving:* Programs directed at reducing injuries and death attributed to impaired driving on the reservations such as: Selective Traffic Enforcement Programs (STEP) to apprehend impaired drivers; specialized law enforcement training (such as Standardized Field Sobriety Testing); public information programs on alcohol/other drug use and driving; education programs for convicted DWI/DUI offenders; various youth alcohol education programs promoting traffic safety; and programs or projects directed toward judicial training. Proposals for projects that enhance the development and the implementation of innovative programs to combat impaired driving are also solicited.

2. *Occupant Protection:* Programs directed at decreasing injuries and deaths attributed to the lack of safety belt and child-restraint usage such as: surveys to determine usage rates and to identify high-risk non-users; comprehensive programs to promote correct usage of child safety seats and other occupant restraints; enforcement of safety belt ordinances or laws; specialized training (such as Operation Kids, Traffic Occupant Protection Strategies [TOPS]); and Standardized Child passenger Safety Technician Training and evaluations.

3. *Traffic Records:* Programs to help the tribes develop or update electronic traffic records systems which will assist with analysis of crash information, causational factors, and support joint efforts with other agencies to improve the tribe's traffic records.

Project Guidelines

The BIA will send information packets to the tribal leaders of each federally recognized Indian tribe by the end of January of each program year. Upon receiving the information packet, each tribe, to be eligible, must prepare a proposed project based on the following guidelines:

1. *Program Planning:* Program shall be based upon the highway safety problems identified and the goals/objectives measures selected by the tribe.

2. *Problem Identification:* Highway traffic safety problems shall be based upon accurate tribal data. This data should show problems and/or trend analysis and should be available in tribal enforcement and traffic crash records. The data must accompany the proposal.

3. *Countermeasures Selection:* Once tribal traffic safety problems are identified, appropriate countermeasures to solve or reduce the problem(s) must be identified.

4. *Objectives/Performance Measures:* List of objectives and measurable goals, within the National Priority Program Areas, based on highway safety problems identified by the tribe, must be included in each proposal, expressed in clearly defined, time-framed, and measurable terms. (Example: To decrease alcohol related motor vehicle crashes by __percent from the 2005 number of__to__by the end of fiscal year 2008). Performance indicators that enable the Indian Highway Safety Program to track progress, from a specific baseline, must accompany each goal. Performance measures should be aggressive but attainable.

5. *Line Item Budget:* The activities to be funded must be outlined in detail according to the following object groups: personnel services; travel and training; operating costs; and equipment. Because of limited funding, this office will limit indirect costs to a maximum of 15 percent; however, all tribes applying for grants must attach a copy of the tribe's indirect cost rate to the application.

6. *Evaluation Plan:* Evaluation is the process of determining whether a highway safety activity has accomplished its objectives. The tribe must include, in the funding request, a plan explaining how the evaluation will be accomplished and identify the criteria to be used in measuring performance.

7. *Funding Requirements:* With the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), the BIA Indian Highway Safety Program, to certify, on behalf of the tribes, that the program will meet certain conditions and comply with all applicable rules and regulations for administering a highway safety program. In addition to program oversight and technical assistance, the BIA must certify that it will implement the following activities in support of national highway safety goals:

a. Participate in the national law enforcement mobilizations;

b. Encourage sustained enforcement of impaired driving, occupant protection, and speeding;

c. Conduct an annual safety belt survey in accordance with criteria established by the Secretary to measure safety belt usage rates;

d. Develop data systems to provide timely and effective data analysis to support allocation of highway traffic safety resources.

8. In order to comply with the provisions of SAFETEA-LU and the State Certifications and Assurances, the BIA Indian Highway Safety Program will allocate funds on behalf of the tribes to implement the provisions listed in (7) above. Copies of the State Certifications and Assurances are available upon request, or at: *http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/GrantMan/HTML/StateCertifications_8-05.html*.

9. *Project Length:* Traffic safety program funding is designed primarily as the source of invention and motivation. This program is not intended for long term financial support of continuing and on-going operations.

10. *Certification Regarding Drug-Free Workplace Requirement:* Indian tribes receiving highway safety grants through the Indian Highway Safety Program must certify that they will maintain a drug-free workplace.

11. *Certification Regarding Lobbying:* Indian tribes receiving highway safety grants through the Indian Highway Safety Program must certify that they will not use any of the direct funds to pay for, by or on behalf of the tribes, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or

cooperative agreement. (None of the funds under this program can be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body.)

Submission Deadline

Each tribe must send its funding request to the BIA Indian Highway Safety Program offices in Albuquerque, New Mexico by the close of business on May 1, of each program year.

Selection Criteria

Each funding request will be reviewed and evaluated by the BIA Indian Highway Safety Program staff and a designated selection committee. Each member, by assigning points to the following five criteria, will rank each of the proposals based on the following criteria:

Criteria 1: the strength of the Problem Identification based on verifiable, current, and applicable documentation of the traffic safety problem (40 points maximum).

Criteria 2: the quality of the proposed solution plan based on aggressive but attainable Performance Measures, time-framed action plan, cost eligibility, amount, if any, of in-kind funding/support provided by the tribe, and necessity and the reasonableness of the budget (30 points maximum).

Criteria 3: details on how the tribe will evaluate and show progress on its performance measures regarding the Evaluation component (20 points maximum).

Criteria 4: documentation in support of the submitting tribe's qualification, commitment, and community involvement in traffic safety should be included (10 points maximum).

Criteria 5: tribes that have been funded before are eligible for bonus points (up to 10 extra points) if all reporting requirements have been met in previous years.

Notification on Non-Selection

The Program Administrator will notify each tribe of non-selection.

Uniform Administrative Requirements for Grant-in-Aid

Uniform grant administration procedures have been established on a national basis for all grant-in-aid programs by DOT and the NHTSA, under 49 CFR part 18, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government.'' The NHTSA and the FHWA have codified uniform procedures for State Highway Safety Programs in 23 CFR parts 1200, 1205 and 1251. The OMB Circular A–87 and the ''Highway Safety Grant Funding Policy for NHTSA/FHWA Field Administered Grants'' are the established cost principles applicable to grants and contracts through BIA and with tribal governments. A copy of the Grant Funding Policy document can be obtained from the BIA Indian Highway Safety Program office or at: *http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/GrantMan/HTML/01_GrantFundPolicy.html*. It is the responsibility of the BIA Indian Highway Safety Program office to establish operating procedures consistent with the applicable provisions of these rules.

Standards for Financial Management System

Tribal financial systems must provide for:

1. Current and complete disclosure of project actions;
2. Accurate and timely recordkeeping;
3. Accountability and control of all grants funds and equipment;
4. Comparison of actual expenditures with budgeted amounts and;
5. Documentation of accounting records.

Auditing of Highway Safety Projects will be included in the tribal A–133 single audit requirement. Copies of tribal audits must be available for inspection by the highway safety program staff. Tribes must provide monthly program status reports and a corresponding reimbursement claim to the Coordinator, BIA Indian Highway Safety program, 1011 Indian School Road, NW., Suite 331, Albuquerque, New Mexico 87104, in order to be reimbursed for program costs. These will be submitted no later than 10-working days beyond the reporting month.

Project Monitoring

During the program year, it is the responsibility of the BIA Indian Highway Safety Program office to review the implementation of tribal traffic safety plans and programs, monitor the progress of their activities and expenditures, and provide technical assistance as needed. This assistance may be on-site, by telephone, and/or a review of monthly progress claims.

Project Evaluation

The 23 CFR 1200.33 sets out the minimum information that must be contained in the annual report that is required to be submitted to NHTSA. The BIA will conduct an annual performance evaluation for each Highway Safety Project funded. Pursuant to § 1200.33, the evaluation will measure the actual accomplishments to the planned activity, and how the project and activities funded contributed to the overall goal of the Indian Highway Safety Program. Program staff will evaluate progress from baseline data as reported by the tribe. The BIA Indian Highway Safety Program staff will evaluate the project on-site at the discretion of the Indian Highway Safety Program Administrator.

Dated: March 14, 2008.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E8–6349 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–5H–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14916–A, F–14916–A2; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Oscarville Native Corporation. The lands are in the vicinity of Oscarville, Alaska, and are located in:

Seward Meridian, Alaska

T. 6 N., R. 69 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 and 30.

Containing approximately 8,828 acres.

T. 7 N., R. 69 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.

Containing approximately 8,314 acres.

T. 5 N., R. 70 W.,
Secs. 17 and 18.

Containing approximately 1,271 acres.

T. 5 N., R. 71 W.,
Secs. 13, 14, and 15;
Secs. 24 and 25.

Containing approximately 846 acres.

T. 7 N., R. 71 W.,
Secs. 1 and 2.

Containing approximately 80 acres.
Aggregating approximately 19,339 acres.

The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to Oscarville Native Corporation. Notice of

the decision will also be published four times in the Tundra Drums.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 28, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E8–6348 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–922–08–1310–FI–P; MTM 93982 and MTM 93983]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases MTM 93982 and MTM 93983

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), SBG Forever, Inc. timely filed petitions for reinstatement of oil and gas leases MTM 93982 and MTM 93983, Petroleum County, Montana. The lessee paid the required rentals accruing from the date of termination.

No leases were issued that affect these lands. The lessee agrees to new lease terms for rentals and royalties of $5 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of each lease and $163 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the leases per Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination subject to:

- The original terms and conditions of the leases;
- The increased rental of $5 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- the $163 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5098.

Dated: March 24, 2008.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. E8–6345 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–056–5853–EU; N–66686 and N–84735; 8–08807; TAS: 14X5232]

Notice of Realty Action: Modified Competitive Sealed Bid Sale of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer by modified competitive sealed bid sale three parcels of land totaling approximately 20 acres in the Las Vegas Valley at not less than the fair market value (FMV). The three parcels will be offered in two sales to be conducted pursuant to the Southern Nevada Public Land Management Act of 1998 (SNPLMA), Public Law 105–263, 112 Stat. 2343, as amended. The SNPLMA sales will be subject to the applicable provisions of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713 and 1719, respectively, and BLM land sale and mineral conveyance regulations at 43 CFR 2710 and 2720.

DATES: Written comments regarding the proposed sale or the environmental assessment (EA) will be accepted until May 12, 2008. The FMV will be made available prior to the sealed bid closing date. BLM will accept sealed bids for the offered parcels until May 28, 2008, at 4:30 p.m., Pacific Time, at the Las Vegas Field Office. Sealed bids will be opened at the Las Vegas Field Office on May 29, 2008, at 10 a.m., Pacific Time.

ADDRESSES: Mail written comments and sealed bids to the BLM Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130.

FOR FURTHER INFORMATION CONTACT: Brenda Wilhight, e-mail: *Brenda_Wilhight@nv.blm.gov* or phone: (702) 515–5172.

SUPPLEMENTARY INFORMATION: The following described lands are located in southwest Las Vegas, Nevada and are legally described as:

Case file: N–66686
Mount Diablo Meridian, Nevada
T. 22 S., R. 60 E.,
Sec. 23, SE¼SE¼NW¼NW¼,
N½NE¼SW¼NW¼,
N½NE¼NW¼SE¼NW¼,
N½NW¼NW¼SE¼NW¼.

The above described lands contain 10 acres, more or less.

Case file: N–84735
Mount Diablo Meridian, Nevada
T. 23 S., R. 61 E.,
Sec. 9, N½NE¼SE¼NW¼,
S½SE¼SE¼NW¼.

The above described lands in two parcels contain 10 acres, more or less.

The sales are in conformance with the Las Vegas Resource Management Plan (RMP), approved on October 5, 1998. BLM has determined that the proposed action conforms to the land use plan decision, LD–1, in the RMP.

The use of the modified competitive sale method is consistent with 43 CFR 2711.3–2(a)(1)(i). Public lands may be offered for sale utilizing modified competitive bidding procedures when the authorized officer determines it is necessary in order to assure equitable distribution of land among purchasers or to recognize equitable considerations or public policies. Modified competitive bidding includes, but is not limited to offering designated bidders the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions. Factors to be considered in determining when modified competitive bidding procedures shall be used include but are not limited to the needs of State and/or local government, adjoining landowners, historical users, and other needs for the tract. A description of the method of modified competitive bidding to be used and a statement indicating the purpose or objective of the bidding procedure selected is specified in this notice.

To participate in either modified competitive sale each bidder, including the designated bidders, must submit a $20,000 bid guarantee deposited by a

certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management. Sealed bids for each sale in an amount not less than 20 percent of the total amount must also be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management. The bid guarantee and sealed bid amounts may be submitted in one form of deposit, but must be specified. Personal checks will not be accepted. Sealed bid envelopes must be clearly marked on the front lower left corner with ''SEALED BID BLM LAND SALE, May 29, 2008'', and the identification number of the parcel ''BLM SERIAL NUMBER N–66686'' or ''BLM SERIAL NUMBER N–84735.'' The bid envelope must also contain the completed BLM form, Certificate of Eligibility, stating the name, mailing address, and phone number of the entity/person making the bid.

Sealed bids will be opened and recorded to determine the high bidder on May 29, 2008, 10 a.m., Pacific Time at the Las Vegas Field Office. The highest qualifying bidder among the qualified bids received for each sale will be declared. Each modified competitive sale allows the designated bidder the right to meet the high bid.

For parcel N–66686, Clark County supports a request by the Brasher Group, which is owned by Donald E. Brasher, for a modified competitive sale. Mr. Brasher, under the corporate names Tootalou I LLC, Tootalou II LLC, and Mountain Blue III LLC, owns the abutting properties on the north, east, and west boundaries of the parcel. The parcel provides frontage to Blue Diamond Highway. This frontage is necessary to Mr. Brasher's development of his private lands. In consideration of the adjoining landowner and historical uses of the parcel, the authorized officer has determined Mr. Brasher as the designated bidder for this parcel.

For N–84735, the City of Henderson supports a request by Marnell Properties LLC for a modified competitive sale. The sale parcels are bordered on the north, west, and south side by land owned by Mr. Anthony A. Marnell, III. Mr. Marnell and the City have developed an agreement that provides long-term public benefits to the City and local residents. Through collaboration and partnership with the City of Henderson, Marnell Properties LLC agrees to provide off-site utility and roadway improvements, including major roadway improvements, fire station, public parking garage, convention center, and a public park. Marnell Properties LLC will construct the Haven/Bowes connector road and adjoining Pittman North detention basin. In consideration of the adjoining landowner, the historical uses of the parcel, and the local government, the authorized officer has determined Mr. Marnell as the designated bidder for this parcel.

The designated bidders or their authorized representative must be present at the bid opening on May 29, 2008, at 10 a.m., Pacific Time. Should the designated bidders appoint a representative for this sale, they must submit in writing a notarized document identifying the level of capacity given to their designated representative. This document must be signed by both parties. The designated bidder or their authorized representative will have the opportunity to meet and accept the high bid as the purchase price of each parcel or to refuse that offer. Should the designated bidders or their authorized representative refuse the offer, the high bid received through sealed bid will be declared the successful bid in accordance with regulations at 43 CFR 2711.3–2(c). Acceptance or rejection of any offer to purchase will be in accordance with the procedures set forth in 43 CFR 2711.3–1(f) and (g) of this subpart.

All funds submitted with sealed bids will be returned to the unsuccessful bidders upon presentation of photo identification at the designated area. Each successful bidder may elect a refund of or to apply the $20,000 bid guarantee in addition to the required 20 percent bid deposit toward the purchase price. Failure to submit the bid deposit following a successful bid will result in forfeiture of the bid guarantee under 43 CFR 2711.3–1(d).

The successful bidder will be allowed 180 days from the date of the sale, November 25, 2008, to submit the remainder of the full bid price declared in the form of a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management. Personal checks will not be accepted. Arrangements for electronic fund transfer to BLM for the payment balance due on or before November 25, 2008, shall be made a minimum of two weeks prior to the payment date. Failure to submit the full bid price prior to the expiration of the 180th day following the sale date will result in the forfeiture of the 20 percent bid deposit to the BLM in accordance with 43 CFR 2711.3–1(d). No exceptions will be made. If there are no acceptable bids, the parcel may remain available for sale on a continuing basis in accordance with the competitive sale procedures described in 43 CFR 2711.3–1 without further legal notice. Unsold parcels may be offered for sale in a future internet auction. Internet auction procedures are available at *http://www.auctionrp.com.* If unsold on the Internet, parcels may be offered for sale in the future without additional legal notice.

Terms and Conditions: Certain minerals will be reserved to the United States in accordance with BLM approved Mineral Potential Report, dated January 22, 1999. Information pertaining to the reservation of minerals specific to the parcels is located in the case files. Acceptance of the offers to purchase these parcels will constitute an application for conveyance of unreserved mineral interests. These unreserved mineral interests have been determined to have no known mineral value pursuant to 43 CFR 2720.0–6 and 2720.2(a). In conjunction with the final payment, the applicant for these ''no known value'' mineral interests will be required to pay a $50 non-refundable filing fee for processing the conveyance of these mineral interests which will be sold simultaneously with the surface interests.

The conveyances issued would contain the following numbered reservations, covenants, terms, and conditions:

1. Discretionary leasable and saleable mineral deposits on the lands, if any, reserved to the United States, its permittees, licensees, and lessees together with the right to prospect for, mine, and remove such minerals under applicable law and any regulations that the Secretary of the Interior may prescribe, together with all necessary access and exit rights;

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

3. A right-of-way for federal aid highway (Blue Diamond Road) purposes reserved to the Federal Highway Administration, its successors and assigns, by right-of-way No. Nev–012728, pursuant to the Act of August 27, 1958 (23 U.S.C. 107) [within sale parcel N–66686];

4. The parcels are subject to valid existing rights;

5. By accepting this patent, the patentee agrees to indemnify, defend and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentees, its employees, agents, contractors, or lessees, or any third-party, arising out of, or in connection with, the patentees

use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentees, its employees, agents, contractors, or lessees, or third party arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, state, and local laws and regulations applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, damages of any kind incurred by the United States; (4) Other releases or threatened releases on, into or under land, property and other interests of the United States by solid or hazardous waste(s) and/or hazardous substance(s), as defined by Federal or state environmental laws; (5) Other activities by which solid or hazardous substances or wastes, as defined by Federal and state environmental laws were generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; (6) Or natural resource damages as defined by Federal and state law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction; and

6. Pursuant to the requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, 100 Stat. 1670, notice is hereby given that the above-described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor had any hazardous substances been disposed of or released on the subject property.

The parcels are subject to reservations for roads, public utilities and flood control purposes in accordance with the local governing entities' transportation plans.

No warranty of any kind, express or implied, is given by the United States as to title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of these parcels will not be on a contingency basis.

The parcels may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcels. Encumbrances of record, appearing in the case files for the parcels offered for sale, are available for review during business hours, 7:30 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the Las Vegas Field Office, except during federally recognized holidays.

On publication of this notice and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grant in accordance with 43 CFR 2807.15 and 2886.15. Land use applications may be considered after completion of the sale for these parcels if the parcels are not sold.

BLM will notify valid existing right-of-way holders of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Federal law requires that bidders must be: (a) A citizen of the United States 18 years of age or over; (b) a corporation subject to the laws of any State or of the United States; (c) a State, State instrumentality or political subdivision authorized to hold real property; and (d) an entity legally capable of conveying and holding lands or interests therein, under the laws of the State within which the lands to be conveyed are located. Where applicable, the entity shall also meet the requirements of paragraphs (a) and (b) of this section. U.S. citizenship is evidenced by presenting a birth certificate, passport, or naturalization papers. Failure to submit the above requested documents by June 30, 2008, shall result in the cancellation of the sale.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the Las Vegas Field Office prior to 30 days before the bidder's scheduled closing date. There are no exceptions.

Within 30 days of the sale, BLM will in writing, either accept or reject all bids received. Pursuant to 43 CFR 2711.3–1, a bid is the bidder's offer to BLM to purchase the parcel. No contractual or other rights against the United States may accrue until BLM officially accepts the offer to purchase, and the full bid price is submitted by the 180th day following the sale. All name changes and supporting documentation must be received at the Las Vegas Field Office by June 30, 2008, 4:30 p.m., Pacific Time. Otherwise, the patent will be issued to the name(s) on the bidder statement that's completed and submitted by May 29, 2008. To change the name on the bidder statement, high bidders must notify the Las Vegas Field Office in writing, and submit a new bidder statement, which is available at the Las Vegas Field Office or in the sale brochure, and be completed by the intended patentee.

BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Services regulations. BLM is not a party to any 1031 Exchange.

In order to determine the FMV, certain assumptions may have been made of the attributes and limitations of the land and potential effects of local regulations and policies on potential future land uses. Through publication of this notice the BLM advises that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is the buyer's responsibility to be aware of existing or projected use of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It will be the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should also make themselves aware of any Federal or state law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

SNPLMA parcels proposed for sale were analyzed in the ''Las Vegas Land Disposal Boundary Environmental Impact Statement,'' approved December 23, 2004 (EIS), which is available for review at the Las Vegas Field Office.

These parcels identified in this notice are analyzed in an EA for the sale which tiers to the EIS.

Information concerning the sale, appraisals, reservations, sale procedures and conditions, CERCLA, maps delineating the individual sale parcels, the FMV of each parcel, mineral potential report, EA, and other environmental documents will be available for review at the Las Vegas Field Office, or by calling (702) 515–5000 and asking to speak to a member of the sales team.

Public Comments: The parcels of land will not be offered for sale prior to the 60-day publication of this notice. For a period until May 12, 2008, interested parties may submit written comments to the Las Vegas Field Office. Only written comments submitted by postal service or overnight mail will be considered as properly filed. Electronic mail, facsimile or telephone comments will not be considered as properly filed.

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

Any adverse comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR part 2711)

Angie Lara,

Las Vegas Field Office Manager.

[FR Doc. E8–6353 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Final General Management Plan/ Environmental Impact Statement for Pipestone National Monument, MN

AGENCY: National Park Service, Department of the Interior.

SUMMARY: Pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2) (C)), the National Park Service (NPS) announces the issuance of the Notice of Availability of the final General Management Plan/Environmental Impact Statement (GMP/EIS) for Pipestone National Monument, Minnesota.

DATES: The final GMP/EIS will remain available for public review for 30 days following the publishing of the notice of its availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Requests for copies should be sent to the Acting Superintendent, Pipestone National Monument, 36 Reservation Avenue, Pipestone, Minnesota 56164–1269. You may also view the document via the Internet through the NPS Planning, Environment, and Public Comment Web site (*http://parkplanning.nps.gov*); simply click on the link to Pipestone National Monument.

SUPPLEMENTARY INFORMATION: The NPS prepared a draft GMP/EIS for the Pipestone National Monument (national monument), pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969. The draft was made available for public review for 111 days (January 28—May 18, 2007) during which time the NPS distributed over 275 copies of the draft. The draft was also made available at the park offices, on the Internet, and at area libraries. Over 85 people attended the 7 public open houses and meetings. Twenty-five written comment letters were received from Agencies, organizations, Tribes, and the public. Comments from Tribes, individuals, and public agencies caused the NPS to reconsider the preferred alternative and the environmentally preferred alternative.

The preferred alternative will remove most of the development from the heart of the national monument, retaining only those small facilities necessary to support quarrying and for public health and safety. Subsequent planning will determine whether to place visitor support services within or adjacent to the boundary. The maintenance area will move to a shared offsite location with another Governmental Agency and museum collections/archives will be removed from the floodplain. American Indian ceremonial use of the site continues, and the NPS will cooperatively work to preserve the historic Indian School Superintendent's House with the owners and to restore prairie on adjacent property with the Minnesota Department of Natural Resources and the U.S. Fish and Wildlife Service.

FOR FURTHER INFORMATION CONTACT: Contact the Acting Superintendent, Pipestone National Monument, 36 Reservation Avenue, Pipestone, Minnesota 56164–1269, telephone 507–825–5464.

Dated: March 12, 2008.

Ernest Quintana,

Regional Director, Midwest Region.

[FR Doc. E8–6334 Filed 3–27–08; 8:45 am]

BILLING CODE 4312–AA–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Termination of the Restoration Plan/Programmatic Environmental Impact Statement for Seagrass Restoration Within Biscayne National Park

AGENCY: National Park Service, Department of the Interior.

SUMMARY: The National Park Service (NPS) is terminating the Restoration Plan/Programmatic Environmental Impact Statement (RP/PEIS) for Seagrass Restoration within Biscayne National Park. A Notice of Intent to prepare this RP/PEIS was published in the **Federal Register** on February 17, 2006. After public scoping and a preliminary analysis of impacts related to seagrass restoration at Biscayne National Park, the NPS determined that the impacts of the identified seagrass restoration alternatives considered would be at or below the minor/negligible level. Consequently, the RP/PEIS is not necessary and NPS decided to terminate the RP/PEIS. The NPS intends to continue the current practice of evaluating seagrass restoration activities and its impacts at Biscayne National Park on a site-specific basis, as appropriate.

FOR FURTHER INFORMATION CONTACT: Damage Recovery Program Manager, National Park Service, Biscayne National Park, 9700 SW., 328th Street, Homestead, Florida 33033, 305–230–1144, *BISC_Superintendent@nps.gov*.

The authority for publishing this notice is 42 U.S.C. 4332(2)(C).

The responsible official for this EIS is Paul Anderson, Acting Regional Director, Southeast Region, National Park Service, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: March 3, 2008.

Paul R. Anderson,

Acting Regional Director, Southeast Region.

[FR Doc. E8–6321 Filed 3–27–08; 8:45 am]

BILLING CODE 4310–ML–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 19, 2007 and published in the **Federal Register** on November 30, 2007, (72 FR 67758–67759), Clinical Supplies Management, Inc., 4733 Amber Valley Parkway, Fargo, North Dakota 58104, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of Sufentanil (9740), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for clinical trials, research, and analytical purposes. The company has withdrawn its request for schedule I Tetrahydrocannabinols (7370).

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Clinical Supplies Management, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Clinical Supplies Management, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6391 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 6, 2008, Penick Corporation, 33 Industrial Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances as bulk controlled substance intermediates for distribution to its customers for further manufacture or to manufacture pharmaceutical dosage forms.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 27, 2008.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6401 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2007, and published in the **Federal Register** on December 27, 2007, (72 FR 73359), Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Propiram (9649)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Johnson Matthey, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Johnson Matthey, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6379 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 31, 2007 and published in the **Federal Register** on November 7, 2007, (72 FR 62873), Noramco Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Codeine-N-Oxide (9053)	I
Morphine-N-Oxide (9307)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture small quantities of the schedule I controlled substances for internal testing; the schedule II controlled substances will be manufactured in bulk for distribution to its customers.

By correspondence dated March 5, 2008, Noramco has withdrawn their request for Opium, raw (9600) and Poppy Straw (9650).

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Noramco Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Noramco Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6384 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2007, and published in the **Federal Register** on December 27, 2007, (72 FR 73360), Noramco, Inc., Division of Ortho, McNeil, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Codeine-N-oxide (9053)	I
Morphine-N-oxide (9307)	I
Dihydromorphine (9145)	I
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to bulk manufacture the above listed controlled substances for sale and distribution to manufacturers for product development and formulation.

Noramco has withdrawn their request for Opium, raw (9600) and Poppy Straw (9650).

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Noramco, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Noramco, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6385 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2007, and published in the **Federal Register** on December 27, 2007, (72 FR 73357–73358), Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Dextropropoxyphene, bulk (non-dosage form) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cambrex Charles City, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Cambrex Charles City, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's

physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6386 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2007, and published in the **Federal Register** on December 27, 2007, (72 FR 73358), GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004–1412, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Cocaine (9041), a basic class of controlled substance listed in schedule II.

The company plans to manufacture a radioactive product used in diagnostic imaging in the diagnosis of Parkinson's Disease and for manufacture in bulk for investigational new drug (IND) submission and clinical trials.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of GE Healthcare to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated GE Healthcare to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6389 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 20, 2007, and published in the **Federal Register** on December 31, 2007, (72 FR 74331), Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Oripavine (9330), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance in bulk for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Chattem Chemicals, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Chattem Chemicals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6412 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 05–38]

Memphis Wholesale Company; Declaratory Order Terminating Exemption From Registration

On July 12, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Memphis Wholesale Company (Respondent) of Memphis, Tennessee. Show Cause Order at 1. The Show Cause Order proposed the denial of what it referred to as Respondent's ''application'' for a registration as a distributor of the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine (PPA), and to revoke any exemption from registration, on the ground that its registration ''is inconsistent with the public interest.'' *Id.*

The Show Cause Order specifically alleged that ''[o]n July 29, 1997, Memphis Wholesale Company, by its owner, Neal Abodabba,'' applied for a DEA Certificate of Registration, that a control number was assigned to its application ''permitting the firm to temporarily operate under the regulatory exemption [provided] at 21 CFR 1309.25, pending agency action on the application.'' *Id.* at 2. The Show Cause Order alleged that in ''April 1999, Memphis Wholesale Company was incorporated in the State of Tennessee by Neal Abodabba and Shawkat Abodabba, without notification to DEA that the form of ownership, and thus the registered person, had changed.'' *Id.*

The Show Cause Order next alleged that on August 10, 2000, DEA investigators conducted an inspection of Respondent. *Id.* The Order alleged that during the inspection, Mr. Neal Abodabba told investigators ''that 7.8% of his total sales were for 'energy' products, which included Max Brand and Mini-Thins,'' which are listed chemical products. *Id.* The Order also alleged that Mr. Abodabba also told investigators that his customers included approximately 200 to 300 convenience stores and gas stations, which were located in Tennessee, Arkansas, and northern Mississippi, and that most of these customers purchased listed chemical products from him. *Id.*

The Show Cause Order further alleged that ''in July 2000, Memphis Wholesale had begun consolidating its deliveries in the Nashville area by shipping to [an] unlicensed distributor, Nashville Wholesale, for further distribution to retailers * * * in violation of 21 U.S.C.

841(f) and 843(a)(9).'' *Id.* Finally, with respect to the August 2000 inspection, the Show Cause Order alleged that DEA investigators conducted an accountability audit for the period February 1, 2000, through August 10, 2000, and found overages in various products. *Id.* at 2–3.

The Show Cause Order next alleged that on May 16, 2002, DEA investigators conducted another inspection of Respondent. *Id.* at 3. According to the Show Cause Order, during the inspection, ''Mr. Mohammed Issa represented himself as the owner of Memphis Wholesale,'' and subsequently the investigators were informed by Mr. Abodabba ''that he had 'sold his shares' in [the firm] to Mohammed Issa.'' *Id.* Relatedly, the Show Cause Order alleged that Respondent ''is now improperly operating as a chemical distributor under the control of Mr. Issa,'' and that ''[n]either Mr. Abodabba nor Mr. Issa notified DEA of any corporate ownership changes.'' [1] *Id.*

Following service of the Show Cause Order, Respondent requested a hearing on the allegations and the matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. Counsel for both parties agreed, however, that in lieu of a hearing at which witnesses would be called, they would submit affidavits, proffers of testimony, and other evidence. ALJ at 4. Neither party objected to any of the evidence or proffers submitted. After both parties submitted briefs, the ALJ issued her recommended decision.

In her decision, the ALJ found that Respondent was not entitled to operate under the temporary exemption from registration authorized under 21 CFR 1309.25, because neither Respondent, which was incorporated in 1998, nor Mr. Issa (the corporation's current owner), ''was the same 'person' that applied for registration in 1997.'' ALJ at 21. The ALJ thus reasoned that Respondent was ''not entitled to operate under the exemption granted to the business that Mr. Abodabba owned in 1997.'' *Id.* The ALJ further found that ''since 1998, Respondent has been distributing listed chemical products without being registered to do so, in violation of 21 U.S.C. 822(a)(1).'' *Id.*

''In light of these findings,'' the ALJ concluded that ''a further finding would be warranted that there is no viable application pending.'' *Id.* She nonetheless concluded that it was appropriate to make findings under the public interest factors (*see* 21 U.S.C. 823(h)) because ''the parties have devoted substantial resources to this case.'' ALJ at 21. Upon analyzing the factors, the ALJ concluded that Respondent's registration would be inconsistent with the public interest. ALJ at 24.

Having considered the record as a whole, I hereby issue this declaratory order. *See* 5 U.S.C. 554(e). I conclude that the original exemption from registration obtained by Mr. Abodabba terminated no later than the date he transferred his ownership interest in Respondent to Mr. Issa. I further conclude that while the application which Mr. Abodabba submitted on July 29, 1997, listed ''Memphis Wholesale Company'' as the applicant, because the entity was not then incorporated it did not have independent legal capacity to seek a registration and the application is therefore personal to Mr. Abodabba. While the evidence establishes that Mr. Abodabba has long since sold his interest in Respondent and is not in business at the proposed registered location, to the extent this proceeding seeks to adjudicate his application, the Government has known since 2002 that Mr. Abodabba was no longer at that location and has not properly served him.[2] To the extent Respondent (under its new owner) seeks to adjudicate its entitlement to a registration, Respondent has never submitted an application. Accordingly, there is no pending application to act upon. I make the following findings.

Findings

On July 29, 1997, Neal S. Abodabba, submitted an application for a registration to distribute the list I chemicals, ephedrine, pseudoephedrine, and phenylpropanolamine. GX 1. On the application, Mr. Abodabba indicated that Memphis Wholesale Company was the applicant. *Id.* However, the business was not then incorporated and did not file its charter with the Tennessee Secretary of State until April 14, 1998. GX 36, at 2.

On May 16, 2002, DEA investigators went to Respondent to conduct an inspection. On that date, Mr. Mohammed Issa told investigators that he owned Respondent. Gov't Proffer of Testimony at 6. Moreover, in its proffer, Respondent stated that ''Mr. Issa would testify that he is the majority stockholder of Memphis Wholesale Company and that he became majority stockholder on July 16, 2001.'' Respondent's Summary of Position at 2. Furthermore, on July 17, 2002, Respondent filed its annual report with the Tennessee Secretary of State which stated that Mohammed Issa was the corporation's president, Sameer Issa was its secretary, and Bill Miller was its treasurer.[3] GX 36, at 10. The report further indicated that its board of directors was comprised of the same three individuals.[4] *Id.*

Respondent submitted into evidence a compilation and serial listing of its sales of listed chemical products for the period January through December 2004. According to a table which is attached to this document, during 2004, Respondent had sales of all products totaling $4,134,004.28; its list I chemical products constituted 7.09 percent of its sales. The document (which is 143 pages in length) then lists by product, numerous instances in which Respondent sold ephedrine and pseudoephedrine products to gas stations and convenience stores. *See generally* Memphis Wholesale Company, Inc., Sales by Item Detail, at 1–143. According to the list, during 2004, Respondent's sales of these products totaled $225,167.30. *See id.* at 143.

Discussion

Under 21 U.S.C. 822(a)(1), ''[e]very person who * * * distributes any * * * list I chemical, or who proposes to engage in the * * * distribution of any * * * list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.'' [5] Furthermore, ''[p]ersons registered by the Attorney General * * * to distribute * * * list I chemicals are authorized to possess [and] distribute * * * such * * * chemicals * * * to the extent authorized by their registration and in conformity with the other provisions of'' Subchapter I of the Controlled Substances Act. *Id.* 822(b). DEA regulations further provide that ''[n]o person required to be registered shall engage in any activity for which registration is required until the application for registration is approved

[1] The Show Cause Order also raised various allegations related to the diversion of ephedrine and pseudoephedrine from non-traditional retailers into the illegal manufacture of methamphetamine, a schedule II controlled substance. Show Cause Order at 1–2; *see also* 21 CFR 1308.12(d).*Id.*

[2] *See Nashville Wholesale Company, Inc.,* 71 FR 52159, 52160 (2006) (noting that Mr. Abodabba was served at the proposed registered location of Nashville Wholesale Company).

[3] On April 16, 2001, Respondent filed its annual report which indicated that Neal Abodabba was its president and Shawkat Abodabba was its Secretary.

[4] On its annual report which it submitted on May 10, 2004, Respondent no longer listed Mr. Miller as either a corporate officer or director. Instead, the report listed ''K. Issa'' as an officer and director. GX 36, at 12.

[5] Ephedrine, pseudoephedrine and phenylpropanolamine are list I chemicals. *See* 21 U.S.C. 802(34).

and a Certificate of Registration is issued by the Administrator to such person.'' 21 CFR 1309.31(a).

In 1996, Congress enacted the Comprehensive Methamphetamine Control Act of 1996, which, for the first time, subjected distributors of pseudoephedrine, phenylpropanolamine, and combination ephedrine products to the registration requirements. *See* 62 FR 52254 (1997) (final rule). To prevent disruption of the legitimate commerce in these products, DEA enacted a temporary exemption from registration for distributors of these products. *See* 62 FR at 5915 (interim rule).

Accordingly, with respect to distributors of combination ephedrine products, the exemption applies to ''each person required'' to be registered, ''provided that the person submit[ted] a proper application for registration on or before July 12, 1997.'' 21 CFR 1309.25(a). The regulation further provides that ''[t]he exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application.'' *Id.* DEA applied the same rule to distributors of pseudoephedrine and phenylpropanolamine, the only difference being that the application had to be submitted ''on or before October 3, 1997.'' *Id.* 1309.25(b).[6]

As found above, on July 29, 1997, Mr. Neil S. Abodabba applied for a registration to distribute ephedrine, pseudoephedrine, and phenylpropanolamine. GX 1. While Mr. Abodabba listed Memphis Wholesale Company as the applicant, the firm did not file its charter of incorporation with the Tennessee Secretary of State until April 14, 1998. GX 36, at 4; GX 30. As Memphis Wholesale did not exist as an independent legal entity until more than eight months later, the application submitted on July 29, 1997, is personal to Mr. Abodabba. Moreover, there is no evidence that Memphis Wholesale Company, Incorporated, has ever submitted an application for a DEA registration either under its original owner (Mr. Abodabba), or under its new owner (Mr. Issa). Likewise, there is no evidence that the application was amended to reflect that Memphis Wholesale Company, Inc., was the applicant.

While the evidence indicates that Mr. Issa disclosed to agency investigators during the 2002 inspection that he was Respondent's owner, the firm did not have authority to distribute under the temporary exemption because it was not the ''person'' who applied for registration in July 1997. *See, e.g.*, 21 CFR 1309.25(a). As the regulation makes plain: *[e]ach person* required by [21 U.S.C. 822] to obtain a registration to distribute * * * a combination ephedrine product is temporarily exempted from the registration requirement, provided that *the person* submits a proper application for registration on or before July 12, 1997.'' *Id.* (emphasis added).[7] Moreover, the authority Mr. Abodabba obtained to distribute (which was limited to pseudoephedrine and phenylpropanolamine) was not lawfully transferred to either the corporation or to its new owners) because the written consent of the Agency was never obtained. *See id.* 1309.63 (''No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the Administrator may specifically designate and then only pursuant to his written consent.'').

Accordingly, I hold that Respondent has been without authority to distribute list I chemicals since July 16, 2001 (when Mr. Issa became its owner), and that all distributions it has made since that date (including all those listed in the compilation of its 2004 sales) have been in violation of federal law.[8] *See* 21 U.S.C. 822(a). I further hold that Respondent does not have an application pending before the agency.

Order

Pursuant to the authority vested in me under 5 U.S.C. 554(e) and 28 CFR 0.100(b) & 0.104, I hereby declare that since July 16, 2001, Memphis Wholesale Company, Incorporated, has not had authority under 21 CFR 1309.25 to distribute pseudoephedrine, combination ephedrine, and phenylpropanolamine. This Order is effective immediately.

Dated: March 17, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–6378 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

[6] DEA regulations defined ''[t]he term person [as] includ[ing] any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity.'' 21 CFR 1300.01(b)(34).

[7] While Respondent relies on Mr. Abodabba's application, it ignores that under 21 CFR 1309.25(a), this application was not timely submitted with respect to combination ephedrine products and thus, not even Mr. Abodabba was not entitled to the exemption. *See* GX 1 (application dated July 29, 1997).

[8] Mr. Abodabba is not a party to this proceeding, and I conclude that it is not necessary to decide whether Respondent's activities under his ownership were lawful. Moreover, to the extent this proceeding was brought to deny Mr. Abodabba's application, which is the only application in the record, *see* GX 1, service has not been properly effectuated. *See Jones* v. *Flowers,* 547 U.S. 220, 230 (2006) (''[T]he government's knowledge that notice pursuant to the normal procedure was ineffective triggered an obligation on the government's part to take additional steps to effect notice.''); *see also id.* at 232 (discussing *Robinson* v. *Hanrahan,* 409 U.S. 38, 39–40 (1972) (per curiam) (even though state law required vehicle owner to register his address with the state, ''we found that the State had not provided constitutionally sufficient notice, despite having followed its reasonably calculated scheme, because it knew that [the owner] could not be reached at his address of record'').

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Hi-Tech Pharmaceutcals, Inc.; Denial of Applications

On August 16, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Hi-Tech Pharmaceuticals, Inc. (Respondent), of Norcross, Georgia. The Show Cause Order proposed the denial of Respondent's pending applications for DEA Certificates of Registration to import and manufacture ephedrine, a list I chemical, on the ground that its ''registrations would be inconsistent with the public interest.'' Show Cause Order at 1 (citing 21 U.S.C. 824(a)(4) & 958(c)).

The Show Cause Order specifically alleged that both Respondent's owner, Mr. Jared Wheat, and its Vice-President, Mr. Stephen D. Smith, had previously been convicted of controlled-substance felony offenses. *Id.* The Show Cause Order next alleged that on February 23, 2006, agents of the U.S. Customs Service and the Food Drug Administration (FDA) executed a search warrant at Respondent and seized various products containing ephedrine alkaloids that the company was manufacturing and distributing, as well as the raw materials used to manufacture these products. *Id.* at 2.

The Show Cause Order further alleged that Respondent operated several websites which represented that they offered controlled substances for sale from Canada and that the ''drugs were made using good manufacturing practices in Canada,'' when, in fact, ''Hi-Tech manufactured many of these drugs, including various Schedule III and IV controlled substances, in the country of Belize and unlawfully imported them into the United States without a DEA registration'' in violation of 21 U.S.C. 957(a) and 21 CFR 1301.11. *Id.* at 2. Relatedly, the Show Cause Order alleged that on September 7, 2006, a federal grand jury indicted

Respondent, Mr. Wheat, Mr. Smith, and ten other individuals associated with the company, charging them with, *inter alia*, ''the unlawful distribution of controlled substances and conspiracy to import controlled substances into the United States.'' *Id.*

On August 20, 2007, the Show Cause Order was served on Respondent by certified mail, return receipt requested. Thereafter, Respondent's counsel submitted a letter in which it waived its right to a hearing, but in which it also responded to several of the Show Cause Order's allegations. Ltr. of Joseph P. Schilleci, Jr., to Hearing Clerk, 1 (Sept. 14, 2007). The factual assertions and arguments presented in this letter will be considered pursuant to 21 CFR 1301.43(c).

I therefore conclude that Respondent has waived its right to a hearing. I therefore enter this Final Order without a hearing based on relevant material contained in the investigative file as well as Respondent's letter and make the following findings. *See* 21 CFR 1301.43(e).

Findings

On July 25, 2005, Respondent, a Georgia corporation, applied for two DEA registrations: one to import ephedrine and one to manufacture it. Ephedrine is a list I chemical, which is frequently diverted into the illicit manufacture of methamphetamine, a schedule II controlled substance. *See* 21 U.S.C. 802(34); *see also* 21 CFR 1308.12(d). Respondent's applications were submitted by Mr. Jared R. Wheat. On both applications, Respondent stated that ''Jared R. Wheat, [its] President and sole shareholder * * * was convicted on October 2, 1991[,] in the United States District Court, Northern District of Alabama * * * for conspiracy to distribute MDMA. He was sentenced to the custody of the Bureau of Prisons for thirty-six months (36) months [and] three years supervised release.'' [1]

During the course of DEA's pre-registration investigation, agency investigators received information that several other federal agencies including the FDA and Federal Trade Commission were also investigating Respondent. Moreover, during an on-site inspection, Mr. Wheat told DEA investigators that he was currently importing ephedra or Ma Huang Extract. He also provided DEA investigators with a ''Certificate of Analysis'' which indicated that Respondent had imported from Sinochem Jiangsu Import & Export Corporation of Nanjaing, China, one thousand kilograms of Ma Huang Extract containing 8.2% total ephedrine alkaloids.[2] The Certificate stated that ''[t]his product is concentrated from natural sources and does not contain either synthetic or fermentation source. All alkaloids are results from extraction and concentration of crude plant material.'' The Certificate also noted that ''water'' was used as the ''extract solvent.''

On February 23, 2006, investigators from FDA and U.S. Customs executed a search warrant at Respondent's building. The FDA investigators seized various products. Simultaneously, the United States Attorney filed a complaint for forfeiture against various products which the FDA had seized on the ground that they were adulterated. These products were labeled as ''Lipodrene,'' ''Stimerex-ES,'' and ''Betradene,'' and each of the products indicated that they contained 25 mg. of ephedrine alkaloids in each tablet. Subsequently, the U.S. District Court for Northern District of Georgia rejected Respondent's contentions and granted the Government's motion for summary judgment on its complaint for forfeiture. *Hi-Tech Pharmaceuticals, Inc.* v. *Crawford*, 505 F.Supp.2d 1341 (N.D. Ga. 2007).[3]

On September 7, 2006, a federal grand jury returned a forty-five count indictment against Respondent, Jared Wheat, Stephen D. Smith, and nine other individuals. The indictment alleged, *inter alia*, that the defendants had conspired to manufacture in Belize and intentionally import, or attempt to import, into the United States, schedule III controlled substances (the steroids oxandrolone, oxymetholone, stanazolol) and schedule IV controlled substances (alprazolam, diazepam, lorazepam, phentermine, and zolpidem), in violation of 21 U.S.C. 952(a)(2), 960(a)(1), 960(b)(4), and 963. *United States* v. *Wheat, et al.*, No. 1:06CR382 (N.D. Ga.) (Indictment at 14–16, 23–24). The indictment also alleged that Respondent, Mr. Wheat, Mr. Smith, and others, knowingly and intentionally imported phentermine, Xanax (alprazolam), and Ambien (zolpidem) on various dates between February and May 2004. Indictment at 30–31.

Regarding the indictment, Respondent's counsel stated that it ''is confident that the facts will show that it has been and is appropriately conducting its business within the bounds of the law.'' Letter of Respondent's Counsel, at 1. Respondent's counsel further contended that the indictment's allegations ''are incorrect and do not portray an accurate description of [it], either in the past or present,'' and ''that there is no basis for the Government's indictment of Hi-Tech.'' *Id.*

The investigative file establishes, however, that several of the defendants named in the indictment have entered guilty pleas to various counts. As part of his plea agreement, B.W. admitted that he conspired with Wheat, Smith, and Respondent, ''to knowingly and intentionally import and attempt to import into the United States from Belize [the] Schedule IV controlled substances * * * [a]lprazolam, [d]iazepam, [l]orazapam, [p]hentermine, and [z]olpidem * * * all in violation of federal law.'' B.W. Guilty Plea and Plea Agreement at 1–2. B.W. further admitted that he ''had knowledge of attempts to import Schedule IV controlled substances and [that he] assisted in the manufacture of [these substances] on two (2) occasions.'' *Id.* at 2.

Defendant D.W. admitted that he conspired with Wheat and Smith ''to knowingly and intentionally import and attempt to import into the United States from Belize anabolic steroids, Schedule III controlled substances, and to knowingly and intentionally import and attempt to import into the United States from Belize [the] Schedule IV controlled substances * * * [a]lprazolam, [d]iazepam, [l]orazepam, [p]hentermine and [z]olpidem * * * all in violation of federal law.'' D.W. Guilty Plea and Plea Agreement at 1. Finally, Defendant D.J. admitted in his plea agreement that he had knowledge that Wheat, Smith, Respondent, and others, ''did knowingly and intentionally * * * conspire * * * with each other and others to knowingly and intentionally import and attempt to import into the United States from Belize [the] Schedule IV controlled substances * * * [a]lprazolam, [d]iazepam, [l]orazepam, [p]hentermine and [z]olpidem * * * in violation of'' federal law. D.J. Guilty Plea and Plea Agreement at 1–2.

[1] The investigative file also indicates that in September 1992, Mr. Smith was convicted in the Georgia Superior Court of purchasing or possession of a controlled substance. As the letter from Respondent's counsel indicated, Mr. Smith ''is a Vice-President of [Respondent but] does not own any shares in'' the company.

[2] During the inspection, Mr. Wheat provided the DIs with a product list and invoice which showed that it was manufacturing and distributing several products which contained ephedrine alkaloids. Each of the products had an ephedrine alkaloid content of less than five percent.

[3] Regarding the seizure of ephedrine alkaloid products from Respondent, its counsel admitted that ''on August 15, 2007, the United States District Court for the Northern District of Georgia entered judgment in favor of the FDA.'' Ltr. of Joseph P. Schilleci, Jr., to Hearing Clerk, at 1 (Sept. 14, 2007). Respondent's counsel further stated that it was appealing the district court's decision. *Id.*

Discussion

Section 303(h) of the Controlled Substances Act (CSA) provides that ''[t]he Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest.'' 21 U.S.C. 823(h). In making this determination, Congress directed that I consider the following factors:

(1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;
(2) Compliance by the applicant with applicable Federal, State, and local law;
(3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;
(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and
(5) Such other factors as are relevant to and consistent with the public health and safety.

Id.

''These factors are considered in the disjunctive.'' *Joy's Ideas*, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for a registration should be denied. *See, e.g., David M. Starr,* 71 FR 39367, 39368 (2006); *Energy Outlet*, 64 FR 14269 (1999). Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005).

Having considered all of the factors, I conclude that factors two and four establish that Respondent's registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(h). Respondent's application will therefore be denied.

Here, the record establishes that between September 2005 and February 2006, Respondent illegally imported into the United States, 1,000 kilograms of Ma Huang extract, which contained ephedrine alkaloids in a concentration of approximately eight percent. While at the time of the importation, ''harvested plant material * * * contain[ing] ephedrine * * * that preserve[d] the natural constituents in the ratios that are found in the plant's natural state'' was exempt from the CSA's requirements, DEA's regulation further provided that ''[p]lant material subjected to chemical or physical extraction, concentration, chemical reaction, or other treatment that alters the plant's natural constituents [was] not exempt.'' 21 CFR 1310.12(d)(1).[4] Respondent did not have a registration to import the product, which contains a list I chemical and was produced through an extraction process, and thus was not exempt from the application of the Act. *See* 21 U.S.C. 957(a); 21 CFR 1310.12(d)(1). Respondent's importation of Ma Huang extract therefore violated federal law.

Moreover, substantial evidence establishes that Respondent, its owner (Mr. Wheat), and vice-president (Mr. Smith), violated the CSA by importing schedule III and IV controlled substances (including anabolic steroids, multiple benzodiazepines, as well as phentermine and zolpidem) into the United States from Belize in violation of 21 U.S.C. 952 and 957(a)(b). While the indictment sets forth only allegations, the plea agreements of several co-conspirators implicated Respondent, Mr. Wheat, and Mr. Smith, in the conspiracy to knowingly import controlled substances into the United States in violation of federal law. The agreements thus provide substantial evidence to support a finding that Respondent, Mr. Wheat, and Mr. Smith violated federal law.[5] *See Richardson* v. *Perales*, 402 U.S. 389 (1971) (upholding use of hearsay evidence in administrative proceedings). Accordingly, I conclude that granting Respondent's application would be ''inconsistent with the public interest.'' 21 U.S.C. § 823(h).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h), as well as 28 CFR 0.100(b) & 0.104, I order that the application of Hi-Tech Pharmaceuticals, Inc., for a DEA Certificate of Registration to import ephedrine, a list I chemical, be, and it hereby is, denied. I further order that the application of Hi-Pharmaceuticals, Inc., for a DEA Certificate of Registration to manufacture ephedrine, a list I chemical, be, and it hereby is, denied. This order is effective April 28, 2008.

Dated: March 17, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–6377 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

[4] On July 25, 2007, DEA published an interim rule which removed the exemption ''for unaltered ephedra plant material.'' 72 FR 40738, 40741 (2007). This rule became effective on August 24, 2007. *Id.* at 40742.

[5] In light of the evidence establishing that Mr. Wheat and Mr. Smith have committed offenses in violation of the CSA, I need not decide whether their prior convictions are too dated to be considered.

I further note that Respondent imported listed chemicals which it then used to manufacture and distribute products which a federal court has held were adulterated within the meaning of the Food, Drug, and Cosmetic Act. *See Hi-Tech Pharmaceuticals, Inc.*, v. *Crawford*, 505 F.Supp.2d at 1357. *See also* 21 U.S.C. 823(h)(5) (directing consideration of ''such other factors as are relevant to and consistent with the public health and safety''). This conduct also supports the conclusion that granting Respondent a registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(h).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to Title 21 Code of Federal Regulations 1301.34(a), this is notice that on November 29, 2007, Mallinckrodt Inc., 3600 North Second Street, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Phenylacetone (8501)	II
Coca Leaves (9040)	II
Opium, raw (9600)	II
Poppy Straw (9650)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances for the manufacture of controlled substances in bulk for distribution to its customers.

No comments, objections, or requests for any hearings will be accepted on any application for registration or re-registration to import crude opium, poppy straw, concentrate of poppy straw or coca leaves. As explained in the Correction to Notice of Application pertaining to Rhodes Technologies, 72 FR 3417 (2007), comments and requests for hearings on applications to import narcotic raw material are not appropriate.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule I or II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug

Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than April 28, 2008.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6375 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

This is notice that on March 6, 2008, Penick Corporation, 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedule II.

Drug	Schedule
Coca Leaves (9040)	II
Raw Opium (9600)	II
Poppy Straw (9650)	II
Concentrate of Poppy Straw (9670).	II

The company plans to import the listed controlled substances to manufacture bulk controlled substance intermediates for sale to its customers.

As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6376 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2007 and published in the **Federal Register** on December 27, 2007, (72 FR 73357), Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in schedule II:

The company plans to import Phenylacetone for use as a precursor in the manufacturer of amphetamine only.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Cambrex Charles City, Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Cambrex Charles City, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6368 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated December 18, 2007 and published in the **Federal Register** on December 27, 2007, (72 FR 73359), Johnson Matthey, Inc., Pharmaceutical Materials, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Phenylacetone (8501)	II
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670).	II

The company plans to import the listed controlled substances as raw materials for use in the manufacture of bulk controlled substances for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Johnson Matthey, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Johnson Matthey, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6372 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 29, 2008, Alltech Associates Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590)	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
2,5-Dimethoxy-4-ethylamphetamine (7399)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405)	I
4-Methoxyamphetamine (7411)	I
Alpha-methyltryptamine (7432)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-(1-Phenylcyclohexyl) pyrrolidine (7458)	I
1-Phenylcyclohexylamine (7460)	I
1-[1-(2-Thienyl) cyclohexy] piperidine (7470)	I
Normorphine (9313)	I
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Dihydromorphine (9145)	II
Ecgonine (9180)	II
Meperidine intermediate-B (9233)	II
Noroxymorphone (9668)	II

The company plans to manufacture high purity drug standards used for analytical application only in clinical, toxicological, and forensic laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a). Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537; or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 27, 2008.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6359 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 12, 2008, Sigma Aldrich Research Biochemicals, Inc., 1–3 Strathmore Road, Natick, Massachusetts 01760–2447, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2,5-dimethoxy-amphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405)	I
Psilocybin (7437)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
1-[1-(2-Thienyl) cyclohexyl] piperidine (TCP) (7470)	I
1-Benzylpiperazine (BZP) (7493)	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Ecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 27, 2008.

Dated: March 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–6364 Filed 3–27–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 21, 2008.

The Department of Labor (DOL) hereby announces the submission of 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). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at: *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not a toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The 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 submission of responses.

Agency: Employment and Training Administration.

Type of Review: Revision of a currently approved collection.

Title: One-Stop Workforce Information Grant Plan and Annual Performance Report.

OMB Control Number: 1205–0417.

Form Number: None.

Affected Public: State Governments.

Estimated Number of Respondents: 54.

Estimated Total Annual Burden Hours: 31,174.

Estimated Total Annual Costs Burden: $0.

Description: As requirements for receiving Workforce Information core products and services reimbursable grants, states must submit the following on an annual basis: (1) Certification of grant deliverables, (2) economic analysis economic report for the governor, and (3) performance report. See the Department's regulations at 29 CFR 95.51 and 97.40, sections 111(d)(8) and 309 of the Workforce Investment Act of 1998, and OMB Circular A–102. For additional information, see related notice published at 72 FR 71159 on December 14, 2007.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–6335 Filed 3–27–08; 8:45 am]

BILLING CODE 4510–FM–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

March 21, 2008.

The Department of Labor (DOL) hereby announces the submission of 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). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at: *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, Telephone: 202–395–4816/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The 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 submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Refuse Piles and Impounding Structures, Recordkeeping and Reporting Requirements.

OMB Control Number: 1219–0015.

Form Number: None.

Estimated Number of Respondents: 692.

Estimated Total Annual Burden Hours: 32,081.

Estimated Total Annual Cost Burden: $6,816,460.

Affected Public: Private Sector: Business or other for-profit (Coal Mines).

Description: The Department's regulations at 30 CFR 77.215 and 77.216 require coal mine operators to submit to MSHA annual reports and certification on refuse piles and impoundments and to keep records of the results of weekly examinations and instrumentation monitoring. These requirements help to ensure a safe and healthful working environment for the nation's miners. For additional information, see related notice published at 73 FR 2544 on January 15, 2008.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–6338 Filed 3–27–08; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

Employment and Training Administration Program Year (PY) 2008 Workforce Investment Act (WIA) Allotments and Additional Funds from WIA Section 173(e) for Adult/Dislocated Worker Activities for Eligible States; PY 2008 Wagner-Peyser Act Final Allotments; PY 2008 Workforce Information Grants and FY 2008 Work Opportunity Tax Credit Allotments

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice announces states' allotments for PY 2008 (July 1, 2008–June 30, 2009) for WIA Title I Youth, Adults and Dislocated Worker Activities programs; additional PY 2008 funding from WIA section 173(e) for eligible states; final allotments for Employment Service (ES) activities under the Wagner-Peyser Act for PY 2008; Workforce Information Grants for PY 2008; and Work Opportunity Tax Credit (WOTC) allotments for FY 2008.

The WIA allotments for states and the final allotments for the Wagner-Peyser Act are based on formulas defined in their respective statutes. The WIA allotments for the outlying areas are based on a formula determined by the Secretary. As required by WIA section 182(d), on February 17, 2000, a Notice of the discretionary formula for allocating PY 2000 funds for the outlying areas (American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Virgin Islands) was published in the **Federal Register** at 65 FR 8236 (February 17, 2000). The rationale for the formula and methodology was fully explained in the February 17, 2000, **Federal Register** Notice. The formula for PY 2008 is the same as used for PY 2000 and is described in the section on Youth

Activities program allotments. Comments are invited on the formula used to allot funds to the outlying areas.

DATES: Comments on the formula used to allot funds to the outlying areas must be received by April 28, 2008.

ADDRESSES: Submit written comments to the Employment and Training Administration, Office of Financial and Administrative Management, 200 Constitution Ave., NW., Room N–4702, Washington, DC 20210, Attention:

Mr. Kenneth Leung, (202) 693–3471 (phone), (202) 693–2859 (fax), e-mail: *Leung.Kenneth@dol.gov*.

FOR FURTHER INFORMATION CONTACT: WIA Youth Activities allotments: Evan Rosenberg at (202) 693–3593 or LaSharn Youngblood at (202) 693–3606; WIA Adult and Dislocated Worker Activities, ES final allotments, and WOTC allotments: Mike Qualter at (202)-693–3014 or Bill Goodwin at (202) 693–2787; Workforce Information Grant allotments: Anthony Dais at (202) 693–2784.

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL or Department) is announcing WIA allotments for PY 2008 (July 1, 2007–June 30, 2008) for Youth Activities, Adults and Dislocated Worker Activities, and Wagner-Peyser Act PY 2008 final allotments. This document provides information on the amount of funds available during PY 2008 to states with an approved WIA Title I and Wagner-Peyser Act Strategic Plan for PY 2008, and information regarding allotments to the outlying areas.

The allotments are based on the funds appropriated in the Consolidated Appropriations Act 2008, Public Law 110–161, December 26, 2007. Attached are tables listing the PY 2008 allotments for programs under WIA Title I Youth Activities (Attachment I), Adult and Dislocated Workers Employment and Training Activities (Attachments II and III, respectively), additional assistance under section 173(e) (Attachment IV), and the PY 2008 Wagner-Peyser Act final allotments (Attachment V). Also attached are the PY 2008 Workforce Information Grant table (Attachment VI) and the FY 2008 Work Opportunity Tax Credit allotment table (Attachment VII).

Youth Activities Allotments. PY 2008 Youth Activities funds under WIA total $924,069,465. Attachment I includes a breakdown of the Youth Activities program allotments for PY 2008 and provides a comparison of these allotments to PY 2007 Youth Activities allotments for all states, outlying areas, Puerto Rico and the District of Columbia. Before determining the amount available for states, the total funding available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Youth Activities. On December 17, 2003, the President signed Public Law 108–188, the *Compact of Free Association Amendments Act of 2003*, which provides for consolidation of all funding, including WIA Title I, for the Marshall Islands and Micronesia into supplemental funding grants in the Department of Education. The Department of Education's appropriations now include funding for these supplemental grants; therefore, WIA Title I funds are no longer being provided for these two areas. The Compact, as amended by the Consolidated Appropriations Act 2008, Division F, section 124, continues the availability of programs previously available to Palau through September 2009, including WIA Title I funding provisions. The methodology for distributing funds to all outlying areas is not specified by WIA, but is at the Secretary's discretion. The methodology used is the same as used since PY 2000, i.e., funds are distributed among the remaining areas by formula based on relative share of number of unemployed, a 90 percent hold-harmless of the prior year share, a $75,000 minimum, and a 130 percent stop-gain of the prior year share. As in PY 2007, data for the relative share calculation in the PY 2008 formula were from 2000 census data for all outlying areas, obtained from the Bureau of the Census (Bureau) and are based on 2000 census surveys for those areas conducted either by the Bureau or the outlying areas under the guidance of the Bureau. The total amount available for Native Americans is 1.5 percent of the total amount for Youth Activities, in accordance with WIA section 127. After determining the amount for the outlying areas and Native Americans, the amount available for allotment to the states for PY 2008 is $907,898,249. This total amount was below the required $1 billion threshold specified in section 127(b)(1)(C)(iv)(IV); therefore, as in PY 2007, the WIA additional minimum provisions were not applied, and, instead, as required by WIA, the Job Training Partnership Act (JTPA) section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor were used. Also, as required by WIA, the provision applying a 130 percent stop-gain of the prior year allotment percentage was used. The three formula factors required in WIA use the following data for the PY 2008 allotments:

(1) Number of unemployed for Areas of Substantial Unemployment (ASU's), averages for the 12-month period, July 2006 through June 2007;

(2) Number of excess unemployed individuals or the ASU excess (depending on which is higher), averages for the same 12-month period used for ASU unemployed data; and

(3) Number of economically disadvantaged youth (age 16 to 21, excluding college students and military), from special 2000 Census calculations.

The ASU data for the PY 2008 allotments was identified by the states using special 2000 Census data based on households, obtained under Employment and Training Administration contract with the Census Bureau and provided to states by the Bureau of Labor Statistics.

Adult Employment and Training Activities Allotments. The total Adult Employment and Training Activities appropriation is $861,540,083. Attachment II shows the PY 2008 Adult Employment and Training Activities allotments and comparison to PY 2007 allotments by state. Like the Youth Activities program, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Adult Activities. As discussed in the Youth Activities section, beginning in PY 2005, WIA funding for the Marshall Islands and Micronesia is no longer provided; instead, funding is provided in the Department of Education's appropriation. The Adult Activities funds for grants to the remaining outlying areas, for which the distribution methodology is at the Secretary's discretion, were distributed among the areas by the same principles, formula and data as used for outlying areas for Youth Activities. After determining the amount for the outlying areas, the amount available for allotments to the states is $859,386,233. Like the Youth Activities program, the WIA minimum provisions were not applied for the PY 2008 allotments because the total amount available for the states was below the $960 million threshold required for Adult Activities in section 132(b)(1)(B)(iv)(IV). Instead, as required by WIA, the minimum allotments were calculated using the JTPA section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor. Also, like the Youth Activities program, a provision

applying a 130 percent stop-gain of the prior year allotment percentage was used. The three formula factors use the same data as used for the PY 2007 Youth Activities formula, except that data from the 2000 Census for the number of economically disadvantaged adults (age 22 to 72, excluding college students and military) were used.

Dislocated Worker Employment and Training Activities Allotments. The total Dislocated Worker appropriation is $1,464,707,055. The total appropriation includes formula funds for the states, while the National Reserve is used for National Emergency Grants, technical assistance and training, demonstration projects (including Community-Based Job Training Grants), the outlying areas' Dislocated Worker allotments, and additional assistance to eligible states. Attachment III shows the PY 2008 Dislocated Worker Activities fund allotments by state. Like the Youth and Adult Activities programs, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Dislocated Worker Activities. WIA funding for the Marshall Islands and Micronesia is no longer provided, as discussed above. The Dislocated Worker Activities funds for grants to outlying areas, for which the distribution methodology is at the Secretary's discretion, were distributed among the remaining areas by the same pro rata share as the areas received for the PY 2008 WIA Adult Activities program, the same methodology used in PY 2007. For the state distribution of formula funds, the three formula factors required in WIA use the following data for the PY 2008 allotments:

(1) Number of unemployed, averages for the 12-month period, October 2006 through September 2007;

(2) Number of excess unemployed, averages for the 12-month period, October 2006 through September 2007; and

(3) Number of long-term unemployed, averages for calendar year 2006. Since the Dislocated Worker Activities formula has no floor amount or hold-harmless provisions, funding changes for states directly reflect the impact of changes in the number of unemployed.

Additional Funding from WIA Section 173(e) for Adult/Dislocated Worker Activities for Eligible States. WIA Section 173(e) provides that up to $15 million from Dislocated Workers reserve funds is to be made available annually to certain states that receive less funds under the WIA Adult Activities formula than they would have received had the JTPA Title II-A Adult program formula been in effect. The amount of the grants is based on the difference between the WIA and JTPA formula allotments; funds are available for grants for up to eight states with the largest difference. The additional funding must be used for Adult or Dislocated Worker Activities. In PY 2008, two states are eligible for these additional funds, for a total of $1,777,266 (Attachment IV).

Wagner-Peyser Act Final Allotments. The appropriated level for PY 2008 for ES grants totals $703,376,524. After determining the funding for outlying areas, allotments to states were calculated using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). PY 2008 formula allotments were based on each state's share of calendar year 2007 monthly averages of the civilian labor force (CLF) and unemployment. The Secretary of Labor is required to set aside up to three percent of the total available funds to assure that each state will have sufficient resources to maintain statewide employment service activities, as required under section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, the three percent set-aside funds are included in the total allotment. The set-aside funds were distributed in two steps to states that have lost in relative share of resources from the previous year. In Step 1, states that have a CLF below one million and are also below the median CLF density were maintained at 100 percent of their relative share of prior year resources. All remaining set-aside funds were distributed on a pro-rata basis in Step 2 to all other states losing in relative share from the prior year but not meeting the size and density criteria for Step 1. The distribution of Wagner-Peyser Act funds (Attachment V) includes $701,661,936 for states, as well as $1,714,588 for outlying areas.

Traditionally, a portion of Wagner-Peyser Act formula funds have been set aside in a reserve to pay centrally for states' postage costs associated with the conduct of labor exchange services. Beginning October 1, 2007 (FY 2008), states and outlying areas were required to pay for their own postage costs with their formula grants. Consequently, beginning with PY 2008, there is no longer a postage reserve taken off-the-top from funds distributed by formula, and all funds are now distributed by formula.

Under section 7 of the Wagner-Peyser Act, 10 percent of the total sums allotted to each state shall be reserved for use by the Governor to provide performance incentives for ES offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

Workforce Information Grants. Total PY 2008 funding for Workforce Information Grants to states is $31,863,448. The allotment figures for each state are listed in Attachment VI. Funds are distributed by administrative formula, with a reserve of $176,472 for Guam and the Virgin Islands. The remaining funds are distributed to the states with 40 percent distributed equally to all states and 60 percent distributed based on each state's share of CLF for the 12 months ending September 2007. As in the Wagner-Peyser program, there is no longer a postage reserve taken from funds distributed by formula. Instead, all funds are distributed by formula and all states will use their formula grants to cover postage costs.

Work Opportunity Tax Credit Program: Grants to States. Total funding for FY 2008 is $17,368,183. After reserving $20,000 for the Virgin Islands, funds were distributed to states by administrative formula with a $66,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the prior year allotment share percentage. The allotment formula data factors and related percentages used are as follows:

(1) 50 percent based on each state's relative share of total FY 2007 certifications issued for the WOTC program;

(2) 30 percent based on each state's relative share of the CLF for twelve months ending September 2007; and

(3) 20 percent based on each state's relative share of the adult recipients of Temporary Assistance for Needy Families (TANF) for FY 2006.

The final distribution of WOTC funding includes $17,348,183 for states and $20,000 for the Virgin Islands. As in the Wagner-Peyser Act program, there is no longer a postage reserve taken from funds distributed by formula. Instead, all funds are distributed by formula and all states will use their formula grants to cover postage costs. The total allotment distribution by state is displayed in Attachment VII.

Signed: at Washington, DC on this 20th day of March, 2008.

Brent R. Orrell,

Acting Assistant Secretary.

[FR Doc. E8–6331 Filed 3–27–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,276]

F.L. Smithe Machine Company, Duncansville, PA; Notice of Negative Determination on Reconsideration

On February 21, 2008, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on February 29, 2008 (73 FR 11150–11151).

The initial investigation resulted in a negative determination based on the finding that imports of envelope making machines, printing presses and related parts did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred.

The company official of the subject firm and the International Association of Machinists and Aerospace Workers filed a request for reconsideration and indicated that not enough information was supplied pertaining to printing press machines manufactured at the subject firm. The company official provided an additional list of customers and requested that the Department of Labor survey these customers regarding their purchases of printing press machines.

On reconsideration the Department of Labor surveyed these declining customers regarding purchases of like or directly competitive products with printing press machines purchased from the subject firm in 2005, 2006, and during January through September 2007 over the corresponding 2006 period. The survey revealed that the customers did not import printing press machines during the relevant period.

The petitioner also provided a list of foreign competitors who allegedly are selling products at lower prices and thus negatively impacting production at the subject firm.

The impact of foreign competitors on the domestic firms is revealed in an investigation through customer surveys. In the case at hand, a survey of declining customers was conducted to determine if customers purchased imported printing press machines. The survey is intended to determine if competitor imports contributed importantly to layoffs at the subject firm. The survey revealed no imports of printing press machines during the relevant period.

The subject firm did not import printing press machines nor was there a shift in production from subject firm abroad during the relevant period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of F.L. Smithe Machine Company, Duncansville, Pennsylvania.

Signed at Washington, DC, this 17th day of March, 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–6369 Filed 3–27–08; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until May 27, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Forms and Instructions for Central Liquidity Facility Loans.

OMB Number: 3133–0064.

Form Number: NCUA—7000, 7001, 7002, 7003 and 7004.

Type of Review: Extension of a currently approved collection.

Description: Forms used by each borrower from the CLF.

Respondents: Credit unions that borrow from the CLF.

Estimated No. of Respondents/Record keepers: 25.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Other. As the need for borrowing arises.

Estimated Total Annual Burden Hours: 25 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on March 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–6351 Filed 3–27–08; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until May 27, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Jeryl Fish, National Credit Union, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *OCIOMail@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Central Liquidity Facility Regular Member Membership Application.

OMB Number: 3133–0063.
Form Number: CLF–8702.
Type of Review: Extension of a currently approved collection.
Description: This is a one-time form used to request membership in the CLF.
Respondents: Credit unions seeking membership in the CLF.
Estimated No. of Respondents/ Recordkeepers: 25.
Estimated Burden Hours per Response: .5 hour.
Frequency of Response: Other. As credit unions request membership in the CLF.
Estimated Total Annual Burden Hours: 12.5 hours.
Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on March 20, 2008.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–6356 Filed 3–27–08; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services; Notice: Proposed Information Collection, Submission for OMB Review, Study of IMLS Funded Digital Collections and Content

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and Humanities.

ACTION: Notice: Proposed information collection, submission for OMB review, Study of IMLS Funded Digital Collections and Content

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted 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). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of this proposed information collection, with applicable supporting documentation, may be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be received by April 28, 2008.

The OMB is particularly interested in comments that help the agency to:

- 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 submission of responses.

ADDRESSES: Rachel Frick, Senior Program Officer, Institute of Museum and Library Services, 1800 M Street, NW, 9th Floor, Washington, DC. Ms. Frick can be reached by telephone: 202–653–4667; fax: 202–653–4601; or e-mail: *rfrick@imls.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services act, Public Law 108–81. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. In the National Leadership Grant Program, IMLS funds the digitization of library and museum collections.

This study is to determine the feasibility of using the Open Archives Initiative (OAI) Metadata Harvesting Protocol to aggregate and provide integrated item-level search access to the digitization projects funded by the Institute of Museum and Library Services through the National Leadership Grant Program.

Agency: Institute of Museum and Library Services.
Title: Study of IMLS Funded Digital Collections and Content.
OMB Number: none.
Agency Number: 3137.
Frequency: Various.
Affected Public: museums and libraries that created digital collections with IMLS funding.
Number of Respondents: 360.
Estimated Time Per Respondent: various.
Total Burden Hours: 288.
Total Annualized capital/startup costs: n/a.
Total Annual Costs: $7,200.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: March 12, 2008.

Lesley Langa,

Research Specialist.

[FR Doc. E8–6452 Filed 3–27–08; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 73 FR 3756, and no substantial comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science

Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or via e-mail to: *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

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

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF Surveys to Measure Customer Service Satisfaction.

OMB Number: 3145–0157.

Type of Request: Intent to seek approval to renew an information collection.

Abstract

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards,'' which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Estimate of Burden: The burden on the public will change according to the needs of each individual customer satisfaction survey; however, each survey is estimated to take approximately 30 minutes per response.

Respondents: Will vary among individuals or households; business or other for-profit; not-for-profit institutions; farms; federal government; state, local or tribal governments.

Estimated Number of Responses per Survey: This will vary by survey.

Comments: 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 25, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–6420 Filed 3–27–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site Visit review of the Nanoscale Science and Engineering Center (NSEC) at the University of Wisconsin, Madison, WI (DMR) #1203.

Dates & Times: Sunday, April 27, 2008; 6 p.m.—8:30 p.m., Monday, April 28, 2008; 7:45 a.m.—9:30 p.m., Tuesday, April 29, 2008; 8 a.m.—4:30 p.m.

Place: University of Wisconsin, Madison, WI.

Type of Meeting: Part-open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning further support of the NSEC at the University of Wisconsin (UWI), Madison, WI.

Agenda:

Sunday, April 27, 2008

6 p.m.—7 p.m. Closed—Executive session.

7 p.m.—8:30 p.m. Open—Review of the NSEC at UW.

Monday, April 28, 2008

7:45 a.m.—4:30 p.m. Open—Review of the NSEC at UW.

4:30 p.m.—6 p.m. Closed—Executive session.

6 p.m.—7:30 p.m. Open—Review of the NSEC at UW.

7:30 p.m.—9:30 p.m. Closed—Dinner.

Tuesday, April 29, 2008

8 a.m.—9 a.m. Closed—Executive session.

9 a.m.—11a.m. Open—Review of the NSEC at UW.

11 a.m.—4 p.m. Closed—Executive Session, Draft and Review Report.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 25, 2008.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E8–6366 Filed 3–27–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 450, ''General Assignment.''

2. *Current OMB approval number:* 3150–0114.

3. *How often the collection is required:* Once during the closeout process.

4. *Who is required or asked to report:* Contractors, Grantees, and Cooperators.

5. *The number of annual respondents:* 100.

6. *The number of hours needed annually to complete the requirement or request:* 200 hours (2 hours per response).

7. *Abstract:* During the contract closeout process, the NRC requires the

contractor to execute a NRC Form 450, General Assignment. Completion of the form grants the government all rights, titles, and interest to refunds arising out of the contractor performance.

Submit, by May 27, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Gregory Trussell (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6804, or by e-mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 24th day of March, 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–6381 Filed 3–27–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 72, Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste.

2. *Current OMB approval number:* 3150–0132.

3. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur; submittal of reports varies from less than one per year under some rule sections to up to an average of about 100 per year under other rule sections. Applications for new licenses, certificates of compliance (CoCs), and amendments may be submitted at anytime; applications for renewal of licenses are required every 20 years for an Independent Spent Fuel Storage Installation (ISFSI) or Certificate of Compliance (CoC) and every 40 years for a Monitored Retrievable Storage (MRS) facility.

4. *Who is required or asked to report:* Certificate holders of casks for the storage of spent fuel; licensees and applicants for a CoC or a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI; and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

5. *The number of annual respondents:* 50.

6. *The number of hours needed annually to complete the requirement or request:* 25,551 (22,781 hours for reporting [71 hours per response] and 2,770 hours for recordkeeping [55 hours per recordkeeper]).

7. *Abstract:* 10 CFR Part 72 establishes mandatory requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, as well as requirements for the issuance of licenses to the Department of Energy to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials in an MRS. The information in the applications, reports, and records is used by NRC to make licensing and other regulatory determinations.

Submit, by May 27, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by e-mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 24th day of March, 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–6397 Filed 3–27–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–01125]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment To Byproduct Nuclear Materials License No. 45–10414–01, for Unrestricted Release of A James Madison University Facility In Harrisonburg, VA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia,

Pennsylvania; telephone 610–337–5366; fax number 610–337–5393; or by e-mail: *drl1@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 45–10414–01. This license is held by James Madison University, College of Science and Mathematics (the Licensee), to conduct activities on its campus located in Harrisonburg, Virginia. Issuance of the amendment would authorize release of Burruss Hall Rooms 322, 328, 332, and 333 (the Facility) for unrestricted use. Burruss Hall is located at the southern corner of East Grace Street and Madison Street in Harrisonburg, Virginia. The Licensee requested this action in a letter dated October 16, 2007. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's October 16, 2007, license amendment request, resulting in release of the Facility for unrestricted use. License No. 45–10414–01 was issued on October 13, 1964, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods. The proposed action pertains only to the cessation of licensed activities in Burruss Hall Rooms 322, 328, 332, and 333. Other rooms and areas within Burruss Hall, and within other buildings on the Harrisonburg campus will continue to use NRC licensed radioactive material.

The Facility consists of 1,539 square feet of laboratory space within Burruss Hall. Burruss Hall is situated in a mixed industrial/commercial area within a 495 acre university campus.

Prior to 1997, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Hydrogen-3 and carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey of the Facility on August 15, 2007. The final status survey report was attached to the Licensee's amendment request dated October 16, 2007. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Although the Licensee will continue to perform licensed activities in other parts of Burruss Hall, the Licensee must ensure that this decommissioned area does not become recontaminated. Before the license can be terminated, the Licensee will be required to show that Burruss Hall, including previously-released areas, as well as other areas of use on the Harrisonburg campus, comply with the radiological criteria in 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action

alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Commonwealth of Virginia for review on January 25, 2008. On February 22, 2008, Commonwealth's Division of Radiological Health responded by electronic mail. The Commonwealth agreed with the conclusions of the EA and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination;''
3. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;'' and
5. James Madison University, Amendment Request letter dated October 16, 2007 [ML080160199].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region 1, 475 Allendale Road, King of Prussia this 21st day of March 2008.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E8–6392 Filed 3–27–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Three Mile Island Nuclear Station, Unit 1; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

AmerGen Energy Company, LLC (AmerGen) has submitted an application for renewal of Facility Operating License No. DPR–50 for an additional 20 years of operation at the Three Mile Island Nuclear Station, Unit 1 (TMI–1). TMI–1 is located in Londonderry Township in Dauphin County, Pennsylvania, on the northern end of Three Mile Island near the eastern shore of the Susquehanna River.

The operating license for TMI–1 expires on April 19, 2014. The application for renewal, dated January 8, 2008, was submitted pursuant to Title 10 of the Code of Federal Regulations (10 CFR) part 54. A notice of receipt and availability of the application, which included the environmental report (ER), was published in the **Federal Register** on January 31, 2008 (73 FR 5877). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on March 14, 2008 (73 FR 13923). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) related to the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29. In addition, as outlined in 36 CFR 800.8, ''Coordination with the National Environmental Policy Act,'' the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA).

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, AmerGen submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at *http://adamswebsearch.nrc.gov/dologin.htm.* The Accession Numbers for the ER are ML080220255, ML080220257, ML080220261, and ML080220282. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.* The ER may also be viewed on the Internet at *www.nrc.gov/reactors/operating/licensing/renewal/applications/three-mile-island.html.* In addition, the ER is available for public inspection near TMI–1 at the following three locations: Londonderry Township Municipal Building, 783 South Geyers Church Road, Middletown, PA 17057; Middletown Public Library, 20 North Catherine Street, Middletown, PA 17057; and Penn State Harrisburg Library, 351 Olmsted Drive, Middletown, PA 17057.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) related to the review of the application for renewal of the TMI–1 operating license for an additional 20 years. Possible

alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, AmerGen Energy Company, LLC.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who has petitioned or intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the TMI–1 license renewal supplement to the GEIS. The scoping meetings will be held on Thursday, May 1, 2008; there will be two sessions at two different locations to accommodate interested parties. The first session will be held at The Elks Theatre, 4 West Emaus Street, Middletown, PA 17057, and will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second session will be held at Londonderry Elementary School, 260 Schoolhouse Road, Middletown, PA 17057, and will convene at 7 p.m. with a repeat of the overview portions of the afternoon meeting and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No formal comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting the NRC License Renewal Project Manager, Ms. Sarah Lopas, by telephone at 1–800–368–5642, extension 1147, or by e-mail to the NRC at *SLL2@nrc.gov* no later than April 24, 2008. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Ms. Lopas will need to be contacted no later than April 24, 2008, if special equipment or accommodations are needed to attend or present information at the public meeting, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scope of the TMI–1 license renewal review to: Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, Mailstop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Comments may also be delivered to the NRC, Room T–6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852, from 7:30 a.m. to 4:15 p.m. during Federal workdays. To be considered in the scoping process, written comments should be postmarked by May 30, 2008. Electronic comments may be sent by e-mail to the NRC at *ThreeMileIslandEIS@nrc.gov,* and should be sent no later than May 30, 2008, to be considered in the scoping process. Comments will be available electronically and accessible through ADAMS at *http://adamswebsearch.nrc.gov/dologin.htm.*

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice (73 FR 13923). Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection in ADAMS at *http://adamswebsearch.nrc.gov/dologin.htm.* The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and separate public meetings. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final

supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Ms. Lopas at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 24th day of March 2008.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E8–6388 Filed 3–27–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on April 8, 2008 at 11545 Rockville Pike, Rockville, Maryland, Room T–2B1.

The meeting will be open to public attendance, with the exception of portions that may be closed to discuss information that is proprietary to Westinghouse pursuant to 5 U.S.C. 552b(c)4. The agenda for the subject meeting shall be as follows:

Tuesday, April 8, 2008—1 p.m. until 5 p.m.

The Subcommittee will review the staff's draft safety evaluation regarding Topical Report WCAP–16793–NP, ''Evaluation of Long Term Cooling Considering Particulate, Fibrous, and Chemical Debris in the Recirculating Fluid.'' The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Pressurized Water Reactor Owners Group, and other interested persons 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. David Bessette (Telephone: 301–415–8065) 5 days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. 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 7:45 a.m. and 4:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least 2 working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: March 20, 2008.

Cayetano Santos,

Chief, Reactor Safety Branch, ACRS.

[FR Doc. E8–6362 Filed 3–27–08; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

DATES AND TIME: Tuesday, April 1, 2008, at 11:30 a.m.; and Wednesday, April 2, 2008, at 8:30 a.m. and 10:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: April 1—11:30 a.m.—Closed; April 2—8:30 a.m.—Open; April 2—10:30 a.m.—Closed.

Matters To Be Considered

Tuesday, April 1 at 11:30 a.m. (Closed).

1. Strategic Issues.
2. Product Pricing.
3. Financial Update.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Wednesday, April 2 at 8:30 a.m. (Open).

1. Minutes of the Previous Meetings, January 29–30, and March 4, 2008.
2. Remarks of the Chairman of the Board.
3. Remarks of the Postmaster General and CEO.
4. Committee Reports.

Wednesday, April 2 at 8:30 a.m. (Open) [continued].

5. Capital Investments.

a. Advanced Facer Canceller System (AFCS) Model 200.

b. Integrated Data System—National Directory Support System (IDS/NDSS).

c. Bethpage, New York, Logistics and Distribution Center.

6. Tentative Agenda for the May 6–7, 2008, meeting in Washington, DC.

Wednesday, April 2 at 10:30 a.m. (Closed)—if needed.

1. Continuation of Tuesday's closed session agenda.

FOR MORE INFORMATION CONTACT: Wendy A. Hocking, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Wendy A. Hocking,

Secretary.

[FR Doc. E8–6245 Filed 3–27–08; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:

Rule 101, OMB Control No. 3235–0464, SEC File No. 270–408

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension of the existing collection of information provided for in the following rule: Rule 101 of Regulation M (17 CFR 242.101).

Rule 101 prohibits distribution participants from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by these rules may seek to use several applicable exceptions such as a calculation of the average daily trading volume of the securities in distribution, the maintenance of policies regarding information barriers between their affiliates, and the maintenance of a written policy regarding general compliance with Regulation M for de minimus transactions.

There are approximately 1634 respondents per year that require an aggregate total of 31,355 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 19.19 hours to complete. Thus, the total compliance burden per year is 31,355 burden hours. The total compliance cost for the respondents is approximately $1,763,718.75, resulting in a cost of compliance for the respondent per response of approximately $1079.39 (i.e., $1,763,718.75/1634 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: March 24, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–6382 Filed 3–27–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:

Rule 104, OMB Control No. 3235–0465, SEC File No. 270–411.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension of the existing collection of information provided for in the following rule: Rule 104 of Regulation M (17 CFR 242.104).

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (i.e. the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids.

There are approximately 795 respondents per year that require an aggregate total of 159 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 0.20 hours (12 minutes) to complete. Thus, the total compliance burden per year is 159 burden hours. The total compliance cost for the respondents is approximately $8943.75, resulting in a cost of compliance for the respondent per response of approximately $11.25 (i.e., $8943.75/795 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: March 24, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–6383 Filed 3–27–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 15c2–11; OMB Control No. 3235–0202; SEC File No. 270–196.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

- Rule 15c2–11 (17 CFR 240.15c2–11)—Initiation or resumption of quotations without specific information

On September 13, 1971, effective December 13, 1971 (*see* 36 FR 18641, September 18, 1971), the Commission adopted Rule 15c2–11 (''Rule 15c2–11'' or ''Rule'') under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) to regulate the initiation or resumption of quotations in a quotation medium by a broker-dealer for over-the-counter (''OTC'') securities. The Rule was designed primarily to prevent certain manipulative and fraudulent trading schemes that had arisen in connection with the distribution and trading of unregistered securities issued by shell companies or other companies having outstanding but infrequently traded securities. Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer.

Based on information provided by Financial Industry Regulatory Authority, Inc. (''FINRA''), in the 2006 calendar year, FINRA received approximately 970 applications from broker-dealers to initiate or resume publication of covered OTC securities in the OTC Bulletin Board and/or the Pink Sheets or other quotation mediums. We estimate that (i) 80% of the covered OTC securities were issued by reporting issuers, while the other 20% were issued by non-reporting issuers, and (ii) it will take a broker-dealer about 4 hours to review, record and retain the information pertaining to a reporting issuer, and about 8 hours to review, record and retain the information pertaining to a non-reporting issuer.

We therefore estimate that broker-dealers who initiate or resume publication of quotations for covered OTC securities of reporting issuers will require 3,104 hours ($970 \times 80\% \times 4$) to review, record and retain the information required by the Rule. We estimate that broker-dealers who initiate or resume publication of quotations for covered OTC securities of non-reporting issuers will require 1,552 hours ($970 \times 20\% \times 8$) to review, record and retain the information required by the Rule. Thus, we estimate the total annual burden hours for broker-dealers to initiate or resume publication of quotations of covered OTC securities to be 4,656 hours (3,104 + 1,552). The Commission believes that these 4,656

hours would be borne by staff working at a rate of $40 per hour.[1]

Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer. The broker-dealer must also make the information reasonably available upon request to any person expressing an interest in a proposed transaction in the security with such broker or dealer. The collection of information that is submitted to FINRA for review and approval is currently not available to the public from FINRA.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 60 days of this notice.

Dated: March 24, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–6423 Filed 3–27–08; 8:45 am]

BILLING CODE 8011–01–P

[1] See Appendix C, SIFMA Office Salaries Data—Sept. 2007 for General Clerk national hourly rate.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following Closed Meeting during the week of March 31, 2008:

A Closed Meeting will be held on Monday, March 31, 2008 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Monday, March 31, 2008 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Adjudicatory matters.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: March 25, 2008.

Nancy M. Morris,

Secretary.

[FR Doc. E8–6371 Filed 3–27–08; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11196 and #11197]

Georgia Disaster # GA–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1750–DR), dated 03/20/2008.

Incident: Severe Storm and Tornadoes.

Incident Period: 03/14/2008 through 03/16/2008.

DATES: *Effective Date:* 03/20/2008.

Physical Loan Application Deadline Date: 05/19/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 12/22/2008.

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 President's major disaster declaration on 03/20/2008, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Fulton.

Contiguous Counties (Economic Injury Loans Only):

Georgia: Carroll, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Gwinnett.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.500
Homeowners Without Credit Available Elsewhere	2.750
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11196C and for economic injury is 111970.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–6387 Filed 3–27–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11189 and # 11190]

Illinois Disaster Number IL–00013

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1747–DR) , dated 03/07/2008.

Incident: Severe Storms and Flooding.

Incident Period: 01/07/2008 and continuing through 03/14/2008.

DATES: *Effective Date:* 03/14/2008.

Physical Loan Application Deadline Date: 05/06/2008.

EIDL Loan Application Deadline Date: 12/08/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Illinois, dated 03/07/2008 is hereby amended to establish the incident period for this disaster as beginning 01/07/2008 and continuing through 03/14/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–6390 Filed 3–27–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11160 and #11161]

Indiana Disaster Number IN–00017

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1740–DR), dated 01/30/2008.

Incident: Severe Storms and Flooding.

Incident Period: 01/07/2008 and continuing through 03/14/2008.

DATES: *Effective Date:* 03/14/2008.

Physical Loan Application Deadline Date: 03/31/2008.

EIDL Loan Application Deadline Date: 10/30/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Indiana, dated 01/30/2008 is hereby amended to establish the incident period for this disaster as beginning 01/07/2008 and continuing through 03/14/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–6380 Filed 3–27–08; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the Agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Reports Clearance Officer to the addresses or fax numbers listed below.

(OMB): Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA): Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

I. The information collections listed below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. Therefore, submit your comments to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. Report to United States Social Security Administration by Person Receiving Benefits for a Child or for an Adult Unable to Handle Funds/Report to the United States Social Security Administration—0960–0049. SSA needs the information on Forms SSA–7161–OCR–SM and SSA–7162–OCR–SM to: (1) Determine continuing entitlement to Social Security benefits: (2) correct benefit amounts for beneficiaries outside the United States: and (3) monitor the performance of representative payees outside the United States. The respondents are individuals living outside the United States who are receiving benefits on their own (or for someone else) under Title II of the Social Security Act.

Type of Request: Extension of an OMB-approved information collection.

Form Number	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–7161–OCR–SM	28,461	1	15	7,115
SSA–7162–OCR–SM	247,136	1	5	20,595
Totals	275,597			27,710

The total estimated annual burden is 27,710 hours.

2. Questionnaire About Employment or Self-Employment Outside the United States—20 CFR 404.401(b)(1), 404.415 & 404.417—0960–0050. SSA uses Form SSA–7163 to determine: (1) Whether work performed by beneficiaries outside the United States is cause for deductions from their monthly benefits; (2) which of two work tests (foreign or regular test) is applicable; and (3) the months, if any, for SSA will impose deductions. Respondents are beneficiaries living and working outside the United States.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 20,000.

Frequency of Response: 1.

Average Burden per Response: 12 minutes.

Estimated Annual Burden: 4,000 hours.

3. Petition to Obtain Approval of a Fee for Representing a Claimant before the Social Security Administration—20 CFR 404.1720, 404.1725, 416.1520 & 416.1525—0960–0104. Representatives use Form SSA–1560 to charge a fee for representing a claimant in proceedings before SSA. A representative must file either a fee petition or fee agreement with SSA. If the representative files a fee petition (Form SSA–1560) to obtain approval of a fee, SSA reviews the information to determine a reasonable fee for the representative's services. Respondents are attorneys and non-attorneys who are representatives of claimants for Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 34,624.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 17,312 hours.

4. Annual Earnings Test Direct Mail Follow-Up Program Notices—20 CFR 404.452–404.455—0960–0369. The Mid-Year Mailer ensures that Social Security payments are correct. Beneficiaries under full retirement age (FRA) use Forms SSA-L9778, SSA-L9779, and SSA–L9781 to update their current year estimate and their estimate for the following year. Beneficiaries use Mid-Year Mailer Forms SSA–L9784 and SSA–L9785 to request earnings estimates in the year of FRA for the period prior to the month of FRA. Beneficiaries will use new Form SSA–L9790 to report earnings information at the end of the year. The respondents are working Retirement Survivors Insurance beneficiaries with earnings over the exempt amount.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 460,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 76,667 hours.

5. Electronic Benefit Verification Information (BEVE)—20 CFR 401.40—0960–0595. The electronic proof of income (POI) verification Internet service, BEVE, provides beneficiaries the convenience of requesting a proof of income statement through the Internet. Beneficiaries often require a POI to obtain housing, Food Stamps, or other public services. SSA uses the information BEVE collects to provide the POI to the beneficiary, after verifying the identity of the requestor. The respondents are Social Security Title II, Title XVI, and Medicare beneficiaries.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 314,974.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 26,248 hours.

6. Application for Survivors Benefits—20 CFR 404.611 (a) and (c)—0960–0062. Surviving family members of armed services personnel can file for Social Security and Veterans' benefits at SSA or the Veterans Administration (VA). If applicants go to the VA first, they complete Form SSA–24, the Application for Survivor's Benefits. The VA then forwards Form SSA–24 to SSA for processing. If applicants previously filed for benefits at SSA, the Agency disregards this form. The respondents are survivors of deceased armed services personnel who are applying for benefits at the VA.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,200.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 800 hours.

7. Quarterly Statistical Report on Recipients and Payments under State-Administered Assistance Programs for Aged, Blind and Disabled (Individuals and Couples) Recipients—20 CFR 416.2010, 20 CFR 416.2098—0960–0130. States with agreements with SSA under the State supplementation provisions of the Social Security Act must provide statistical data to SSA. State Disability Determination Services (DDS) provide information to SSA on expenditures and caseloads of State-administered supplements under the Supplemental Security Income program. SSA needs the data from this report to: (1) Supplement the information it already has about federally-administered programs; (2) more fully explain the effect of the public income support programs on the needy, aged, blind, and disabled; and (3) monitor State compliance with the mandatory pass-along provision. States and other Federal agencies use data from this report as well for various purposes. The respondents are State DDSs.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 31.

Frequency of Response: 4.

Average Burden per Response: 60 minutes.

Estimated Annual Burden: 124 hours.

8. Employee Work Activity Questionnaire—20 CFR 404.1574, 404.1592—0960–0483. Social Security disability claimants qualify for benefits when a verified physical or mental impairment prevents them from working. If disability claimants attempt to return to work after receiving disability benefits but are unable to continue working, they submit Form SSA–3033, the Employee Work Activity Questionnaire, so SSA can evaluate the work attempt. SSA also uses this form to evaluate unsuccessful subsidy work. Ultimately, SSA uses the form to determine applicants' continuing eligibility for disability benefits. The respondents are employers of Social Security disability beneficiaries who unsuccessfully attempted to return to work.

Type of Request: Extension of an OMB approved information collection.

Number of Respondents: 15,000.

Frequency of Response: 1.

Average Burden per Response: 15 minutes.

Estimated Annual Burden: 3,750 hours.

9. Medical Permit Parking Application—41 CFR 101–20.104–2—0960–0624. SSA employees and contractors with a qualifying medical condition who park at SSA-owned and -leased facilities may receive a medical parking permit. SSA uses three forms as part of this program: SSA–3192, the Physician's Report (the applicant's physician completes this to verify the medical condition); Form SSA–3193, the Application and Statement (the person seeking the permit completes this when first applying for the medical parking space); and Form SSA–3194, the Renewal Certification (medical parking permit holders complete this to verify their continued need for the permit). The respondents are SSA employees and contractors seeking

medical parking permits and their physicians. *Note:* Because SSA employees are federal workers and are PRA-exempt, the burden below is only for SSA contractors and physicians (of both SSA employees and contractors).

Type of Request: Revision to an OMB-approved information collection.

	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–3192	75	1	90	113
SSA–3193	75	1	30	38
SSA–3194	10	1	5	1
Totals	160			152

The total estimated annual burden is 152 hours.

10. Medicare Part D Subsidies Regulations—20 CFR 418—0960–0702. The Medicare Prescription Drug Improvement, and Modernization Act of 2003 (MMA) established the Medicare Part D program for voluntary prescription drug coverage of premium, deductible, and co-payment costs for certain low-income individuals. The MMA also mandated the provision of subsidies for those individuals who qualify for the program and who meet eligibility criteria for help with premium, deductible, and/or co-payment costs. This law required SSA to make eligibility redeterminations and to provide a process for appealing SSA's determinations. Regulation sections 418.325(c), 418.3645, 418.3665(a), and 418.3670 contain public reporting requirements not approved by OMB. This ICR is for these four sections. Respondents are applicants for the Medicare Part D subsidies who request an administrative review hearing.

Type of Request: Revision to an existing OMB-approved information collection.

Section	Annual number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
§ 418.3625(c)	2,500	1	5	208
§ 418.3645	10	1	20	3
§ 418.3665(a)	1,000	1	5	83
§ 418.3670	5	1	10	1
Total	3,515			295

The total estimated annual burden is 295 hours.

II. SSA has submitted the information collections listed below. Your comments on the information collections will be most useful if OMB and SSA receive them within 30 days from the date of this publication. You can request a copy of the information collections by e-mail, *OPLM.RCO@ssa.gov*, fax 410–965–6400, or by calling the SSA Reports Clearance Officer at 410–965–0454.

Electronic Death Registration (EDR)—20 CFR 404.301; 404.310–311; 404.316; 404.330–341; 404.350–352; and 404.371; 416.912—0960–0700. SSA contracts with the States to obtain death certificate information to compare with SSA's payment files. This comparison ensures the accuracy of our payment files by enabling SSA to detect unreported or inaccurate beneficiary death dates. This is necessary because entitlement to retirement, disability, wife's, husband's or parent's benefits under the provisions of the Social Security Act terminates when the beneficiary dies. The respondents are State governments.

Correction: The first and second **Federal Register** Notices for this information collection reported incorrect burden information. We are publishing this correction Notice to show the correct burden information.

Type of Request: Extension of an OMB-approved information collection.

Collection format	Number of respondents	Frequency of responses	Average cost per record request	Estimated annual cost burden
State Death Match—Manual Process	31	50,000 per State	$0.74	* $1,147,000
State Death Match—Electronic Death Registration (EDR).	22	50,000 per State	$2.65	* 2,915,000
Totals	53			4,062,000

Estimated Annual Cost for all respondents:

* Please note that both of these data matching processes are entirely electronic and there is no hourly burden for the respondent to provide this information.

The cost burdens are based on the four cost components incurred by the respondents:

—software;

—hardware;

—average annual salaries of database management personnel; and

—average annual salaries of support personnel.

Dated: March 24, 2008.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E8–6435 Filed 3–27–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6110]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII)

The Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on Friday, April 4, 2008 beginning at 2 p.m. in Room 6510 of the U.S. Department of State, Harry S Truman Building, 2201 C Street, NW., Washington, DC.

The Advisory Committee will recommend grant recipients for the FY 2008 competition of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union in connection with the ''Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, as amended.'' The agenda will include opening statements by the Chairman and members of the committee, and, within the committee, discussion, approval and recommendation that the Department of State negotiate grant agreements with certain ''national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the Independent States of the Former Soviet Union,'' based on the guidelines contained in the call for applications published in Grants.gov on January 11, 2008. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program in general.

This meeting will be open to the public; however attendance will be limited to the seating available. Entry into the Harry S Truman building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify the Title VIII Program Office at the U.S. Department of State on (202) 736–4661 by Wednesday April 2, providing the following information: Full Name, Date of Birth, Driver License Number, Country of Citizenship, and any requirements for special needs. All attendees must use the 2201 C Street entrance and must arrive no later than 1:40 p.m. to pass through security before entering the building. Visitors who arrive without prior notification and without photo identification will not be admitted.

Dated: March 12, 2008.

Julianne Paunescu,

Acting Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, Department of State.

[FR Doc. E8–6427 Filed 3–27–08; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2008–0002]

Reports, Forms and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

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 January 22, 2008 (73 FR. 3799).

DATES: Comments must be submitted to OMB on or before April 28, 2008.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer.

FOR FURTHER INFORMATION CONTACT: Jennifer Timian, Recall Management Division (NVS–215), Room W46–324, NHTSA, 1200 New Jersey Ave., Washington, DC 20590. Telephone: (202) 366–0209.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Petitions for Hearings on Notification and Remedy of Defects.

OMB Number: 2127–0039.

Type of Request: Revision of a currently approved information collection.

Affected Public: Businesses or individuals.

Abstract: Sections 30118(e) and 30120(e) of Title 49 of the United States Code specify that any interested person may petition NHTSA to hold a hearing to determine whether a manufacturer of motor vehicles or motor vehicle equipment has met its obligation to notify owners, purchasers, and dealers of vehicles or equipment of a safety-related defect or noncompliance with a Federal motor vehicle safety standard in the manufacturer's products and to remedy that defect or noncompliance.

To implement these statutory provisions, NHTSA promulgated 49 CFR Part 557, Petitions for Hearings on Notification and Remedy of Defects. Part 557 establishes procedures providing for the submission and disposition of petitions for hearings on the issues of whether the manufacturer has met its obligation to notify owners, purchasers, and dealers of safety-related defects or noncompliances, or to remedy such defect or noncompliance free of charge.

Estimated annual burden: 1 hour per year (1 petition per year requiring 1 hour of effort).

Number of respondents: 1.

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: March 25, 2008.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

[FR Doc. E8–6418 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending December 7, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B

(formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2007–0096.

Date Filed: December 5, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 26, 2007.

Description

Application of Astraeus Limited, requesting an exemption and foreign air carrier permit to provide scheduled and charter air transportation of persons, property and mail to the full extent allowed under the Air Transport Agreement between the United States and the European Community and the Member States of the European Union.

Docket Number: DOT–OST–2007–0006.

Date Filed: December 6, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 13, 2007.

Description

Application of U.S. Airways, Inc., requesting an exemption and certificate of public convenience and necessity, permitting U.S. Airways to engage in the scheduled foreign air transportion of persons, property and mail between Charlotte, North Carolina, on the one hand, and Bogota, Colombia, on the other hand, via intermediate points, and beyond Colombia to points in the Western Hemisphere. U.S. Airways requests further that the Department award seven combination frequencies and an associated designation for use in operating daily scheduled service between Charlotte and Bogotá, beginning October 1, 2008.

Docket Number: DOT–OST–2007–0006.

Date Filed: December 6, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 13, 2007.

Description

Supplemental Application of Spirit Airlines, Inc., requesting an exemption and a certificate of public convenience and necessity to engage in scheduled foreign air transportation pursuant to 49 U.S.C. 41102 of persons, property and mail between (i) Orlando, Florida and Bogotá, Colombia, and (ii) Fort Lauderdale, Florida and Bogotá, Colombia.

Docket Number: DOT–OST–2007–0006.

Date Filed: December 6, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 13, 2007.

Description

Suplemental Application of JetBlue Airways Corporation (''JetBlue''), requesting a certificate of public convenience for foreign air transportation of persons, property and mail, between the United States and Bogotá, Colombia.

Docket Number: DOT–OST–2007–0006.

Date Filed: December 6, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 13, 2007.

Description

Supplement No.1 and amendment of Delta Air Lines, Inc., requesting certificate authority and frequencies to serve the following U.S. Colombia routes, pursuant to DOT Order 2007–11–23: (1) Between New York, New York, and Bogotá, Colombia, with 7 weekly frequencies; (2) between Atlanta, Georgia, and Medellin, Colombia, with 4 weekly frequencies; and (3) between Atlanta, Georgia, and Cali, Colombia, with 3 weekly frequencies.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–6479 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending December 7, 2007

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1383 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2007–0094.

Date Filed: December 3, 2007.

Parties: Members of the International Air Transport Association.

Subject: TC23/123 Africa-South Asia Subcontinent, Package (TC23 AFR–TC3 0341), Intended effective date: 1 April 2008.

Docket Number: DOT–OST–2007–0097.

Date Filed: December 6, 2007.

Parties: Members of the International Air Transport Association.

Subject: TC1 Areawide Resolution 001a, Mail Vote 556 (Memo 0367), Intended effective date: 1 January 2008.

Docket Number: DOT–OST–2007–0099.

Date Filed: December 6, 2007.

Parties: Members of the International Air Transport Association.

Subject: TC23 Europe-Japan, Korea, Expedited Composite Resolutions, (Memo 0159) Intended effective date: 1 March 2008.

Renee V. Wright

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–6456 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2008–0044]

Agency Information Collection Activities; Request for Comments; Renewed Approval of a Previously Approved Information Collection; Environmental Streamlining: Measuring the Performance of Stakeholders in the Transportation Project Development Process II

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 to renew an information collection, which 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 May 27, 2008.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2008–0044 by any of the following methods:

Web site: http://dms.dot.gov. Follow the instructions for submitting comments on the Department of Transportation Docket Management System electronic docket site.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, 1200

New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Kreig Larson, 202–366–2056, Planning and Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Ave., Washington, DC 20590. Office hours are from 7 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays

SUPPLEMENTARY INFORMATION:

Title: Environmental Streamlining: Measuring the Performance of Stakeholders in the Transportation Project Development Process II.

Background: The U.S. Department of Transportation (DOT), FHWA, has contracted with the Gallup Organization to conduct a survey of professionals associated with transportation and resource agencies in order to gather their views about the workings of the environmental review process for transportation projects and how the process can become more efficient. The purpose of the survey is to: (1) Collect the responses of agency professionals to questions about their involvement in conducting the decision-making processes mandated by the National Environmental Policy Act (NEPA) and other resource protection laws in order to develop benchmark performance measures; and (2) identify where the performance of the process might be improved by the application of techniques for streamlining. This is a survey conducted of only local, state, and federal officials who work with the NEPA process.

Respondents: Approximately 2,000 professionals/officials from transportation and natural resource agencies.

Frequency: This is the third time this survey has been conducted over a period of seven years.

Estimated Total Annual Burden Hours: The FHWA estimates that each respondent will complete the survey in approximately 15 minutes. Respondents will have the option of answering the survey's questions either over the telephone or online. With a potential total of 2,000 survey respondents, an estimated 500 burden hours are expected for this project.

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 burden; (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.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://dms.dot.gov.*

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 21, 2008.

Original signed by:

Judith Kane,

Team Leader, Management Programs and Analysis Division.

[FR Doc. E8–6318 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2008–0006]

Reports, Forms and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

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 January 22, 2008 (73 FR 3798).

DATES: Comments must be submitted to OMB on or before April 28, 2008.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer.

FOR FURTHER INFORMATION CONTACT: Jennifer Timian, Recall Management Division (NVS–215), Room W46–324, NHTSA, 1200 New Jersey Ave., Washington, DC 20590, Telephone: (202) 366–0209.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Names and Address of First Purchasers of Motor Vehicles.

OMB Number: 2127–0044.

Type of Request: Revision of a currently approved information collection.

Affected Public: Businesses or others for profit.

Abstract: Pursuant to 49 U.S.C. 30117(b) a manufacturer of a motor vehicle or tire must maintain a record of the name and address of the first purchasers of each vehicle or tire it produces and, to the extent prescribed by regulation of the Secretary, must maintain a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces.

Vehicle manufacturers currently collect and maintain purchaser information for business reasons, such as warranty claims processing and marketing, and experience with this statutory requirement has shown that manufacturers have retained this information in a sufficient manner to enable them to expeditiously notify vehicle purchasers in the case of a safety recall.

Estimated Annual Burden: Zero. As a practical matter, vehicle manufacturers are presently collecting from their dealers and then maintaining first purchaser information for their own commercial reasons. Therefore, the statutory requirement does not impose any additional burden.

Number of Respondents: 1,000.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will

have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on: March 25, 2008.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

[FR Doc. E8–6454 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2008–0057]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on revision to a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 27, 2008.

ADDRESSES: You may submit comments using any of the following methods. All comments must have the applicable DOT docket number (e.g., NHTSA–2008–0057) noted conspicuously on them.

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1–800–647–5527.
- Fax: 202–493–2251.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Jennifer Timian, Recall Management Division (NVS–215), Room W46–324, NHTSA, 1200 New Jersey Ave., Washington, DC 20590. Telephone: (202) 366–0209.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation, *see* 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses

In compliance with these requirements, NHTSA asks for public comments on the following collection of information:

Title: Defect and Noncompliance Reporting and Notification.

Type of Request: Revision of a currently approved information collection.

OMB Control Number: 2127–0004.

Affected Public: Businesses or individuals.

Abstract: This notice requests comment on NHTSA's proposed revision to approved collection of information OMB No. 2127–0004. Broadly speaking, this collection covers the information collection requirements found within various statutory sections in the Motor Vehicle Safety Act of 1966 (Act), 49 U.S.C. 30101, *et seq.*, that address and require manufacturer notifications to NHTSA of safety-related defects and failures to comply with Federal Motor Vehicle Safety Standards (FMVSS) in motor vehicles and motor vehicle equipment, as well as the provision of particular information related to the ensuing owner and dealers notifications and free remedy campaigns that follow those notifications. The sections of the Act imposing these requirements include 49 U.S.C. 30118, 30119, 30120, and 30166. Many of these requirements are implemented through, and addressed with more specificity in, 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* (Part 573) and 49 CFR 577, *Defect and Noncompliance Notification.*

For ease of reference and comment, we have broken the information collection requirements that OMB No. 2127–0004 covers into three categories. The first two categories summarize requirements already included in OMB No. 2127–0004; the first discussing requirements of defect and noncompliance reporting and notifications generally, and the second discussing additional requirements that pertain specifically to tire recalls and the proper disposal of tires. The third category summarizes our proposal to include another collection requirement related to tire recall campaigns, but in the past treated separately and given a different OMB information collection approval number (2127–0610).

A. Information Collection Requirements Applicable to Defect and Noncompliance Reporting and Notification Generally

Pursuant to the Act, motor vehicle and motor vehicle equipment manufacturers are obligated to notify, and then provide various information and documents to, NHTSA in the event a safety defect or noncompliance with Federal Motor Vehicle Safety Standards (FMVSS) is identified in products they manufactured. *See* 49 U.S.C. 30118(b) and 49 CFR 573.6 (requiring manufacturers to notify NHTSA, and provide certain information, when they learn of a safety defect or noncompliance). Manufacturers are further required to notify owners, purchasers, dealers and distributors about the safety defect or noncompliance. *See* 49 U.S.C. 30118(b), 30120(a), and 49 CFR 577.7, 577.13. They are required to provide to NHTSA copies of communications pertaining to recall campaigns that they issue to owners, purchasers, dealers, and distributors. *See* 49 U.S.C. 30166(f) and 49 CFR 573.6(c)(10).

Manufacturers are also required to file with NHTSA a plan explaining how they intend to reimburse owners and purchasers who paid to have their products remedied before being notified of the safety defect or noncompliance, and explain that plan in the notifications they issue to owners and purchasers about the safety defect or noncompliance. *See* 49 U.S.C. 30120(d) and 49 CFR 573.13. They are further required to keep lists of the respective owners, purchasers, dealers, distributors, lessors, and lessees of the products determined to be defective or noncompliant and involved in a recall campaign, and are required to provide NHTSA with a minimum of six quarterly reports reporting on the progress of their recall campaigns. *See* 49 CFR 573.8 and 573.7, respectively.

B. Additional Information Collection Requirements Applicable to Tire Recall Campaigns and Proper Tire Disposal

The Act and Part 573 also contain numerous information collection requirements specific to tire recall and remedy campaigns. These requirements relate to the proper disposal of recalled tires, including a requirement that the manufacturer conducting the tire recall submit a plan and provide specific instructions to certain persons (such as dealers and distributors) addressing that disposal, and a requirement that those persons report back to the manufacturer certain deviations from the plan. *See* 49 U.S.C. 30120(d) and 49 CFR 573.6(c)(9). These requirements are in addition to the general requirements previously discussed. Due to the length and complexity of these requirements, we have outlined below those requirements in order to make them more comprehensible.

I. If there is a tire recall, which parties must provide information?

A. The tire manufacturer conducting the recall;

B. Any affected tire brand name owners conducting the recall, such as retail chain stores that sell recalled tires under their own ''private labels'' or house labels;

C. Any vehicle manufacturer that conducts a tire recall;

D. Tire outlets under the control of a manufacturer conducting a tire recall, such as owned stores, franchised dealers and/or distributors.

II. To which parties must the information be provided?

A. Each manufacturer, whether a tire manufacturer, tire brand name owner, or a vehicle manufacturer conducting a recall campaign for a tire, would have to provide information to three categories of parties:

1. NHTSA;

2. Owned stores, franchised dealers and/or distributors (third parties);

3. Independent tire outlets authorized to replace tires under the recall.

B. In the event of a recall, each tire outlet under the control of a manufacturer must provide information to the manufacturer if the outlet does not comply with certain requirements. This is referred to as ''exceptions reporting'' or ''third party reporting,'' and is discussed below in section IV.

III. What information must each manufacturer provide?

A. In its report to NHTSA:

1. The manufacturer's plan for assuring that the entities replacing the tires are aware of the legal requirements related to recalls of tires established by 49 U.S.C. Chapter 301 and its implementing regulations;

2. An explanation of how the manufacturer will prevent, to the extent within its control, the recalled tires from being resold for installation on a motor vehicle;

3. A description of the manufacturer's program for disposing of recalled tires that are returned to the manufacturer or collected by the manufacturer from retail outlets, including, at a minimum, statements that the returned tires will be disposed of in compliance with applicable state and local laws and regulations regarding disposal of tires, and will be channeled, insofar as possible, into an ''alternative beneficial non-vehicular use'' rather than being disposed of in landfills; and

4. A draft of the notification(s) to be sent to stores, dealers, etc. that is described in section III.B, below.

B. In its reports to owned stores, franchised dealers and/or distributors, and independent outlets that are authorized to replace the recalled tires:

1. A description of the legal requirements related to recalls of tires established by the Act and its implementing regulations, including the prohibitions on the sale of new and used defective and noncompliant tires, the right to reimbursement of the costs of certain pre-notification remedies, and the duty to notify NHTSA of a knowing or willful sale or lease of a new or used recalled tire that is intended for use on a motor vehicle;

2. Directions to manufacturer-owned and other manufacturer-controlled outlets, and guidance to all other outlets that are authorized to replace the recalled tires, on how and when to alter the recalled tires permanently so they cannot be used on vehicles; and

3. Directions to manufacturer-owned and other manufacturer-controlled outlets, and guidance to all other outlets that are authorized to replace the recalled tires, either:

(a) To ship all recalled tires to one or more locations designated by the manufacturer as part of the manufacturer's recall program or to allow the manufacturer to collect and dispose of the recalled tires; or

(b) To ship recalled tires to a location of their own choosing, provided that they comply with applicable state and local laws regarding disposal of tires, along with directions and guidance on how to limit the disposal of recalled tires into landfills and instead, channel them to an ''alternative beneficial non-vehicular use.''

Under Option (a), if the manufacturer establishes a testing program for recalled tires, the directions and guidance shall also include criteria for selecting recalled tires for the testing program and instructions for labeling those tires and returning them to the manufacturer.

4. Directions to manufacturer-owned and other manufacturer-controlled outlets to report to the manufacturer on a monthly basis the number of recalled tires removed from vehicles by the outlet that have not been rendered unsuitable for resale for installation on a motor vehicle within the specified time frame and to describe any such failure to comply with the manufacturer's plan.

IV. What information must tire outlets under the control of the manufacturer provide to the manufacturer (third party reporting)?

A. Monthly (or within 30 days of the deviation) reports on the number of recalled tires, if any, removed from vehicles by the outlet that have not been rendered unsuitable for resale or installation on a motor vehicle within the specified time frame (other than those returned for testing) and that describe any such failure to act in accordance with the manufacturer's plan;

B. Monthly (or within 30 days of the deviation) reports on the number of recalled tires disposed of in violation of applicable state and local laws and regulations that describe any such failure to act in accordance with the manufacturer's plan.

V. Manufacturers' Quarterly Reports to NHTSA pursuant to 49 CFR 573.7 for recalls involving the replacement of tires must include the following information:

A. The aggregate number of recalled tires that the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a motor vehicle in accordance with the manufacturer's plan;

B. The aggregate number of recalled tires that the manufacturer becomes aware have been disposed of in violation of applicable state and local laws and regulations; and

C. A description of any failure of a tire outlet to act in accordance with the directions in the manufacturer's plan, including an identification of the outlet in question.

VI. Recordkeeping Requirements

No recordkeeping requirements are imposed by these requirements.

C. Addition of New Information Collection Requirement: Reporting of Sale or Lease of Defective or Noncompliant Tires to NHTSA

The Act contains an additional information collection requirement not previously included in this approved collection. 49 U.S.C. 30166(n), and its implementing regulation found at 49 CFR 573.10, mandates that anyone who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire that is not compliant with FMVSS, and with actual knowledge that the tire manufacturer has notified its dealers of the defect or noncompliance as required under the Act, is required to report that sale or lease to NHTSA no more than five working days after the person to whom the tire was sold or leased takes possession of it.

NHTSA had, in the past, sought and received approval for this collection of information, and it had been assigned the approval number OMB No. 2127–0610. Given this collection's similarity in purpose and subject matter to the other collection requirements found in the Act and in Part 573, the agency believes it more appropriate and is proposing to include it in this information collection rather than keep it separate. Comments are welcome on this consolidation.

Estimated Burden: This collection has a present estimated burden of 19,974 hours per year. Our review of recent annual recall figures demonstrates to us that this figure could be adjusted to more precisely reflect recent experience. Accordingly, we calculate that figure should be revised to 21,370 burden hours per year. An explanation of how we reach this total annual figure follows.

A. Estimated Burden Associated With Defect and Noncompliance Reporting and Notification Requirements Generally

Over the past 3 years, there has been an average of 650 noncompliance or safety defect notifications to NHTSA filed each year by approximately 175 distinct manufacturers, with an estimated 750 quarterly reports filed per quarter (or 3,000 reports per year).

We estimate that it takes a manufacturer an average of 4 hours to complete each notification report to NHTSA, that it takes another 4 hours to complete each quarterly report, and that maintenance of the required owner, purchaser, dealer and distributors lists requires 8 hours. Accordingly, the subtotal estimate of annual burden hours related to the reporting to NHTSA of a safety defect or noncompliance, completion of quarterly reports on the progress of recall campaigns, and maintenance of owner and purchaser lists is 16,000 hours annually ((650 notices × 4 hours/report) + (3,000 quarterly reports × 4 hours/report) + (175 manufacturers × 8 hours)).

In addition, we estimate an additional 2 hours will be needed to add to a manufacturer's information report details relating to the manufacturer's intended schedule for notifying its dealers and distributors, and tailoring its notifications to dealers and distributors in accordance with the requirements of 49 CFR 577.13. This would total to an estimated 1,300 hours annually (650 notices × 2 hours/report).

In the event a manufacturer supplied the defect or noncompliant product to independent dealers through independent distributors, that manufacturer is required to include in its notifications to those distributors an instruction that the distributors are to then provide copies of the manufacturer's notification of the defect or noncompliance to all known distributors or retail outlets further down the distribution chain within five working days. *See* 49 CFR 577.8(c)(2)(iv). As a practical matter, this requirement would only apply to equipment manufacturers since vehicle manufacturers generally sell and lease vehicles through a dealer network, and not through independent distributors. In recent years, there have been roughly 90 equipment recalls per year. Although the distributors are not technically under any regulatory requirement to follow that instruction, we expect that they will, and have estimated the burden associated with these notifications (identifying retail outlets, making copies of the manufacturer's notice, and mailing) to be 5 hours per recall campaign. Assuming an average of 3 distributors per equipment item, (which is a liberal estimate given that many equipment manufacturers do not use independent distributors) the total number of burden hours associated with this third party notification burden is approximately 1,350 hours per year (90 recalls × 3 distributors × 5 hours).

As for the burden linked with a manufacturer's preparation of and notification concerning its reimbursement for pre-notification remedies, consistent with previous estimates (*see* 69 FR 11477 (March 10, 2004)), we estimate that preparing a plan for reimbursement takes approximately 8 hours annually, and that an additional 2 hours per year is spent tailoring the plan to particular defect and noncompliance notifications to NHTSA and adding tailored language about the plan to a particular safety recall's owner notification letters. In sum, these required activities add an additional 2,700 annual burden hours ((175 manufacturers × 8 hours) + (650 recalls × 2 hours)).

In summary, the total burden associated with the defect and noncompliant information collection and reporting requirements described in this section is 21,350 hours per year.

B. Estimated Burden Associated With Tire Recall Campaigns

As explained earlier, manufacturers are required to include specific information relative to tire disposal in the notifications they provide NHTSA concerning identification of a safety defect or noncompliance with FMVSS in their tires, as well as in the notifications with they issue to their dealers or other tire outlets participating in the recall campaign. *See* 49 CFR 573.6(c)(9). Consistent with prior projections, *see* 69 FR 21883 (April 22, 2004), and current experience, we

estimate that there will be about 10 tire recall campaigns per year, and that inclusion of this additional information will require an additional two hours of effort beyond the subtotal above associated with non-tire recall campaigns. This additional effort consists of one hour for the NHTSA notification and one hour for the dealer notification for a total of 20 burden hours (10 tire recalls a year × 2 hours per recall).

Also discussed earlier was the requirement that manufacturer owned or controlled dealers notify and provide certain information should they deviate from the manufacturer's disposal plan. Consistent with previous analysis, we continue to ascribe zero burden hours to this requirement since to date no such reports have been provided and our original expectation that dealers would comply with manufacturers' plans has proven true.

Accordingly, we estimate 20 burden hours a year will be spent complying with the tire recall campaign requirements found in 49 CFR 573.6(c)(9).

C. Estimated Burden Associated With the Addition of the Requirement That Intentional Sales and Leases of Defective or Noncompliant Tires Be Reported to NHTSA, to This Information Collection

We have proposed and plan to incorporate into this information collection (OMB No. 2127–0004) the requirement that those persons that sell or lease defective or noncompliant tires knowing that the manufacturer has determined them to be defective or noncompliant with FMVSS report those sales or leases to NHTSA. We explained that we are proposing and planning this inclusion for the simple reason of consolidation. The requirement is found in Part 573, and given that today's information collection concerns information collections found within that Part, we do not see a basis for keeping this requirement separate from all of the rest.

In the original **Federal Register** notice we published announcing this requirement and calculating its burden, we estimated that roughly 9 persons a year would report such sales or leases, and that the reporting would require a maximum of one-half of one hour to accomplish. *See* 65 FR 81409 (December 26, 2000). In reviewing this collection requirement, we found that in the seven years since this requirement has been in place we have yet to receive a single report of a sale or lease of a defective or noncompliant tire pursuant to this information collection requirement. Consequently, we are revising our initial estimate of the burden associated with this requirement to zero burden hours.

Estimated Number of Respondents

Over the past several years NHTSA has received reports of defect or noncompliance from roughly 175 manufacturers per year. We have no reason at this juncture to suspect this annual figure will change in any significant manner in the coming years. Accordingly, we estimate that there will continue to be approximately 175 manufacturers per year filing defect or noncompliance reports and completing the other information collection responsibilities associated with those filings.

We discussed above that we have yet to receive a single report filed pursuant to 49 CFR 573.10. This information collection requirement, to reiterate, requires anyone who sells or leases a defective or noncompliant tire, with knowledge of that tire's defectiveness or noncompliance, to report that sale or lease to NHTSA. Given the lack of filing history over many years, we estimate that there will continue to be zero reports filed and therefore zero respondents as to this requirement.

In summary, we estimate that there will be a total of 175 respondents per year associated with OMB No. 2127–0004.

Issued on: March 25, 2008.

Kathleen C. DeMeter,

Director, Office of Defects Investigation.

[FR Doc. E8–6455 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Nissan North America, Inc.'s (Nissan) petition for exemption of the Rogue vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard*. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). Nissan requested confidential treatment for the information and attachments it submitted in support of its petition. In a letter dated November 6, 2007, the agency granted the petitioner's request for confidential treatment.

DATES: The exemption granted by this notice is effective beginning with the 2009 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–439, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated October 26, 2007, Nissan requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the MY 2009 Nissan Rogue vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one of its vehicle lines per model year. Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

Nissan's petition provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Although specific details of the system's operation, design, effectiveness and durability have been accorded confidential treatment, NHTSA is, for the purposes of this petition, disclosing the following general information. Nissan will install its passive, transponder-based immobilizer device as standard equipment on its Rogue vehicle line beginning with MY 2009. Key components of the antitheft device are an engine electronic control module (ECM), a passive immobilizer and a transponder key. The immobilizer system prevents normal operation of the vehicle without the use of the key. Nissan's antitheft device will also have an alarm feature. Nissan stated that its alarm system is activated by opening any door without the use of a key. Upon activation of the alarm, the head lamps will flash and the horn will sound. Nissan also provided its own test

information on the reliability and durability of its proposed device. Nissan based its belief that the device is reliable and durable since the device complied with the specific requirements for each test.

Nissan compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan stated that its antitheft device will be no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Nissan stated that NHTSA's theft data have shown a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes to install on the new line. Nissan stated that based on the agency's theft rate data, the Buick Rivera and the Oldsmobile Aurora vehicles equipped with the PASS-Key and PASS-Key II systems experienced a significant reduction in theft rates from 1987 to 1996. Nissan concluded that the data indicates that the immobilizer was effective in contributing to the theft rate reduction for these lines. Nissan stated that based on NHTSA's theft data for 1987 through 1996, the average theft rate for the Buick Riviera and the Oldsmobile Aurora vehicles without the immobilizer was 4.8970 and 5.0760, respectively and 1.4288 and 2.0955 after installation of the immobilizer device. Further review of the agency's theft data published through the 2005 MY revealed that, while there is some variation, the theft rates for both lines continued to stay below the median theft rate of 3.5826. The agency agrees that the device is substantially similar to devices in other vehicles lines for which the agency has already granted exemptions.

The agency also notes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for an exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Rogue vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2009 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Nissan decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 24, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–6493 Filed 3–27–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—New (10–21086)]

Agency Information Collection Activities (National Survey of Women Veterans) Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 28, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–New (10–21086)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900—New (10–21086).''

SUPPLEMENTARY INFORMATION:

Title: National Survey of Women Veterans, VA Form 10–21086(NR).

OMB Control Number: 2900–New (2900–New (10–21086)).

Type of Review: Extension of a currently approved collection.

Abstract: The data collected from the survey will be used to identify the healthcare needs of women veterans, and the barriers they experience with VA healthcare use. The information will be used to improve access and the quality of healthcare for women veterans, and to evaluate the healthcare differ among women veterans of different periods of military service.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 7, 2008 at pages 1265–1266.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,625 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,500.

Dated: March 20, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–6358 Filed 3–27–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Proposed Information Collection (Appeal to Board of Veterans' Appeals) Activity Comment Request

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Board of Veterans' Appeals (BVA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information required in processing appeals for denial of VA benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 27, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Sue Hamlin, Board of Veterans' Appeals (01C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *sue.hamlin@va.gov.* Please refer to ''OMB Control No. 2900–0085'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sue Hamlin at (202) 565–5686.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, BVA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of BVA's functions, including whether the information will have practical utility; (2) the accuracy of BVA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Request for Changes in Hearing Date.

d. Motions for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Revision of a currently approved collection.

Abstract:

a. Appeal to Board of Veterans' Appeals, VA Form 9, may be used by appellants to complete their appeal to the Board of Veterans' Appeals (BVA) from a denial of VA benefits. The information is used by BVA to identify the issues in dispute and prepare a decision responsive to the appellant's contentions and the legal and factual issues raised.

b. Withdrawal of Services by a Representative: When the appellant's representative withdraws from a case, both the appellant and the BVA must be informed so that the appellant's rights may be adequately protected and so that the BVA may meet its statutory obligations to provide notice to the current representative.

c. Request for Changes in Hearing Date: VA provides hearings to appellants and their representatives, as required by basic Constitutional due-process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after failure to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

d. Motions for Reconsideration: Decisions by BVA are final unless the Chairman orders reconsideration of the decision either on the Chairman's initiative, or upon motion of a claimant. The Board Chairman, or his designee, uses the information provided in deciding whether reconsideration of a Board decision should be granted.

Affected Public: Individuals or households, business or other for profit, and not for profit institutions.

Estimated Total Annual Burden

a. Appeal to Board of Veterans' Appeals, VA Form 9—45,850 hours.

b. Withdrawal of Services by a Representative—183 hours.

c. Request for Changes in Hearing Date—1,212 hours.

d. Motions for Reconsideration—846 hours.

Estimated Average Burden Per Respondent

a. Appeal to Board of Veterans' Appeals, VA Form 9—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Request for Changes in Hearing Date—15 minutes (hearing date change), 15 minutes (request to withdraw a hearing),—1 hour (requests to change a motion).

d. Motions for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents

a. Appeal to Board of Veterans' Appeals, VA Form 9—45,850.

b. Withdrawal of Services by a Representative—550.

c. Request for Changes in Hearing Date—2,733.

d. Motions for Reconsideration—846.

Dated: March 20, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–6363 Filed 3–27–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0179]

Agency Information Collection (Application for Change of Permanent Plan (Medical) Activities Under OMB Review)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 28, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0179'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0179.''

SUPPLEMENTARY INFORMATION:

Title: Application for Change of Permanent Plan (Medical) (Change to a policy with a lower reserve value), VA Form 29–1549.

OMB Control Number: 2900–0179.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the insured to establish his/her eligibility to change insurance plans from a higher reserve to a lower reserve value.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 17, 2008 at pages 3322–3323.

Affected Public: Individuals or households.

Estimated Annual Burden: 14 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 28.

Dated: March 19, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–6365 Filed 3–27–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0139]

Agency Information Collection (Notice—Payment Not Applied) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 28, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0139'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0139.''

SUPPLEMENTARY INFORMATION:

Title: Notice—Payment Not Applied, VA Form 29–4499a.

OMB Control Number: 2900–0139.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–4499a is used by policy holders to reinstate their National Service Life Insurance (NSLI) policy. The information collected is used to determine the insurer's eligibility for reinstatement to government life insurance.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 17, 2008 at page 3323.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: March 19, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–6367 Filed 3–27–08; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 73, No. 61
Friday, March 28, 2008

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 DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[FAC 2005–24; FAR Case 2007–016; Item III; Docket 2008-0001; Sequence 3]

RIN 900–AK89

Federal Acquistion Regulation; FAR Case 2007–016, Trade Agreements–New Thresholds

Correction

In rule document E8–3390 beginning on page 10962 in the issue of Thursday, February 28, 2008, make the following correction:

25.402 [Corrected]

On page 10963, under 25.402(b), the table is corrected to read as set forth below:

Trade Agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA FTAs	$194,000	$194,000	$7,443,000
Australia FTA	67,826	67,826	7,443,000
Bahrain FTA	194,000	194,000	8,817,449
CAFTA–DR (El Salvador, Dominican Republic, Guatemala, Honduras, and Nicaragua)	67,826	67,826	7,443,000
Chile FTA	67,826	67,826	7,443,000
Morocco FTA	194,000	194,000	7,443,000
NAFTA:			
—Canada	25,000	67,826	8,817,449
—Mexico	67,826	67,826	8,817,449
Singapore FTA	67,826	67,826	7,443,000
Israeli Trade Act	50,000		

[FR Doc. Z8–3390 Filed 3–27–08; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 171

RIN 3150–AI28

Revision of Fee Schedules; Fee Recovery for FY 2008

Correction

In proposed rule document E8–2412 beginning on page 8508 in the issue of February 13, 2008, make the following corrections:

1. On page 8517, Table XIII should appear as follows:

TABLE XIII.—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 proposed
Total budgeted resources	$588.6	$698.8
Less estimated part 170 receipts	−180.7	−252.7
Net part 171 resources	407.9	446.1
Allocated generic transportation	+1.0	+1.1
Allocated surcharge	−6.0	−4.6
Billing adjustments (including carryover)	+1.1	−16.5
Total required annual fee recovery	404.0	426.1

2. On page 8518, Table XV should appear as follows:

TABLE XV.—ANNUAL FEE SUMMARY CALCULATIONS FOR TEST AND RESEARCH REACTORS

[Dollars in millions]

Summary fee calculations	FY 2007 final	FY 2008 proposed
Total budgeted resources	$0.85	$0.99
Less estimated part 170 receipts	−0.55	−0.66
Net part 171 resources	0.30	0.33
Allocated generic transportation	+0.01	+0.01
Allocated surcharge	−0.01	−0.01
Billing adjustments (including carryover)	+0.00	−0.02
Total required annual fee recovery	0.31	0.31

§ 171.16 [Corrected]

3. On page 8529, in § 171.16(d), the table should appear in part as follows:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1 2 3]
* * * * * *	*
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride [Program Code(s): 11400]	604,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Class I facilities [4] [Program Code(s): 11100]	10,900
(b) Class II facilities [4] [Program Code(s): 11500]	10,900
(c) Other facilities [4] [Program Code(s): 11700]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in § 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in § 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2)	10,900
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water	6,500
B. Licenses that authorize only the possession, use and/or installation of source material for shielding [Program Code(s): 11210]	600
C. All other source material licenses [Program Code(s): 11200, 11220, 11221, 11230, 11300, 11800, 11810]	10,300
* * * * * *	*

[FR Doc. Z8–2412 Filed 3–27–08; 8:45 am]
BILLING CODE 1505–01–D

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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